

**TOWN OF HEMPSTEAD  
BUILDING ZONE ORDINANCE  
Proposed Zoning Amendments to Create an Hempstead Turnpike – Elmont Zoning  
District**

**ARTICLE \_\_, Hempstead Turnpike – Elmont (HT-E) Zoning District**

**§ \_\_. Statement of Intent and Purposes.**

**A. Background**

The Hempstead Turnpike commercial area in the Elmont portion of the Town of Hempstead extends from the Cross Island Parkway on the west to Lucille/Barrymore Avenues on the east. Along this approximately four (4) mile corridor, the pattern of development is varied and appears haphazard. Among other existing uses, it includes suburban-style shopping centers, with large expanses of parking in the front of retail stores, and a variety of auto-related uses, including gas stations and food establishments with small parking lots along the road frontage and with little, if any, buffering for residential properties behind the commercial uses. Additionally, there are areas along Hempstead Turnpike where commercial uses are tightly concentrated, with structures built-up to the right-of-way line in a traditional downtown setting. In some areas, municipal parking is provided to serve these businesses. Belmont Park and some of its major parking fields are located at the western end of the corridor.

Although all of the commercial uses have been zoned within one (1) zoning district (X Business), the disparate land use pattern results in an uncoordinated image for the commercial corridor, without any consistency in development or overall aesthetic treatment.

In 2008, the Town of Hempstead and Elmont community completed the “Elmont Community Vision Plan” (the “Vision Plan”), a comprehensive vision for the Hempstead Turnpike corridor. Among the Vision Plan’s recommendations was the development of contemporary zoning regulations for Hempstead Turnpike, including design guidelines and updated lot and bulk controls that would coordinate and guide future development, while recognizing the differing land use areas in the corridor.

**B. Purposes and Legislative Intent**

In response to the recommendation put forth in the Vision Plan, the Town of Hempstead herein enacts a new Article of the Town of Hempstead Building Zone Ordinance, which will create a new overlay district to be known as the “Hempstead Turnpike – Elmont District (HT-E).” The primary purpose of the HT-E District is to implement the planning and design recommendations of the Vision Plan and to encourage a variety land of land uses that are appropriate for various areas within the HT-E District.

The HT-E District regulations are designed to build upon the strengths of the Elmont area, including the presence of Belmont Park and a diverse residential community that is within walking distance of many of the corridor’s commercial establishments.

The HT-E District regulations, as an overlay district, have been designed to minimize non-conformity with properties previously zoned X Business, since the HT-E District primarily focuses on new development and expansions of existing buildings that increase floor areas by greater than ten (10) percent.

**§ 1. Title.**

This Article shall be known and cited as the "Hempstead Turnpike – Elmont District (HT-E) Article."

**§ 2. Definitions.**

In addition to the definitions of this Building Zone Ordinance, the following special definitions are applicable to this Article. In the event of conflict, the following definitions shall be controlling:

**FAST-FOOD RESTAURANT** – A restaurant other than a diner, lunch wagon, drive-in restaurant, drive-in luncheonette, drive-in counter, or drive-in refreshment stand, which sells prepared food over a counter and is characterized by a large carryout clientele, long hours of service, and high turnover rates for eat-in customers.

**MUNICIPAL BUILDING AND FACILITY** – Buildings and structures of the Town of Hempstead, Nassau County, State of New York, or other governmental agency.

**PHARMACY/DRUGSTORE** – A retail facility that sells prescription and non-prescription medication. These facilities may also sell cosmetics, toiletries, medications, stationery, personal care products, limited food products, and general merchandise.

**§ 3. General provisions.**

**A. Site approval.**

No permit shall be issued for any building requiring a permit under this Building Zone Ordinance in any district created under this Article unless compliance shall be had with § 305 of this Building Zone Ordinance and unless the applicant shall, in addition thereto, file with his application for site approval preliminary plans indicating generally the layout of any proposed building.

**B. Subdivision map.**

No permit shall be issued for any building requiring a building permit unless the site is shown on a subdivision map approved by the Nassau County Planning Commission and filed in the Nassau County Clerk's office.

**C. Excavations.**

No excavation for purposes other than the construction of a driveway, walk, a permitted wall or building or part thereof or accessory hereto, or to remove topsoil from one part of the lands of an owner to another part of the same premises, when such removal is necessary is an accessory use or is for the purpose of farming or improving said property, shall be made unless approved by the Board of Appeals.

D. Sewage disposal.

No use shall be permitted unless provided with municipal sewage disposal facilities or unless an independent sewage disposal system has received prior approval by the Nassau County Department of Health.

E. Interpretation; conflicts with other provisions.

(1) In interpreting and applying the provisions of this Article, the rules of interpretation applicable to remedial legislation shall be used so that the spirit and intent of this Article shall be observed.

(2) In the event of a conflict between the provisions of this Article and other provisions of this Building Zone Ordinance, the provisions of this Article shall control.

F. Severability.

If any clause, sentence, section, paragraph or provisions of this Article shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Article, but shall be confined in its operation to the clause, sentence, section, paragraph or provision directly involved in the controversy in which such judgment shall have been recorded.

G. Compliance with Other Standards.

Notwithstanding any other provision of this Article, a single-family or two-family detached dwelling and the lot or premises on which it is erected shall comply with the provisions of Article IX of this ordinance.

**§ . Applicability.**

In an HT-E District the following regulations shall apply:

A. The area along Hempstead Turnpike designated HT-E is largely developed. As a result, the HT-E District has been designed as an overlay district, with its regulations applicable to new development, redevelopment, and building expansions, which result in a ten (10) percent or greater increase in the building's floor area. For existing uses and smaller than ten (10) percent expansions, current X Business District regulations shall still apply. However, the Hempstead Turnpike-Elmont Design Guidelines shall apply to all development in the HT-E District, including existing development and smaller than ten (10) percent expansions, particularly where existing buildings are rehabilitated.

B. For purposes of this Article, the HT-E District shall be divided into four (4) sub-districts as indicated on Exhibit <sup>1</sup> and described below:

(1) **Hempstead Turnpike-Elmont, Shopping Center (HT-E, SC)**, which includes the strip shopping area to the east of Elmont Road and School Street on the north side of Hempstead Turnpike.

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<sup>1</sup> Alternatively, a metes and bounds description could be provided in lieu of an exhibit.

- (2) **Hempstead Turnpike-Elmont, Neighborhood Center (HT-E, NC)** which includes areas near the intersections of Hempstead Turnpike and Meacham Avenue and Hempstead Turnpike and Elmont Road/Plainfield Avenue.
- (3) **Hempstead Turnpike-Elmont, Gateway (HT-E, G)**, which encompasses the large Belmont Park parking lot located on the south side of Hempstead Turnpike adjacent to the Cross Island Parkway.
- (4) **Hempstead Turnpike-Elmont, Highway Business (HT-E, HB)**, which encompass areas not included in (1), (2), and (3) above.

C. Note that Belmont Park, which is currently zoned B Residence, shall remain zoned as such, until a determination is made that the Town of Hempstead desires to rezone such property to accommodate future development or for other permissive reasons. Should such property be subject to the zoning jurisdiction of the Town of Hempstead, consideration shall be given to creating a new sub-district that generates economic development through jobs and property tax revenue and considers the Elmont community's preference for the property, as set forth in the Vision Plan. Such a sub-district should permit a mixture of uses, including, but not limited to: hotel, entertainment, related commercial, and any uses ancillary to the racing uses at Belmont Park.

#### **§ 2. Hempstead Turnpike-Elmont, Shopping Center (HT-E, SC).**

A. There is hereby established a Hempstead Turnpike-Elmont, Shopping Center Sub-District. In the Shopping Center Sub-District, buildings and structures may be erected, altered, or used and lots or premises may be used in accordance with the provisions of Subsections C to J.

B. Legislative Purpose. The Shopping Center Sub-District is conceived and enacted to allow larger-scale, suburban-style shopping centers in select locations along Hempstead Turnpike in Elmont. Such shopping centers typically contain large stores that serve a regional population, rather than just a local population and, therefore, require a greater amount of parking. The Shopping Center Sub-District recognizes these requirements, while being sensitive to the character of the rest of Hempstead Turnpike in Elmont and the surrounding residential neighborhoods.

C. Uses. A building or structure may be erected, altered, or used and a lot or premises may be used for any of the following purposes, and for no other.

(1) Permitted Uses:

- (a) Retail trade and personal service.
- (b) Restaurant.
- (c) Professional office.
- (d) Bank and financial institution.
- (e) Theater, excluding drive-in.

(2) Special Permit Uses. The following special uses, when approved by the Board of Zoning Appeals or the Town Board pursuant to § 272 of the Building Zone Ordinance of the Town of Hempstead, are permitted.

- (a) Off-street parking lot and garage, public and private.

- (b) Gasoline service station, automobile repair, and service.
- (c) Dry cleaning and laundry.
- (3) Accessory Uses. Uses customarily incidental to Permitted and Special Permit Uses, including off-street parking, shall be permitted in the Shopping Center Sub-District.
- (4) Signs. Signs, which are categorized and authorized under the provision of Article XXIV, are permitted, subject to general consistency with the Hempstead Turnpike-Elmont Design Guidelines.

D. Height. No building shall be greater in height than two (2) stories and shall not exceed a maximum height of thirty (30) feet.

E. Building Coverage. The building area for new buildings or expanded buildings in the Shopping Center Sub-District shall not exceed twenty-five percent (25%) of the lot area.

F. Floor Area Ratio (FAR). The maximum FAR for new buildings in the Shopping Center Sub-District shall be 0.25.

G. Yard Setbacks.

(1) Front Yards:

- (a) For buildings in the Shopping Center Sub-District, there shall be a front yard, the depth of which shall be at least twenty (20) feet back of the front property line.
- (b) Notwithstanding the foregoing, a roof, mansard, awning, or similar projection not exceeding twenty-four (24) inches into the required front yard setback shall be a permitted encroachment.

(2) Rear Yards. For buildings or uses in the Shopping Center Sub-District, there shall be a rear yard of at least fifty (50) feet.

(3) Side Yards. Where a Shopping Center Sub-District abuts any residential district, there shall be a side yard of at least twenty-five (25) feet along the residentially zoned area. There shall be no side yard required where a Shopping Center Sub-District abuts any other district.

H. Accessory Parking. Accessory off-street automobile parking spaces shall be provided on the same lot or premises or off the premises within three hundred (300) feet of such premises. The number of accessory parking spaces required shall be determined by the type of each included use and shall be calculated in compliance with § 319 of this ordinance. Each parking space shall comply with all requirements of § 319D of this ordinance.

I. Building Orientation. For freestanding buildings within the Shopping Center Sub-District, especially those with drive-in facilities, the buildings shall be located closer to Hempstead Turnpike and shall locate automobile-related activities to the side or rear of the building in order to allow for maximum fenestration along Hempstead Turnpike and minimum conflicts with the movement of pedestrians through fewer curb cuts.

J. Fences. No fence or wall more than six (6) feet in height may be erected without a permit and except when authorized by the Board of Appeals pursuant to Article XXVII hereof.

**§ 2. Hempstead Turnpike-Elmont, Neighborhood Center (HT-E, NC).**

A. There is hereby established a Hempstead Turnpike-Elmont, Neighborhood Center Sub-District. In the Neighborhood Center Sub-District, buildings and structures may be erected, altered, or used and lots or premises may be used in accordance with the provisions of Subsections C to J.

B. Legislative Purpose. The Neighborhood Center Sub-District is conceived and enacted to promote a downtown setting at designated areas such as “Community Corners” – the intersection of Hempstead Turnpike and Elmont Road/Plainfield Avenue. The mix of uses, including some larger and some smaller shops and offices, at that location follow a denser pattern that is geared towards the pedestrian and/or transit riders rather than the automobile, and represent the center of the Elmont community and its various residential neighborhoods.

C. Uses. A building or structure may be erected, altered, or used and a lot or premises may be used for any of the following purposes, and for no other.

(1) Permitted Uses:

- (a) Professional office.
- (b) Bank and financial institution.
- (c) Retail and personal services, including supermarkets.
- (d) Restaurant, excluding a diner or drive-in.
- (e) Municipal building and facility.

(2) Special Permit Uses. The following special uses, when approved by the Board of Zoning Appeals or the Town Board pursuant to § 272 of the Building Zone Ordinance of the Town of Hempstead, are permitted.

- (a) Off-street parking lot, public.

(3) Accessory Uses. Uses customarily incidental to Permitted and Special Permit Uses, including off-street parking, shall be permitted in the Neighborhood Center Sub-District.

(4) Signs. Signs, which are categorized and authorized under the provision of Article XXIV, are permitted, subject to general consistency with the Hempstead-Turnpike-Elmont Design Guidelines.

D. Height. No building shall be greater in height than four (4) stories in height or a maximum of sixty (60) feet except for buildings that contain entirely commercial uses, provided that the Town Board finds, as part of the site plan approval process, that the height of the building would not adversely affect adjacent residential uses.

E. Building Coverage. The building area for new buildings or expanded buildings in the Neighborhood Center Sub-District shall not exceed ninety percent (90%) of the lot area.

F. Floor Area Ratio (FAR). The maximum FAR for new buildings in the Neighborhood Center Sub-District shall be 3.0.

G. Yard Setbacks.

(1) Front Yards:

(a) To the greatest extent possible, a building should be situated as close to the property line as possible. Regardless, no front yard shall be greater than twenty (20) feet.

(b) Notwithstanding the foregoing, a roof, mansard, awning, or similar projection not exceeding twenty-four (24) inches into the required front yard setback shall be a permitted encroachment.

(2) Rear Yards. For uses in the Neighborhood Center Sub-District, there shall be a rear yard of at least ten (10) feet, provided that if a building is used in whole or in part as a dwelling, there shall be a rear yard, the depth of which shall be at least fifteen (15) feet. The depth shall be increased five (5) feet for each twelve (12) feet or portion thereof by which the building exceeds forty (40) feet in height.

(3) Side Yards. Where a Neighborhood Center Sub-District abuts any residential district, there shall be a side yard of at least twenty-five (25) feet along the residentially zoned area. There shall be no side yard required where a Neighborhood Center Sub-District abuts any other district.

H. Accessory Parking. Accessory off-street automobile parking spaces shall be provided on the same lot or premises or off the premises within five hundred (500) feet of such premises. Said parking may be public parking facilities owned and operated by the Town of Hempstead. The number of accessory parking spaces required shall be determined by the type of each included use and shall be calculated in compliance with § 319 of this ordinance, except that shared parking may be permitted where more than one (1) type of use utilizes parking spaces at different times of the day, including restaurant and office uses, as well as supermarkets and commuter parking. Such a determination shall be made by the Town Board as part of site plan approval. Notwithstanding any shared parking, each parking space shall comply with all requirements of § 319D of this ordinance.

I. Fences. No fence or wall more than six (6) feet in height may be erected without a permit and except when authorized by the Board of Appeals pursuant to Article XXVII hereof.

#### **§ . Hempstead Turnpike-Elmont, Gateway (HT-E, G).**

A. There is hereby established a Hempstead Turnpike-Elmont, Gateway Sub-District. In the Gateway Sub-District, buildings and structures may be erected, altered, or used and lots or premises may be used in accordance with the provisions of Subsections C to I.

B. Legislative Purpose. The Gateway Sub-District is conceived and enacted to help create a gateway to Elmont, the Town of Hempstead, and Nassau County at the western edge of the Hempstead Turnpike corridor, near the Cross Island Parkway and the Borough of Queens. As indicated in the Vision Plan, this area represents the community's "front door" and, as such, fosters a sense of identity and arrival to the community. In addition, the location of the Gateway Sub-District adjacent to Belmont Park and the Cross Island Parkway makes the area appropriate for hotel and other commercial uses that could serve a regional and entertainment population. Nothing herein shall be construed to allow a parking lot as a primary use in the Gateway Sub-District.

C. Uses. A building or structure may be erected, altered, or used and a lot or premises may be used for any of the following purposes, and for no other.

(1) Permitted Uses:

- (a) Hotel.
- (b) Conference center.
- (c) Restaurant, excluding drive-in.
- (d) Retail trade and personal service.

(2) Special Permit Uses. The following special uses, when approved by the Board of Zoning Appeals or the Town Board pursuant to § 272 of the Building Zone Ordinance of the Town of Hempstead, are permitted.

- (a) Recreation, public and private.
- (b) Professional office.
- (c) Bank and financial institution.

(3) Accessory Uses. Uses customarily incidental to Permitted and Special Permit Uses, including off-street parking, shall be permitted in the Gateway Sub-District. Any parking shall be permitted as an accessory to a Permitted or Special Permit Use, but shall not be a primary use in and of itself.

(4) Signs. Signs, which are categorized and authorized under the provision of Article XXIV, are permitted, subject to general consistency with the Hempstead Turnpike-Elmont Design Guidelines.

D. Height. Within the Gateway Sub-District, no building shall exceed six (6) stories in height or a maximum of seventy-five (75) feet, provided that the Town Board finds, as part of the site plan approval process, that the height of the building would not adversely affect adjacent residential uses.

E. Building Coverage. The building area for new buildings or expanded buildings in the Gateway Sub-District shall not exceed thirty-five percent (35%) of the lot area.

F. Floor Area Ratio (FAR). The maximum FAR for new buildings in the Gateway Sub-District shall be 2.0.

G. Yard Setbacks.



(1) Front Yards:

- (a) For buildings within the Gateway Sub-District, there shall be a front yard, the depth of which shall be at least ten (10) feet back of the front property line.
- (b) Notwithstanding the foregoing, a roof, mansard, awning, or similar projection not exceeding twenty-four (24) inches into the required front yard setback shall be a permitted encroachment.

(2) Rear Yards. For uses in the Gateway Sub-District, there shall be a rear yard of at least fifty (50) feet.

(3) Side Yards. Where a Gateway Sub-District abuts any residential district, there shall be a side yard of at least twenty-five (25) feet along the residentially zoned area. There shall be no side yard required where a Gateway Sub-District abuts any other district.

H. Accessory Parking. Accessory off-street automobile parking spaces shall be provided on the same lot or premises or off the premises within three hundred (300) feet of such premises. The number of accessory parking spaces required shall be determined by the type of each included use and shall be calculated in compliance with § 319 of this ordinance. Each parking space shall comply with all requirements of § 319D of this ordinance.

I. Fences. No fence or wall more than six (6) feet in height may be erected without a permit and except when authorized by the Board of Appeals pursuant to Article XXVII hereof.

**§ \_ . Hempstead Turnpike-Elmont, Highway Business (HT-E, HB).**

A. There is hereby established a Hempstead Turnpike-Elmont, Highway Business Sub-District. In the Highway Business Sub-District, buildings and structures may be erected, altered, or used and lots or premises may be used in accordance with the provisions of Subsections C to I.

B. Legislative Purpose. The Highway Business Sub-District is conceived and enacted to enhance the strip commercial development that characterizes the majority of the Hempstead Turnpike corridor. These uses tend to be automobile-oriented, including fast-food restaurants and automobile-related uses, but often do not contain ample on-site parking and rely on curbside parking along Hempstead Turnpike or side streets. The small size of typical lots, their adjacency right up against residential neighborhoods, and the automobile-oriented nature of the uses can adversely impact upon quality of life in the nearby residential areas. The Highway Business Sub-District, therefore, seeks to maintain viable and successful businesses along Hempstead Turnpike, which being sensitive to the surrounding residential neighborhoods.

C. Uses. A building or structure may be erected, altered, or used and a lot or premises may be used for any of the following purposes, and for no other.

(1) Permitted Uses:

- (a) Retail trade and personal service.
  - (b) Professional office.
  - (c) Bank and financial institution.
  - (d) Restaurant, excluding drive-in.
  - (e) Recreational use, public and private.
  - (f) Carpenter, hand cabinetmaking, furniture repair and upholstery shop, electrical shop, hand metalworking, blacksmith, tinsmith, new and unused plumbing, pet shop, gas, and steam and hot-water fitting shop.
  - (g) Hand laundry, custom tailoring, hand dressmaking, shoemaking, and repairing.
  - (h) Undertaking and embalming.
  - (i) Music school and dancing school.
  - (j) Municipal building and facility.
  - (k) Club, fraternity house, and lodge.
- (2) Special Permit Uses. The following special uses, when approved by the Board of Zoning Appeals or the Town Board pursuant to § 272 of the Building Zone Ordinance of the Town of Hempstead, are permitted.
- (a) Hospital, sanatorium, and dormitory of an educational institution.
  - (b) Off-street parking lot and garage, public and private.
  - (c) Gasoline service station, automobile repair, and service.
- (3) Accessory Uses. Uses customarily incidental to Permitted and Special Permit Uses, including off-street parking, shall be permitted in the Highway Business Sub-District.
- (4) Signs. Signs, which are categorized and authorized under the provision of Article XXIV, are permitted, subject to general consistency with the Hempstead Turnpike-Elmont Design Guidelines.

D. Height. No building shall be greater in height than two (2) stories and shall not exceed a maximum height of thirty (30) feet, except that on lots that contain two (2) or more acres and have a lot depth in excess of one hundred (100) feet, no building shall exceed four (4) stories in height or a maximum of sixty (60) feet, provided that the Town Board finds, as part of the site plan approval process, that the height of the building would not adversely affect adjacent residential uses.

E. Building Coverage. The building area for new buildings or expanded buildings in the Highway Business Sub-District shall not exceed forty percent (40%) of the lot area.

F. Floor Area Ratio (FAR). The maximum FAR for new buildings in the Highway Business Sub-District shall be 0.4.

G. Yard Setbacks.

(1) Front Yards:

- (a) Except as otherwise provided in Subsection (d) of this section, the required front yard depth shall be the same as the average front yard depth of the existing buildings within two hundred (200) feet on each side of the lot and within the same use district, or if there are less than two (2) existing buildings

on the same side of the street, the average front yard depth of existing buildings within two (200) hundred feet on each side directly opposite the lot in the same use district. In any case, no front yard shall be required to have a depth greater than twenty (20) feet.

- (b) Except as otherwise provided in Subsection (d) of this section, in case of a corner lot, a front yard shall be required on each street, and notwithstanding the foregoing, each such front yard shall be not less than ten (10) feet.
  - (c) Where a building is not controlled by Subsection (a) or Subsection (d) of this section, there shall be a front yard, the depth of which shall be at least ten (10) feet back of the front property line.
  - (d) Notwithstanding the foregoing, a roof, mansard, awning, or similar projection not exceeding twenty-four (24) inches into the required front yard setback shall be a permitted encroachment.
- (2) **Rear Yards.** For uses in the Highway Business Sub-District, there shall be a rear yard of at least ten (10) feet, provided that if a building is used in whole or in part as a dwelling, there shall be a rear yard, the depth of which shall be at least fifteen (15) feet. The depth shall be increased five (5) feet for each twelve (12) feet or portion thereof by which the building exceeds forty (40) feet in height.
- (3) **Side Yards.** Where an Highway Business Sub-District abuts any residential district, there shall be a side yard of at least twenty-five (25) feet along the residentially zoned area. There shall be no side yard required where a Highway Business Sub-District abuts any other district.

H. **Accessory Parking.** Accessory off-street automobile parking spaces shall be provided on the same lot or premises or off the premises within three hundred (300) feet of such premises. The number of accessory parking spaces required shall be determined by the type of each included use and shall be calculated in compliance with § 319 of this ordinance. Each parking space shall comply with all requirements of § 319D of this ordinance.

I. **Fences.** No fence or wall more than six (6) feet in height may be erected without a permit and except when authorized by the Board of Appeals pursuant to Article XXVII hereof.