

SUMMARY OF CODE COMMITTEE PROPOSED CODE REVISIONS

September 8th, 2023 Draft with Revisions

**please note this is an abbreviated version and for full proposed draft law see village website, the fifth public hearing is Thursday, Sept. 28th at 6pm*

KEY GOALS:

- To encourage and ensure the existence of a viable working waterfront in the Village
- To address the “Issues and opportunities and Action Items” and Waterfront Revitalization Program Policies identified in the 2014 draft LWRP
- To ensure a vibrant mixed use commercial district of the Village with a focus on encouraging small, local non-formula businesses that provide year-round employment, services and goods to Village residents and support a vibrant commercial waterfront in the Village
- Provide clear guidance and criteria governing conditional use and site plan evaluations

PROCESS

- Review of current and 2014 LWRP draft for highlighted issues, opportunities, strengths and weaknesses to identify historic areas of concern to the Village
- Review of public comments made during moratorium process and prior Board discussions on potential Code revisions
- Holding of “Visioning” sessions for public and solicitation of input from public through survey and community conversations
- Holding of weekly Code Committee meetings open to the public
- Review of numerous other municipal Codes from similarly situated towns, villages and small cities (i.e. historic waterfront communities with significant modern day tourism economy)
- Review of draft proposal by Suffolk County Planning Commission and Planning Board for input

- Discussion of key principles of proposed local law at Village Board of Trustee meetings commencing with July Trustee work session
- Four public hearings on proposed local law held, fifth public hearing set for Thursday, Sept. 28th
- Two information sessions held with BID participation
- Modifications incorporated into draft law posted in August reflecting input of public from initial 2 public hearings; additional modifications incorporated into draft law dated September 8th reflecting further input received from public and posted to village website

KEY PROPOSALS:

1. Realignment of certain Zoning Districts with respect to certain properties to better reflect appropriate uses, including rezoning of portions of Waterfront Commercial District on Main and Front Streets that are not contiguous with water to be part of Commercial Retail District (this is in line with current approved uses in those areas).
2. Review of Code definitions and additions and revisions to definitions to provide clarity and ensure that “loop holes” relating to uses are eliminated.
3. Revisions to Permitted (as of right) and Conditional (subject to receipt of Planning Board approval) uses in Commercial Retail, Waterfront Commercial and General Commercial Districts. See Exhibit A for summary.
4. Notwithstanding revisions to permitted and conditional uses, existing uses/businesses to be grandfathered and constitute “permitted” or “conditional” (as appropriate) uses so long as no “substantial expansion” occurs in respect of such use/business in which case such use/business may become in certain instances subject to additional review/parking provisions of Code.
5. Grandfathering exemption from parking requirements applicable to Waterfront Commercial, General Commercial and Commercial Retail to be eliminated other than with respect to existing businesses (unless subject to a substantial expansion) and permitted businesses (versus conditional businesses) in the Commercial Retail district. Existing businesses that are

subject to a substantial expansion will be required to satisfy parking requirements solely with respect to any incremental increase in square footage/capacity.

6. Payment in lieu of parking provisions to be retained but set a higher \$ threshold more consistent with actual cost of providing an actual parking space. Funds to be available to the Village for construction, acquisition and maintenance of road infrastructure, sidewalks and parking facilities in the Commercial Retail, Commercial General and Waterfront Commercial Districts.
7. Inclusion of specific criteria to be taken into account and evaluated by Planning Board in connection with any conditional use or site plan application, including criteria relating to effect on traffic, character of Village, noise and displacement of housing units as well as impact on essential and emergency services, among others.
8. Inclusion of administrative requirement for bi-annual renewable entertainment permit for businesses hosting events, dancing and/or music or other entertainment events to permit community transparency and provide for more efficient means of enforcing noise code.

Parking Requirements:

- Policy considerations included:
 - Recognition that the bulk of the commercial retail district has been built out and it is difficult for a business that is moving into a current store front/business property to provide customary parking
 - Recognition that certain types of business drive more transient out of town business into the Village that is creating restraints at times on available parking in commercial retail district and having a significant adverse effect on traffic and road and parking infrastructure in the Village
 - Policy should be that businesses that benefit from significant out of town transient customer base should bear fair share of costs incurred by the Village in addressing wear and tear on road and parking infrastructure and on otherwise addressing residents' concerns with lack of parking during high season traffic periods

- Exempted Uses:
 - **Not required to provide parking**
 - Defined to include: **existing property uses** (so long as not subject to a “substantial expansion”) AND **any business otherwise permitted** in the commercial retail district (as opposed to uses that are conditional uses)
 - Exempted uses remain exempt even if sold, leased or otherwise operated by a different entity
 - Examples of exempted uses include: retail, galleries, studios, banks, personal service stores, fitness facilities, take out food establishments, restaurants that are smaller than [1500] square feet, professional offices and theaters – **THESE TYPES OF BUSINESSES ARE EXEMPT FROM PARKING REQUIREMENTS IN THE COMMERCIAL RETAIL DISTRICT**
- “Substantial expansion” trigger has been revised from original draft to allow a business to expand by the lesser of 25% of current floor area and 500 square feet and by up to 15 persons in occupancy before being subject to requirement to provide incremental parking
- “Substantial expansion” trigger only applies to restaurants, bars, tasting rooms and hotels
- Principal **new** businesses which **will be** subject to parking requirements of Code (due to being conditional uses) in the commercial retail district are:
 - Formula businesses (i.e. chains)
 - Gas stations
 - Manufacturing businesses
 - Restaurants which are larger than [1500] square feet
 - Hotels
 - Bars
 - Tasting rooms

- A business which is subject to parking requirements under the Code has three options:
 - Provide on site parking
 - Seek a variance or relief from the ZBA from the parking requirements (this is at no cost to applicant other than customary filing fees)
 - Request a waiver from the Planning Board of the parking requirements under the payment in lieu of provisions of the Code
 - Waiver of parking requirements under payment in lieu of provisions can only be made if “in the best interests of the Village”

- **Code committee is reviewing options to provide additional relief from parking requirements in connection with buildings that provide affordable housing – these will be considered in connection with future Code amendments**

Entertainment Permits and Outdoor Dining:

- Policy considerations:
 - Recognition that noise complaints have been pervasive in recent years both in residential area as well as from residents in the commercial retail/waterfront commercial districts

 - Noise has had negative impact on marina business which is a significant and important revenue source to the Village which helps reduce the need for increases in property taxes

 - Need to address noise issues in a way that promotes business that are in the Village commercial retail area which have historically provided entertainment while balancing rights of residents to quality of life and peaceful enjoyment of property

 - Need for transparency in businesses that are providing entertainment (which is not per se a “permitted” use even under current Code) and increase ability to enforce noise code

- Original draft Code had included “outdoor dining” as a permitted accessory use in an attempt to make clear that this was “permitted” as of right under certain circumstances – based on community feedback (including feedback from the business community) this provision has been modified to provide that it is subject to site plan review and entertainment permit provisions which will govern opening hours
- A business providing entertainment or hosting catered events will need to obtain a bi-annual entertainment permit as follows:
 - Initial application will be subject to review and approval by Planning Board
 - First year application fee will be waived for applications filed prior to year end and section will not be enforced until May 1 2024; application fee will otherwise be set in line with other application fees in Code which is currently contemplated to be \$250 (and which is intended solely to cover administrative costs of the Village) After receipt of initial approval by Planning Board, permit is renewed as an administrative matter by the Building Inspector so long as the applicant can certify that there is no material change in the information provided in connection with the issuance of such permit and there has neither been a change of control in the applicant or a citation for more than [3] Code violations in respect of the respective business or 5 code violations in respect of any other business owned by the relevant applicant
 - Code provides for specific guidance to the Planning Board on considerations to be taken into account in determining whether to approve the issuance of an entertainment permit (intended to reduce any subjectivity in process)
 - Code permits revocation of permit by Board of Trustees (with right of holder of permit to a public hearing) due to continued violations of the entertainment permit and in certain other egregious circumstances
 - Customary exemptions from the requirement to have an entertainment permit have been included including a “safe harbor” provision in respect of up to six events in any year

- **Unless otherwise provided to the contrary** in an entertainment permit, entertainment and catered affairs are generally required to end by 11pm except on weekends and public holidays between Memorial Day and October 1 when events are permitted to last until 12:30 am
- In approving an entertainment permit, Planning Board may provide for shorter or longer hours of operation for entertainment and catered events (which is the same as is currently the case in connection with site plan and conditional use approval) and other applicable terms and conditions
- Entertainment permit provisions was drafted based on Code provisions of other similarly situated communities and have not been found to have an adverse effect on businesses providing entertainment or catered events

PERMITTED AND CONDITIONAL USES (BASED ON PROPOSED AMENDMENTS)

(only contains key highlights, subject to definitive documentation of proposed Code changes)

DISTRICT	PERMITTED USES	CONDITIONAL USES
Commercial Retail	<ul style="list-style-type: none"> • Retail, galleries, studios and banks/financial institutions • Personal service stores, fitness facilities and other service establishments • Business, professional and government offices • Existing eating and drinking establishments as of Code amendment so long as not subject to a substantial expansion • Any take out food establishment (will be permitted to have limited seating) • Any other restaurant that is below a specified square footage and limited number of outdoor seats • Existing hotels/motels (so long as not subject to a substantial expansion) • Theaters • Laundries • Fraternal lodges • Funeral Parlors • Apartment dwelling units so long as leased for a term of not less than a 12-month term 	<ul style="list-style-type: none"> • Eating and drinking establishments not in existence as of date of Code amendment and not otherwise expressly constituting a Permitted Use • Hotels and Motels to the extent not expressly constituting a Permitted Use (to be subject to specific criteria and requirements as well as general conditional use/site plan approval criteria) • Gas Stations • Manufacturing of Goods • Formula businesses
Waterfront Commercial	<ul style="list-style-type: none"> • Yacht clubs, marinas, docking facilities. • Parks and facilities and fraternal lodges • Boat launching facilities. 	<p>Limited to:</p> <ul style="list-style-type: none"> • Hospitals • Ferries

	<ul style="list-style-type: none">• Excursion Boats• Businesses engaged in the marine industry or engaged in the manufacturing, fabrication and/or assembly of marine-related products.• Maritime museums• Retail and wholesale of seafood products, aquaculture facilities	
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