



Appendix 2-7

Proposed MF-IRD Zoning District

§ ____ **Mitchel Field Integrated Resort District (MF-IRD).**

- A. There is hereby established a Mitchel Field Integrated Resort District (MF-IRD). In the MF-IRD, buildings and structures may be erected, altered or used and lots or premises may be used in accordance with the provisions of this section and not otherwise.
- B. Additional legislative purpose. In addition to the legislative purpose described in § 135 of this article, the MF-IRD is conceived and enacted to further promote and protect the public health, safety, general welfare and amenities of the Town of Hempstead. At the time that Article XIII *Planned Development Districts at Mitchel Field* was adopted in 1971, the Nassau Veterans Memorial Coliseum was still under construction. Over the past 50 years, the utilization of the Nassau Veterans Memorial Coliseum has significantly decreased, and its viability is limited. Accordingly, the Town Board has created the MF-IRD to facilitate the transformative redevelopment of that Nassau County-owned property and proximate properties to encourage and support sustainable economic growth and vitality within Mitchel Field. Its purposes include the following:
- (1) To preserve and protect the special character of the greater Mitchel Field area and those of surrounding neighborhoods.
 - (2) To promote the desirable and suitable use of land within the greater Mitchel Field area and provide opportunities for development and redevelopment of land on which the Nassau Veterans Memorial Coliseum is situated and on proximate properties in a manner consistent with sound planning principles.
 - (3) To promote, encourage and achieve sustainable development that preserves, protects and enhances the environmental, economic and human resources of the Town of Hempstead.
 - (4) To promote innovative and quality site and architectural design for buildings and neighborhoods that will encourage economic investment and development, employment opportunities and will provide entertainment, hospitality, commercial, housing, and other supportive uses and amenities for current and future residents in accordance with a well-considered conceptual master plan for the MF-IRD.
 - (5) To create an attractive physical environment that provides daily amenities and services for the use and enjoyment of working, resident and visiting populations.
 - (6) To achieve harmonious visual and functional use relationships within the district and with adjacent neighborhoods.
 - (7) To promote integration of pedestrian amenities and public transportation into neighborhoods to facilitate walking, encourage the use of public transportation, and accommodate alternate modes of transportation that provide access to destinations within the district, and to and from surrounding communities within the Town.

- C. Permitted uses. A building or structure may be erected, altered or used for one or more of the following purposes.
- (1) Arena, convention center, exhibition facility, casino/gaming, theater, movie theatre, golf entertainment, miniature golf, bowling, and similar entertainment uses as may be approved by the Town Board
 - (2) Hotel or conference center
 - (3) Office, bank, financial institution or brokerage service
 - (4) Medical or dental office or clinic
 - (5) Store for the sale, at retail, of articles to be used on or off the premises
 - (6) Supermarket
 - (7) Restaurant, cafe or luncheonette, excluding a drive-in restaurant, drive-in luncheonette, drive-in counter or drive-in refreshment stand
 - (8) Personal service retail, such as retail hand laundry, custom tailoring, hand dressmaking or shoe repairing
 - (9) Research and development facilities (including medical research and laboratories)
 - (10) Hospital and medical center
 - (11) Public school, parochial school, private school; college or university; trade school or training facilities; music, dancing or other instructional school; dormitory for educational institutions
 - (12) Senior citizen congregate-care facility, assisted living facility or nursing home
 - (13) Day-care facility
 - (14) Health club or spa
 - (15) Cultural facilities, museums, performing arts venues, memorials
 - (16) Club, fraternal organization, lodge or philanthropic use
 - (17) Townhouses or multiple-family dwellings
 - (18) Post office, library, emergency services or other municipal buildings or governmental uses
 - (19) Religious uses
 - (20) Park, recreational or open space uses, including outdoor entertainment uses
 - (21) Public and private transportation facilities

D. Permitted accessory uses.

- (1) In relation to hotels and/or conference facilities, accessory uses and structures on the same lot or premises with, and of a nature customarily incidental and subordinate to, the principal use or structure, including restaurants, cocktail lounges, public banquet halls, ballrooms, meeting rooms, swimming pools, spas, fitness centers, tennis courts, boutiques, gift shops, drugstores and other business uses customarily incidental to the operation of a hotel and/or conference center.
- (2) In relation to offices, accessory uses and structures permitted on the same lot or premises with the principal use or structure shall be limited to uses customary and incidental to the principal use, fitness centers, recreational facilities, cafeterias, retail and service shops and facilities.
- (3) Clubhouse and meeting rooms
- (4) Outdoor in-ground or indoor swimming pools and tennis courts
- (5) Utility and energy facilities, including renewable energy facilities
- (6) Open surface parking and parking structures

E. Floor area ratio (FAR). The maximum permitted floor area ratio is 1.6

F. Exceptions to floor area. Notwithstanding the definition of "floor area" in § 1, Definitions, of this Chapter, in the MF-IRD, the following portions of a building or structure shall be excluded from the calculation of floor area:

- (1) A basement or cellar located entirely below grade. Such basement or cellar may be used all or in part for required parking spaces
- (2) Parking structures
- (3) An arcade, covered plaza, porte cochere, or atrium
- (4) A pedestrian mall or plaza
- (5) An open-air park, recreational area or outdoor entertainment area

G. Height of nonresidential and mixed-use buildings, except hotels.

- (1) For all nonresidential and mixed-use buildings, no building shall be greater in height than 250 feet.
- (2) A hotel may be a maximum of 280 feet in height, which shall be expressed as the vertical distance measured from the highest level of the established centerline grade of the street adjacent to the building to the highest point of the exterior surface of the roof, with the exception specifically of chimneys, parapet walls, flagpoles, aerials, flues, elevator or stair bulkheads or any mechanical equipment, photovoltaic panels, or aviation obstruction lighting provided that they are no more than 20 feet in height. Such height shall be permitted, provided that the Town Board finds during the conceptual master plan approval process that the height of the building would not adversely affect adjacent uses and the height is consistent with the legislative purposes

of the MF-IRD District.

- (3) A parking structure shall have a maximum height not exceeding 95 feet.
- H. Front yards for nonresidential and mixed-use (i.e., residential and nonresidential) buildings (note: front yard requirements do not apply to internal rights-of-way created as part of a conceptual master plan approved under the MF-IRD).
- (1) For all nonresidential and mixed uses (i.e., residential and nonresidential): not less than 10 feet. In the case of a corner lot, a front yard shall be required on each street.
 - (2) Notwithstanding the foregoing, a bay window, roof, cornice, gutter, mansard, awning or similar projection not exceeding 24 inches into the required front yard setback shall be a permitted encroachment.
- I. Rear yards for nonresidential and mixed-use (i.e., residential and nonresidential) buildings (note: rear yard requirements do not apply to internal rights-of-way created as part of a conceptual master plan approved under the MF-IRD). For all nonresidential uses, rear yards shall be at least 10 feet.
- J. Off-street and on-street parking for nonresidential uses.
- (1) Except as provided below, all nonresidential uses shall provide off-street parking in conformance with §319 of this Chapter.
 - (a) casino/gaming – one space per 200 square feet
 - (b) conference center – one space per 200 (note: restaurants and banquet facilities within a conference center must provide one space per 100 square feet)
 - (c) support areas (e.g., front-of-house, back-of-house, circulation) – one space per 500 square feet
 - (d) central utility plant and mechanical spaces – one space per 10,000 square feet
 - (2) All parking areas or parking structures shall have sufficient self-contained drainage, adequate means of ingress and egress, suitable paving and adequate levels of lighting.
 - (3) In the event that the parking proposed does not meet the requirements of Item J(1), above, the application for approval of a conceptual master plan for the MF-IRD shall require a shared parking analysis to be prepared by a qualified traffic professional. The Town Board shall consider the shared parking analysis to determine the overall parking requirement for the uses proposed in the conceptual master plan.
 - (4) On-street parking along the street frontages of lots or premises used for nonresidential purposes on all new rights-of-way within the district shall be permitted. On-street parking along street frontages shall count towards the off-street parking requirements of the permitted uses located on such lots or premises.

- (5) In order to alleviate the visual impact of expanses of paved surface parking, one of the following measures shall be incorporated into all off-street surface parking area:
 - (a) Raised landscaped islands shall be located at the ends of each parking bay containing 10 or more spaces and separating opposing rows of parking spaces at least every third parking bay. The minimum width of landscaped islands shall be five feet where located at the ends of parking bays and eight feet where separating opposing rows of parking spaces or adjacent to circulation aisles; or
 - (b) A minimum 15-foot-wide vegetative buffer shall be provided to screen off-street surface parking areas along adjoining public roadway frontages. Where off-street parking areas are situated opposite residential uses that adjoin a public roadway frontage, such vegetative buffer shall be a minimum of 50 feet in width.
- K. Off-street loading zone/space/berth for nonresidential uses. Off-street loading shall be provided in the amount of one truck space for the first 40,000 square feet of space in a building or attached group of buildings, plus one additional space for the next 80,000 square feet or major part thereof, plus one space for each additional 200,000 square feet or major part thereof. A minimum of 50 percent of truck spaces shall be at least 12 feet in width and 30 feet in length.
- L. Requirements for residential uses.
 - (1) Notwithstanding any other provisions of this article, no more than 500 dwelling units may be located within the MF-IRD.
 - (2) At least 20% of the total number of dwelling units in an MF-IRD shall be affordable and/or next generation/workforce housing units as defined in this Article.
 - (3) No building used only for residential purposes shall be greater in height than 250 feet.
 - (4) Front yards shall be a minimum of 25 feet (note: front yard requirements do not apply to internal rights-of-way created as part of a conceptual master plan approved under the MF-IRD). In the case of a corner lot, a front yard shall be required on each street.
 - (5) Rear yards shall be a minimum of 25 feet (note: rear yard requirements do not apply to internal rights-of-way created as part of a conceptual master plan approved under the MF-IRD).
 - (6) Side yards. There shall be a minimum twenty-foot side yard on each side of the building, except where there are two or more buildings on a lot. In such a case, the minimum side yard requirement of 20 feet shall apply only along the side lot lines of the entire lot (note: side yard requirements do not apply to internal rights-of-way created as part of a conceptual master plan approved under the MF-IRD).
- M. Supplementary regulations.

- (1) Fences and walls. No fence or wall more than six feet in height may be erected without a permit and except when authorized by the Board of Appeals pursuant to Article XXVII hereof.
 - (2) Establishment of public open space. At least 3% of the total land area of the MF-IRD shall be set aside as public open space. Required building setbacks, parking areas and driveways shall not be counted toward required public open space.
- N. Design guidelines. All development proposals shall include detailed plans as part of the application for conceptual master plan approval for architectural, streetscape and landscape design to ensure an efficient development of uses that is architecturally and visually appealing. The guidelines included in this article are intended to encourage master plan elements that provide appropriate location, arrangement and design of buildings, parking areas and parking structures, and open space and site amenities to promote quality site, building and landscape design, and to integrate the architecture, landscape architecture and streetscape of the MF-IRD.
- (1) Green site and building requirements. All development proposals shall include sustainable site and building practices regarding design, construction methods, and post-construction operation and maintenance of a proposed project to decrease anticipated energy demand, water use, generation of solid and liquid waste, stormwater runoff, and the use of private cars, and to preserve and protect the natural resources, air quality and water supply of the Town of Hempstead. Such measures shall be part of the application for conceptual master plan approval and proposed site and building plans.
 - (2) Building design. In general, building design shall consider building facade elements and significant design features, such as color, exterior materials and treatments, roof structure, aesthetic treatment of exposed mechanical equipment, lighting, and service and storage areas. Building materials and methods of construction shall be used in a creative manner to ensure aesthetically pleasing architectural design. The following basic standards shall apply to all new or renovated buildings and lots within the MF-IRD as the foundation for the project-specific design guidelines required as part of a conceptual master plan for development within the district.
 - (a) Development of building plans and site plans that include open space, commons, or small pedestrian plazas with amenities such as benches or other seating, water features, night lighting, public art, bicycle parking and landscape plantings.
 - (b) Design of parking lots, parking structures, access driveways, and pedestrian walkways to avoid or minimize the potential for pedestrian/vehicle conflicts and provide a safe and amenable pedestrian environment.
 - (c) Installation of a safe pedestrian walkway system within a lot or premises. The walkway system must connect building entrances to one another, to parking areas, and to public streets, sidewalks and open space.

(d) Artful treatment of building facades and exterior walls to provide appropriate street-level scale and architectural interest through the aesthetic use of setbacks, surface textures, fenestration, pedestrian entrances, lighting, and other building features such as porticos, balconies, bay windows, canopies, dormers, and columns.

[1] Facades should be articulated to reduce the scale and uniform appearances of exterior building walls and provide visual interest that is consistent with the surrounding community character and scale.

[2] Buildings should have architectural features and patterns that provide visual interest at the scale of the pedestrian.

[3] Ground-floor facades that face public streets or publicly accessible open space should include a combination of setbacks, arcades, display windows, entry areas, canopies, awnings or other such features to promote a visually interesting pedestrian environment.

[a] Building facades and treatments should be varied throughout the district to provide an eclectic neighborhood aesthetic

[b] Artful treatment of building roofs to provide neighborhood level scale and architectural interest.

[c] Variations in rooflines should be used to add interest to the buildings.

[d] Roofs should have at least one of the following features:

- Parapets concealing flat roofs and rooftop equipment such as heating, ventilating and air-conditioning (HVAC) units from public view.
- Overhanging eaves, extending past the supporting walls.
- Sloping roofs that do not exceed the average height of the supporting walls.

[e] Building materials and colors that are appropriate to the building style and are aesthetically pleasing and compatible with those of the surrounding communities.

[1] Facade and exterior wall building materials should be high-quality materials such as brick, wood siding, glass, metal, natural or synthetic stone, tinted, textured, decorative concrete masonry, or other materials that are complementary or sympathetic to the community aesthetic.

- [2] Facade colors should be varied and complementary to the community aesthetic.
 - [f] Building facades and setbacks appropriately enhanced by well-designed landscape plantings or otherwise appropriately treated to address the orientation of the buildings.
 - [g] Use and location of small green spaces, courtyards, squares, plazas, and similar spaces that also function as community gathering places to provide transitions between lots or premises and ensure compatibility with other uses.
 - [h] Parking structures. In general, the design of parking structures and first-floor and above portions of buildings used for other purposes that are devoted to parking should include all the building design standards required herein and the following additional basic standards:
 - [1] Pedestrian and vehicular access points should be articulated to add visual interest.
 - [2] Include architectural elements that enhance the structure, break up its mass and complement the building(s) the structure serves.
 - [3] Facades should be designed to screen the visibility of vehicle headlights from view points outside the structure.
 - [4] Provide bicycle parking facilities commensurate with anticipated demand.
- (3) Landscape design. In general, landscape design shall consider the elements and significant design features of open space and a site, including the pedestrian and vehicular circulation systems, vehicle and bicycle parking areas, paving, vegetation, water features, irrigation systems, recreation and play equipment, transit-stop shelters, freestanding and retaining walls, fences, exterior stairs and ramps, site furnishings, public art, signage, and site lighting, such as color, texture, scale, placement, materials and treatments, efficiency, aesthetic integration of features, screening, buffers, and treatment of exposed mechanical equipment and service and storage areas. Building materials and methods of construction shall be used in a creative manner to ensure aesthetically pleasing site and landscape architectural design. The following basic standards shall apply to all new or renovated lots and premises within the MF-IRD and as the foundation for the project-specific design guidelines required as part of a conceptual master plan for development within the district.
- (a) Development of site plans that includes open space, commons, or small pedestrian plazas with amenities.
 - (b) Design of parking lots, access driveways, and pedestrian walkways to

avoid or minimize the potential for pedestrian/vehicle conflicts and provide a safe and amenable pedestrian environment.

- (c) Installation of a safe, continuous, pedestrian walkway system throughout the district. The walkway system should connect buildings and premises to one another, to parking areas and structures, and to public streets, sidewalks and open space.
- (d) Provide pedestrian connections between the district and uses within the surrounding communities.
- (e) Facilitate access and mobility for persons of all ages and physical abilities.
- (f) Connect uses to public transportation stops within the district and those within adjacent surrounding communities.
- (g) Street, open space and premises planting plans that are artfully designed to provide visual and physical amenity for the district and the surrounding communities.
- (h) Provide spatial and visual transitions between the district and surrounding uses.
- (i) Define outdoor spaces and activity areas, highlight the changing seasons, provide color and interest throughout the year, provide shade, shelter and a street-level buffer between large buildings and pedestrians, and contribute to the spatial and visual unity of individual premises and the district.
- (j) Provide interesting, supportive environments for recreational activities.
- (k) Provide trees and other plantings to shade and screen views of surface parking areas.
- (l) Respond to the unique characteristics of a location, regarding sun and shade, soil, climate, wind, slope, water availability, views, and user activities.
- (m) Select high-quality, well-grown, deciduous and evergreen trees shrubs, vines and ground covers that are complementary or sympathetic to the aesthetic of buildings and uses, the district and surrounding communities.
- (n) Select, locate and install plants to facilitate the establishment, growth, health and continued maintenance of all newly installed and existing vegetation.
- (o) Reduce stormwater runoff by increasing local infiltration.
- (p) Use and location of small green spaces, courtyards, squares, plazas, and similar spaces that also function as community gathering places to provide transitions between lots or premises and ensure compatibility with other uses in the district and the surrounding community.
- (q) Selection of street and open space furnishings, lighting and signage that are part of a designed system of elements that create a district-wide

identity and individual identities for parks, open spaces, plazas, courtyards and squares that are public or part of individual premises or lots. Open space furnishings include drinking fountains, light standards, litter receptacles, benches, bollards, kiosks, small pavilions, informational and directional graphics, public telephones, movable planters, tree grates, tree guards, public art and similar items.

O. Signs.

- (1) No sign shall be permitted in the MF-IRD, except as provided in this article or as authorized by the Design Review Board, in accordance with the MF-IRD Design Guidelines set forth in § _____ of this Chapter. In the event of a conflict between the provisions of this Chapter and other provisions of this Building Zone Ordinance, the provisions of this Chapter shall control.
- (2) Definitions. In addition to the definitions in Article XXIV of this Building Zone Ordinance, the following definitions are applicable to this Chapter. In the event of a conflict, the following definitions will be controlling:

IDENTIFICATION SIGN

A sign displaying the name or brand logo of a building, business or institution. Such sign may indicate the name or logo of the occupant, owner or manager and address of the premises, but may not include advertising, a listing of specific goods or services, prices or telephone numbers.

MONUMENT SIGN

A freestanding sign, that is attached to the ground or to its base on grade by a solid sign structure, and is orientated in a horizontal configuration with its width being greater than its height.

PYLON SIGN

A freestanding vertical sign, supported by one or two poles and is taller than it is wide. Pylon signs may be internally illuminated or backlit and may include the integration of dynamic digital displays on any face.

- (3) Permitted Signs. The following signs shall be permitted in the MF-IRD:
 - (a) All signs permitted under the provisions of Article XXIV of the Building Zone Ordinance of the Town of Hempstead, unless otherwise stated in this Chapter.
 - (b) Without a Permit:
 - [1] Window sign: Signs shall be permitted in each display window, provided that the total area of all signs used or displayed in such window does not exceed 1/4 of the area of the window.
 - (c) Upon Issuance of a Permit:

- [1] Identification Sign: one sign per building elevation, which does not exceed ten square feet in area per face.
- [2] Wall Sign: Static or digital wall signs as defined in §243 of Article XXIV of this Building Zone Ordinance.
- [3] Projecting Sign: Static or digital projecting signs as defined in §243 of Article XXIV of this Building Zone Ordinance.
- [4] Detached Sign: A double-faced detached sign shall be permitted at each driveway entrance to advertise the destinations and/or services provided on the premises.
 - [a] Detached Monument Signs shall not exceed a height of eight feet and shall be a maximum of 300 square feet for the sign face(s). Detached Monument Signs shall be set back at least ten feet from the intersection of a driveway and/or a private or public street or the public right-of-way, as applicable.
 - [b] Detached Pylon Signs shall not exceed 45 feet in height and 15 feet in width, and may display on-site advertising, logos, and/or directional information and may contain digital displays. Detached Pylon signs shall be set back at least five (5) feet from the intersection of a driveway and/or a private or public street or easement of the public right-of-way, as applicable, and shall not interfere with or present a hazard to pedestrian or vehicular traffic including required vehicular sight distance. No more than one Detached Pylon Sign shall be permitted for each frontage.
- [5] Canopy Sign: One row of lettering, business logo, and/or numbers shall be permitted on three sides. Graphics may be integrated directly into the sides, front, or above the canopy and shall not exceed 200 square feet, nor shall the bottoms of such graphics be located more than two inches from the lowest parts thereof or their valances, if any, and parallel thereto. One row of fabricated, dimensional letters or numbers may be installed at the top or bottom front of an architectural canopy structure, and illuminated with internal or face-oriented lighting.
- [6] Directional Signs: Single- or double-faced detached sign not exceeding 16 square feet in area, listing the name, location, and/or direction of any of the uses permitted.
- [7] Façade Signs: One facade sign as defined in §243 of Article XXIV of this Building Zone Ordinance shall be permitted on each exterior face of the building.

P. Application procedure.

- (1) Any application made pursuant to the provisions of this section shall originate by an application to the Town Board. Such application shall include a

conceptual master plan for the MF-IRD.

- (2) In the event that the Town Board approves said application, it may attach certain conditions to said approval, which conditions shall become an integral part thereof.

Q. Design Review Board. Review and approval process for new development, redevelopment, building expansions that result in a ten percent or greater increase in a building's floor area, and/or amendments to Town Board-approved Conceptual Master Plans (CMPs) and the associated site plan(s) and signs in the MF-IRD shall be as follows:

- (1) A building permit application shall be submitted to the Department of Buildings. The Plans Examiner shall, upon the submission of a complete application, conduct a zoning compliance review and identify requirements for SEQRA-compliance, if any.
- (2) Upon complete review of zoning by the Department of Buildings, the application shall be referred to the Design Review Board for review in accordance with the MF-IRD Design Guidelines as set forth in § _____ of this Chapter and/or the sign regulations as set forth in § _____ of this Chapter.
- (3) The Design Review Board shall consist of three employees of the Department of Buildings with site plan review backgrounds, appointed by the Town Board. Approval by the Design Review Board shall be necessary prior to the issuance of a building permit for new development, redevelopment, building expansions that result in a 10 percent or greater increase in the building's floor area and/or amendments to Town Board-approved CMPs and the associated site plan(s) and/or sign(s).
- (4) Design Review Board Jurisdiction for Initial Conceptual Master Plan and Associated Site Plan Applications and Sign Applications.
 - (a) For applications for approval of an initial CMP for a property, site plan(s) and sign(s) associated with implementation of such initial CMP, the Design Review Board shall review said CMP and the associated site plan(s) and sign plan(s) for conformance with the MF-IRD Design Guidelines as set forth in § _____ of this Chapter and/or sign regulations as set forth in § _____ of this Chapter, as applicable.
 - (b) The Design Review Board shall render a written recommendation to the Town Board within 30 days of receipt of the initial CMP and/or the site plan(s) and/or the sign(s) associated with the initial CMP regarding compliance with the MF-IRD Design Guidelines set forth in § _____ and/or § _____ the Sign regulations of this Chapter, as applicable.
- (5) Design Review Board Jurisdiction for Amendments/Applications After Town Board Approval of Initial Conceptual Master Plan and Site Plan and Sign Applications Associated with Initial Conceptual Master Plan.
 - (a) In reviewing applications, the Design Review Board shall substantially

follow the criteria of the MF-IRD Design Guidelines. The ultimate approval of projects will be judged in accordance with these design guidelines set forth in § _____ of this Chapter and/or the sign regulations set forth in § _____ of this Chapter, as applicable.

- (b) Upon SEQRA compliance, if and as necessary, and conclusion of a public hearing (except that no public hearing is required for sign applications that are not part of a site plan application), the Design Review Board shall have the power to approve, disapprove, or approve with conditions applications for new development, redevelopment, building expansions that result in a ten percent or greater increase in the building's floor area and/or amendments to Town Board-approved CMPs and the associated site plan(s) and/or sign(s) in the MF-IRD. The Design Review Board shall render a written determination within 30 days of the completion of a public hearing, and may issue findings of fact. In the case of a sign application, a decision shall be rendered within 30 days of receipt of a complete application.
- (c) Prior to the public hearing of the Design Review Board, a public notice, prepared by the Design Review Board, shall be published at least 10 days prior to the date fixed for such public hearing in a newspaper of general circulation in the Town of Hempstead and shall be noticed on the Town's website at least 10 days prior to the public hearing. The notice shall state the general nature of the application, the applicant, and the location of the property. Said notice shall be mailed by the applicant no more than 28 days and no fewer than 14 days prior to the Design Review Board's hearing by certified mail to all property owners within a 300-foot radius of the subject application's property boundaries, and the applicant shall file an affidavit of mailing, with the certified mail receipts, with the Design Review Board prior to the public hearing.
- (d) A sign noticing said public hearing shall be posted at said location at least 14 days prior to the date fixed for such public hearing. Said sign(s) shall be located in each front yard setback of the subject premises; shall be at least 24 square feet in area; shall provide the words "NOTICE OF PUBLIC HEARING" and the date, place and time of the public hearing, and the general nature of the application in black letters at least six inches high with a background color of the face of the sign either bright orange or bright yellow.
- (e) If the Design Review Board approves or approves with conditions or modifications and the applicant consents to the modifications, and all applicable state, county, and Town approvals are obtained, the Building Department shall issue a building permit. Site plan approval under § 305 will not be required. The project will not require a Town Board hearing.
- (f) Anyone aggrieved by the decision of the Design Review Board may appeal same to the Board of Appeals, unless the underlying application must be reviewed or approved by the Town Board, in which case an appeal shall be within the jurisdiction of the Town Board.

- (6) Applications not in Compliance with the MF-IRD. If an application for new development, redevelopment, building expansions that result in a ten percent or greater increase in the building's floor area, and/or amendments to Town Board-approved CMPs and the associated site plan(s) and/or sign(s) in the MF-IRD are not zoning compliant, upon completion of review and decision by the Design Review Board, the application shall be referred to the Town Board for a public hearing to determine the approval or disapproval of the application. In the event that the Town Board approves said application, it may attach certain conditions to said approval, which conditions shall become an integral part thereof. The Town Board may, by resolution, dispense in part with conformity with the provisions applicable to the MF-IRD and may impose safeguards and conditions as it may deem appropriate, necessary or desirable to promote the spirit and objectives of this section, including but not limited to restrictive covenants pertaining to any area within the district that is the subject of an application, including the site plan submitted on behalf of the application, together with other agreements, if any, in recordable form and running with the land. If the Town Board approves an application, the application shall then be circulated to state, county, and Town departments for approvals. Once all state, county, and Town approvals are obtained, the Building Department will issue a building permit. Site plan approval under § 305 will not be required. The project will not require a second Town Board hearing.
- R. Terms and Conditions of this Chapter Control. The provisions of this Chapter shall supplant, supersede, and prevail over any other chapters, articles, and provisions of the Building Zone Ordinance of the Town of Hempstead (hereinafter the "BZO"). Except as otherwise provided in this Chapter, any other chapters, articles, or provisions of the BZO that are inconsistent with or in conflict with, this chapter and/or the standards and procedures set forth herein shall have no application, force or effect.
- S. Severability. If any clause, sentence, section, paragraph or provision of this article shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate any other part of this article, but shall be confined in its operation to the clause, sentence, section, paragraph or provision directly involved in the action or proceeding in which the judgment or order so adjudging shall have been rendered.