

ARTICLE 6. SUPPLEMENTARY DISTRICT REGULATIONS**Section 6-1. Public Utilities**

Transmission lines and pipelines for local distribution of utilities to individual lots are permitted by right in any district. Uses and structures for public utilities, such as electric lines, dams, power plants, and pumping, boosting, and other substations for electric power, telephone, gas, water, sewer, and other utilities, and transmission lines and pipelines for such utilities are permitted as a special exception in any district when approved by the Board of Appeals, provided that any building be designed to be in keeping with other structures in the zone, that suitable planting is provided, and that other conditions are provided as necessary to safeguard the adjoining areas from hazards to life and property.

Section 6-2. Number of Main Structures on a Lot

1. Every structure hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot of record and in no case shall there be more than one (1) principal structure on a lot except as provided in 2 below.
2. More than one principal structure or use may be located upon a lot in the following case of the following permitted uses subject to the lot, yard and density requirements and other provisions of this chapter:
 - a. Institutional buildings.
 - b. Public or semi-public buildings.
 - c. Commercial or industrial buildings.
 - d. Permitted mixed-use buildings.

Section 6-3. Vending Machines

Vending machines may be located on properties in conjunction with a permitted use in the “VM”, “GC”, “HC”, “LI”, and “HI” districts. Vending machines may be located on properties in conjunction with a permitted recreation use in the “PRD”, and “MPC” districts.

Section 6-4. Setbacks on Planned Streets

Where a street or highway shown on the adopted Comprehensive Plan has a proposed right-of-way greater than that existing, the front yard requirement shall be measured from the proposed right-of-way.

Section 6-5. Storage of Boats, Boats on Trailers, Jet Skis, Jet Skis on Trailers, Motor Homes, Recreational Vehicles, Trailers (any type), Travel Trailers/Travel Campers (pulled by motor vehicle)

For purposes of this section recreational vehicle shall include boats, boats on trailers, jet skis, jet skis on trailers, motor homes, recreational vehicles, trailers (any type), travel trailers/travel campers (pulled by motor vehicle).

1. General Provisions for All Vehicles.
 - a. These vehicles shall not be used for living quarters.
 - b. These vehicles shall not be used to conduct business there from.
 - c. These vehicles may not be parked, placed or stored in front yards except from April 1 through October 31st provided the trailer and accompanying vehicle, referenced above, do not exceed 28 feet in length. (AMENDED PER ORDINANCE 2009-05-01)
 - d. These vehicles may be parked, placed or stored in rear or side yards provided that they are at least 2½ feet from the property line, and in the case of side yard storage, provided that they are at least 2½ feet from the property line and are situated at least eight (8) feet to the rear of a lateral projection of the front foundation of the building.
 - e. These vehicles may be parked, placed or stored in any completely enclosed garage.
 - f. These vehicles may be stored on a specially marked parking area of any multi-family rental or condominium unit. Such areas must be screened from adjacent off-site uses as required by the Zoning Administrator.
2. Additional Provisions for Boats, Boats on Trailers, Jet Skis, Jet Skis On Trailers, Recreational Vehicles, Trailers (any type) and travel trailers/travel campers (pulled by motor vehicle).

In addition to Section 6-5, paragraph 1. above boats, boats on trailers, jet skis, jet skis on trailers and trailers (any type):

- a. May not be parked, placed or stored on public streets, public alleys, public rights of ways or areas designated for parking (private or public) in townhouse developments.
- b. Boats, jet skis on properly registered and tagged trailers attached to a properly registered and tagged motor vehicle may be parked on public streets in a Commercial District in accordance with the parking regulations as set forth in the Code of Ordinances.
- c. Properly registered and tagged trailers attached to a properly registered and tagged motor vehicle may be parked on public streets in a

Commercial District in accordance with the parking regulations as set forth in the Code of Ordinances.

- d. Properly registered and tagged travel trailers/travel campers attached to a properly registered and tagged motor vehicle may be parked on public streets in a Commercial District in accordance with the parking regulations as set forth in the Code of Ordinances.
 - e. Boats, boats on properly registered and tagged trailers, jet skis, jet skis on properly registered and tagged trailers and properly registered and tagged trailers (any type) shall not be parked, placed or stored on any portion of a residential or mixed residential-commercial property for a period greater than 24 hours during loading and unloading only.
3. Additional Provisions for Motor Homes.
- In addition to Section 6-5, paragraph 1. above motor homes:
- a. May be parked on public streets in a Commercial District in accordance with the parking regulations as set forth in the Code of Ordinances.
 - b. Shall not be parked on any portion of a residential or mixed residential-commercial property for a period greater than 24 hours during loading and unloading only.
4. Detachable Caps – Detachable caps may not be placed or stored on public streets, public alleys, public rights of ways or areas designated for parking (private or public) in townhouse developments. Detachable caps may not be stored in front of the principal structure on the lot.

Section 6-6. Modification of Height Regulation

The height regulations as prescribed in this Ordinance shall not apply to:

1. Belfries;
2. Chimneys;
3. Church Spires;
4. Conveyors;
5. Cooling Towers;
6. Elevator Bulkheads;
7. Fire Towers;
8. Flag Poles;

9. Grain Elevators;
10. Monuments;
11. Ornamental Towers and Spires
12. Radio and Television Antennas;
13. Silos;
14. Smoke Stacks;
15. Stage Towers or Scenery Lofts;
16. Tanks;
17. Water Towers and Standpipes;

For Antennas or Communication Towers greater than 50 feet in height and associated substations, see Section 6-25.

Section 6-7. Corner Visibility

1. Nothing shall be erected, placed, planted, or allowed to grow in such a manner as to impede vision at intersecting streets.
2. No sign, fence, wall, hedge, planting, or other obstruction to vision, extending to a height in excess of three (3) feet above the established street grade, shall be erected, planted, or maintained within the area of a corner lot that is included between the lines of the intersecting streets and a straight line connecting them at points twenty (20) feet distance from the intersection of the street lines.

Section 6-8. Parking Regulations

1. Off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance shall not be located in any buffer or perimeter drainage easement, as set forth in the Zoning Ordinance or Subdivision Regulations. [AMENDED PER ORDINANCE 2010-02-01]

Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected or structurally altered, or any building or structure is converted for the uses listed in Column 1 of the chart below, when such uses are located in the districts listed in Column 2, accessory off-street parking spaces shall be provided as required in Column 3 and 4 or as required in subsequent sections of this article. (AMENDED PER ORDINANCE 2007-08-01)

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Use or Use Category	Location	Spaces Required Per Basic Measuring Unit	Additional Parking
One family dwelling	All districts	2 per dwelling unit	N/a
Townhouses	All districts	2 per dwelling unit	Off-street or overflow 1.5 per dwelling unit
Two, three & four - family dwellings	All districts	2.5 per dwelling unit	N/a
Multiple dwelling	All districts except GC	2.5 per dwelling unit	N/a
	GC	1.5 per dwelling unit	
Apartments (ADOPTED PER ORDINANCE 2013-07-01)	RM-C (ADOPTED PER ORDINANCE 2013-07-01)	2.5 per 3 bedroom unit 2.0 per 2 bedroom unit 1.8 per 1 bedroom unit (ADOPTED PER ORDINANCE 2013-07-01)	None (ADOPTED PER ORDINANCE 2013-07-01)
Church or temple, auditorium or place of assembly	All districts	1 per 5 seats or bench seating spaces	1 per 5 seats in main assembly areas
Elementary or nursery school	All districts	1 per 10 seats in main assembly room	Or 1 per classroom whichever is greater
College or high school	All districts	1 per 5 seats in main auditorium or bench space	Or 8 per classroom whichever is greater

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Use or Use Category	Location	Spaces Required Per Basic Measuring Unit	Additional Parking
Private clubs, fraternities, sororities and lodges with sleeping rooms	All districts	2 per 3 sleeping rooms or suites	Or 1 per 5 members, whichever is greater
Private clubs, fraternities, sororities and lodges with no sleeping rooms	All districts	1 per 10 members	N/a
Hotel	All districts	1 per 2 guest rooms or suites	1 per 3 employees
Tourist court, motel, motor hotel, or motor lodge	All districts	1 per sleeping room or suite	1 per 3 employees
Rooming or boarding house	All districts	1 per 2 sleeping rooms	N/a
Assisted Living/Group Home	All districts	Residential Group Home: See One Family Dwelling, Townhouses or Multiple dwelling parking category ***** Small or Large Institutional - 1 space per 2 occupants	Residential Group Home: See One Family Dwelling, Townhouses or Multiple dwelling parking category ***** Small Institutional – 1.5 spaces per employee Large Institutional – 2 spaces per employee
Hospital	All districts	1 per 2 patient beds	1 per 3 employees

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Use or Use Category	Location	Spaces Required Per Basic Measuring Unit	Additional Parking
Office or office building, studio or clinic	All districts except VC	1 per 500 square feet of floor area	3 spaces minimum
	VC	1 per 400 square feet of floor area	One space minimum
Funeral Home	All districts	1 per 500 square feet of floor area or 1 per 3 seats, whichever is greater	N/a
Restaurant or other establishment for consumption of food or beverage on the premises	All districts except VC and GC	1 per 100 square feet of floor area maximum [AMENDED PER ORDINANCE 2010-02-01]	1 space per 3 employees present on the maximum shift
	VC and GC	1 space per 200 square feet of floor area minimum [AMENDED PER ORDINANCE 2010-02-01]	1 space per 3 employees present on the maximum shift
Furniture or appliance store, machinery, equipment and automobile and boat sales and service	All districts	1 per 300 square feet of floor area	2 spaces minimum
		N/a	Automobile sales and service 10 minimum
Auditorium, theatre, gymnasium, stadium, arena or convention hall	All districts	1 per 5 seats or seating spaces	1 spaces 2 per employees
Bowling alley	All districts	10 per alley	N/a
Amusement place, dance hall, skating rink, swimming pool, or exhibition hall without fixed seats	All districts	1 per 100 square feet of floor area	Does not apply to accessory uses

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Use or Use Category	Location	Spaces Required Per Basic Measuring Unit	Additional Requirements
Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, wholesale warehouse or similar establishment	All districts	1 per 2 employees on maximum working shift	Plus space for storage of trucks or other vehicles used in connection with the business or industry
Sanitarium convalescent home, home for the aged or similar institution	All districts	1 per 5 patient beds	1 space per 3 employees
Retail store or personal service establishment and banks	All districts except VC and GC	1 per 200 square feet of floor area	1 space per 3 employees
	VC and GC	1 space per 400 square feet of floor area	None if less than 1,000 square feet or one per 3 employees if over 1,000 square feet
Big Box Retail (ADOPTED PER ORDINANCE 2007-08-01)	HC, LI and HI districts	1 space per 300 square feet of net retail floor area (excluding office areas, receiving/storage area and utility rooms); 1 per 1,000 square feet of net garden center floor area.** [AMENDED PER ORDINANCE 2010-02-01]	1 per 3 employees
Country club or golf club	All districts	1 per 5 members	N/a

** Big Box Retail: The Planning Commission may reduce the number of required parking spaces when several adjacent Big Box stores are proposed where parking can be shared among adjacent stores by up to 15% of the otherwise required minimum. The Planning Commission may also reduce the number of required parking spaces by 10% of the otherwise required minimum number when public transit is provided to the site. The discretionary reductions may be cumulative.
[ADOPTED PER ORDINANCE 2010-02-01]

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Use or Use Category	Location	Spaces Required Per Basic Measuring Unit	Additional Requirements
Public library, museum, art gallery or community center	All districts	Public Space: 1 space/400 square feet Employees: 1 space/3 employees Meeting Room/Auditorium: 1 space/5 people Note: Public Space does not include office space, meeting rooms or auditoriums <small>(AMENDED PER ORDINANCE 2013-07-01)</small>	Public Transit and Pedestrian Access*** <small>(AMENDED PER ORDINANCE 2013-07-01)</small>
Public buildings, town hall, police station	All districts	1 space per 300 square feet	1 space per 3 seats maximum capacity of meeting rooms
General service or repair establishment, printing, publishing, plumbing, heating, broadcasting	All Districts	1 per 3 employees on premises	Auditorium for broadcasting station requires space as above
Animal hospital	All districts	1 per 400 square feet of floor area	4 spaces minimum

***Public Transit and Pedestrian Access: The number of parking spaces will be reduced by 10% of the otherwise required minimum number if public transit is provided to the site. The number of parking spaces will be reduced by 10% if pedestrian access is provided to the site. It shall be noted that both reductions are to be cumulative.
(ADOPTED PER ORDINANCE 2013-07-01)

Interpretation of the above parking requirements:

1. The use requirements for each district are not affected by arrangement of uses in the chart.
2. The parking requirements in this article do not limit special requirements which may be imposed in connection with Special Exceptions.(See Section 9-6)
3. Floor area as used in the above shall be as defined in Article 3.
4. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
5. The parking space requirements for a use not specifically listed in the above shall be the same as for a listed use of similar characteristics of parking demand generation.
6. In the case of mixed uses, uses with different parking requirements occupying the same building or premises, or in the case of joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
7. Whenever a building or use, constructed or established after the effective date of this Ordinance, is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase in the number of parking spaces no such change or enlargement, increase in number of employees, dwelling units, seating capacity or other intensification of the use shall be permitted unless in full compliance with all off street parking requirements.
8. Compliance with off street parking requirements, as noted in paragraph 7 above, shall not be required in the "VC" Village Commercial District and "GC" General Commercial District if there is no change in the building footprint. If the building footprint is enlarged, compliance with the off street parking requirements for the additional square footage shall be required. (ADOPTED PER ORDINANCE 2008-03-02)

2. Joint Use and Off-Site Facilities:

All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from the building served or as determined by the Planning Commission.

- a. Up to 50 percent of the parking spaces required for (a) theatres, public auditoriums, bowling alleys, dance halls, night clubs or cafes, and up to 100 percent of the parking spaces required for a church auditorium may be provided and used jointly by (b) banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used, or operated during the same hours as those listed in (a); provided, however, that written agreement thereto is properly executed and filed as specified below.
- b. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the Town Attorney and shall be filed with the application for a building permit [construction authorization].

3. Design Standards:

- a. As defined in Article 3, an off-street parking space is an all-weather surfaced area not in a street or alley and having an area of not less than 9 feet x 18 feet, exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords satisfactory ingress and egress for automobiles. (AMENDED PER ORDINANCE 2014-03-01)
- b. Entrances or exits for all parking facilities shall comply with existing ordinances of the Town of North East.
- c. Screening in the form of a solid fence or shrubbery shall be required to protect neighboring residences from all parking lots hereafter constructed to contain 10 or more spaces. The location and construction of such screening shall be approved by the Zoning Administrator.
- d. All parking facilities shall comply with current American Disabilities Act (ADA) standards.

Big Box Retail parking lots shall not contain more than eight adjacent parking spaces without an intervening landscaping area. The Planning Commission will require the applicant to consider a design that will accept graded stormwater runoff via natural infiltration and subsurface channelization via perforated piping. Landscape areas shall be sized to support the required landscape species and quantities as measured according to their size at maturity. The Planning Commission has the authority to relax the requirement for landscape islands every eight parking spaces if bio-retention areas of a minimum of 8.5 feet in width provided within the parking areas. [ADOPTED PER ORDINANCE 2010-02-01]

4. Fee-in-Lieu Parking Provisions

- a. Purpose - All new development in the “GC” and “VC” districts are required to provide adequate off-street parking as prescribed in Section 6-8. The North East Comprehensive Plan envisions a downtown and adjoining areas that remain in a compact urban form, and it is sometimes difficult in the downtown to provide both the required parking and the required urban density to maintain such a form on the same piece of property. The Fee-in-Lieu Program allows developers to pay a fee for each parking space they are unable to provide on-site. The fund into which the fee is paid is reserved for future provision of publicly accessible parking spaces in the “GC” and “VC” Districts.
- b. Applicability - The provisions of this section apply to all infill, development and redevelopment in the “GC” and “VC” Districts required to construct parking spaces according to provisions Section 6.8.
- c. Determination of Fee-in-Lieu Parking Program Fee - The fee associated with this Fee-in-Lieu Program shall be established by the Mayor and Commissioners taking into account national averages as reported in such sources as the most recent Engineering News Record Construction Cost Index (ENR CCI) as well as local land and construction costs. This fee shall be updated yearly. The fee shall be for each parking space the construction of which a developer cannot construct or provide through long-term agreement for the use of available nearby spaces.
- d. Collection - The Fee-in-Lieu Parking Program fee will be collected by the Town, prior to the issuance of any construction authorization or final occupancy permits for the building or portion thereof associated with the fees.
- e. Accounting - Fee-in-Lieu Parking Program fees and all the interest earnings on those fees will be placed in an account specific to the provision of publicly accessible parking in the “GC” and “VC” Districts. The Town will maintain a record of all properties that

have met their required parking space obligation by paying the appropriate fee for the spaces. Payment of this fee does not absolve the developer from any future obligation to participate in future construction of publicly accessible parking spaces through additional funding mechanisms (e.g., a local improvement district, tax increment financing, etc.). Payment of this fee also does not guarantee the developer that parking spaces will be constructed for the sole use of or in the immediate proximity of that development.

- f. Project Implementation - Projects funded from the Fee-in-Lieu Parking Program may be implemented either by the construction of publicly accessible parking spaces through the Town's Capital Improvement Program or by disbursing funds to a developer constructing the improvements. Funds may also be used to convert existing private parking spaces to publicly accessible parking spaces through the purchase or lease of underutilized private parking spaces. Planning for parking capital improvement projects funded by Fee-in-Lieu Parking Program fees will be initiated at the discretion of the Mayor and Commissioners. It should be recognized that to provide for a logical and cost effective construction of parking improvements, projects funded by Fee-in-Lieu Parking Program fees may be phased and may be constructed such that the parking spaces do not directly serve the parcels from which the fee was collected.

Section 6-9. Off-Street Loading Regulations

Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected or structurally altered to the extent of increasing the floor area by 50 percent or more or any building is hereafter converted for the uses listed below in "Use or Use Category", when such buildings contain the floor area specified in "Floor Area" As Defined in Article 3 in Square Feet, accessory off-street loading spaces shall be provided as required as listed in "Loading Spaces Required", or as required in subsequent sections of this article. Compliance with off-street loading regulations is encouraged but shall not be required in the "VC" Village Commercial District or the "GC" General Commercial District unless the building footprint is enlarged. If the building footprint is enlarged, compliance with the off street loading regulations for the additional square footage shall be required. (AMENDED PER ORDINANCE 2008-03-02)

Use or Use Category:

1. Retail store, department store, restaurant, wholesale house, warehouse, repair general service, manufacturing or industrial establishment.
 - a. Floor Area - 2,000 - 10,000: Loading Spaces Required - One
 - b. Floor Area - 10,000 - 20,000: Loading Spaces Required - Two

- c. Floor Area - 20,000 - 40,000: Loading Spaces Required - Three
 - d. Floor Area - 40,000 - 60,000: Loading Spaces Required - Four
 - e. Floor Area - Each 50,000 over 60,000: Loading Spaces Required - One additional
2. Apartment building, apartment hotel, hotel, office or office building, hospital or similar institution, places of public assembly.
- a. Floor Area - 5,000 - 10,000: Loading Spaces Required - One
 - b. Floor Area - 10,000 - 100,000: Loading Spaces Required - Two
 - c. Floor Area - 100,000 - 200,000: Loading Spaces Required - Three
 - d. Floor Area - Each 100,000 over 200,000: Loading Spaces Required - One Additional
3. Funeral home or mortuary.
- a. Floor Area - 2,500 - 4,000: Loading Spaces Required - One
 - b. Floor Area - 4,000 - 6,000: Loading Spaces Required - Two
 - c. Floor Area - Each 10,000 over 6,000: Loading Spaces Required - One additional

Interpretation of Off-Street Loading Regulations

- 1. The loading requirements in this article do not limit special requirements which may be imposed in connection with Special Exception Uses. (See Section 9-14 and 9-15)

Mixed Uses in One Building

- 1. Where a building is used for more than one use or for different uses and where the floor area used for each use for which loading space is required is below the minimum for required loading spaces but the aggregate floor area used is greater than such minimum, then off-street loading space shall be provided as if the entire building were used for that use in the building for which the most spaces are required.

Design Standards

- 1. As defined in Article 3, a loading space is a space within the main building or on the same lot, providing for the standing, loading, or unloading of trucks, having a minimum dimension of 12 by 35 feet and a vertical clearance of at least 14 feet.

2. Loading spaces for a funeral home may be reduced to 10 by 25 feet and vertical clearance to 8 feet.

Section 6-10. Special Buffer Yard Requirements (REPEALED PER ORDINANCE 2008-03-01)

Section 6-11. Growth Allocation Floating Zone District (REPEALED PER ORDINANCE 2008-03-01)

Section 6-12. Satellite Dish Antennas

Satellite Dish Antennas - For the purpose of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section.

1. Satellite Dish Antenna - A structure capable of receiving communications from a transmitter or transmitter relay located in planetary orbit.

Satellite Dish Antenna Location:

1. One satellite dish antenna of less than forty (40) inches in diameter may be installed in a manner consistent with the installation of television antennas.
2. In "GC", "HC", "LI", "HI" district, a satellite dish antenna dish is permitted by right if the satellite dish antenna is of a diameter of forty (40) inches or less in size. If the proposed satellite dish antenna is greater than forty (40) inches in diameter, the satellite dish antenna shall be permitted provided that it is not visible at all to any surrounding properties in a residential district.
3. Satellite dish antennas shall comply with the following, which are imposed to protect the aesthetic integrity of the district:
 - a. Satellite dish antennas shall be of non-combustible and corrosive resistant material erected in a secure and wind resistant manner to protect the safety and welfare of the community.
 - b. Satellite dish antennas and erection of same shall conform to all building code regulations of the Town of North East.
 - c. Satellite dishes antennas shall not in any way be utilized as a sign.

Section 6-13. Fences

1. Approval Required - No fence, wall or other type of construction shall be erected without the approval of the Zoning Administrator or the Town Administrator.
2. Application for Permit - Any person or persons, corporation, firm or association intending to erect a fence shall, before any work is commenced, make application for permit. The application shall be accompanied by a plan or sketch showing the proposed location of any fence, the materials proposed to be used, and shall be accompanied by the appropriate fee. Upon approval by the Zoning Administrator or Town Administrator, a permit shall be issued which will be in effect for a period of six (6) months from the date thereof.
3. Height Limitations - Residential Districts - No fence shall be more than eight (8) feet in height at the rear of homes or buildings situated in residential districts; such rear yard fence shall not extend forward of the rear building line. Fences or portions of fences located elsewhere shall not be greater than four (4) feet in height.
 - a. "R-1", "R-2", "R-3", and "VC" districts - No fence shall be more than eight (8) feet in height at the rear of the principal structure and extend forward of the rear most extent of the principal structure. Fences or portions of fences located elsewhere shall not be greater than four (4) feet in height.
 - b. "VM", "GC" and "HC" districts - No fence shall be more than eight (8) feet in height at the rear and side of any principal structure located on the lot. No fence located forward of the front façade of any principal structure on the lot shall exceed four (4) feet in height.
 - c. "LI" and "HI" districts - No fence shall be more than ten (10) feet in height.
4. Location Restrictions - Any fence erected under this section shall be placed inside the property line unless mutually agreed upon by all property owners concerned. There shall be no front yard fences allowed in townhouse projects. No fence shall be located forward of the front facade of a townhouse.
5. Materials and Composition
 - a. Any fence, wall or similar structure, which may cause a nuisance, a fire hazard, a dangerous condition or an obstruction affecting the public safety is prohibited.

- b. The following fences and fencing materials are specifically prohibited:
- (1) Barbed wire.
 - (2) Canvas fences.
 - (3) Cloth fences.
 - (4) Electrically charged fences.
 - (5) Poultry fences.
 - (6) Turkey wire.
 - (7) Temporary fences such as snow fences or plastic mesh fences, unless used for a special event or during construction. (AMENDED PER ORDINANCE 2009-05-01)
 - (8) Expandable fences and collapsible fences, except during construction of a building.
 - (9) All other small gauge metal fences where the composition is thinner than the standard 11½ gauge chain link fence (0.11443 diameter). (AMENDED PER ORDINANCE 2009-05-01)
 - (10) Regardless of prohibitions listed in the section, the Planning Commission may approve barbed wire or razor fencing on municipal properties, buildings, fences and/or structures or in the “HC” Highway Commercial district, “LI” Light Industrial district, or the “HI” Heavy Industrial district. [AMENDED PER ORDINANCE 2010-02-01]
- c. All chain link fences shall be erected with a closed loop at the top of the fence.
- d. Fence posts and support rails shall be on the inside of the fence which is the side closest to the building or the side furthest away from adjoining property lines.
- e. All entrances or gates shall open into the property.
- f. A permit may be issued for the construction of a security fence for commercial and industrial properties after application and review of a fencing plan.
- g. All fences or walls must be erected so as not to encroach upon a public right-of-way or easement unless a waiver is granted by the Mayor and Commissioners of the Town of North East with the stipulation that the fence be removed or relocated upon request by

the appropriate town officials. All fences or walls must be erected within the property line, and none shall be erected so as to interfere with vehicular or pedestrian traffic.

- h. Fences shall be located so to provide reasonable access to any water main, service line or water meter.
 - i. Fences shall be placed inside of a town sidewalk in all districts where there are existing or proposed sidewalks. [AMENDED PER ORDINANCE 2010-02-01]
 - j. It shall be the duty of the property owner to maintain and keep all fences in good repair, free of any safety hazards, including but not limited to areas which are not standing, or which are broken, falling or are protruding.
6. Powers and Duties of Zoning Administrator - The Zoning Administrator shall have the authority to direct, in writing, the removal, modification of any fences, wall, hedge, trees, or other structure on private or public property wherever the same shall interfere with adequate visibility of operators of motor vehicles at street intersections or curbs, or encroachment of pedestrian traffic or access upon a public right of way. Any person who shall refuse or neglect to comply with the written direction of the Zoning Administrator shall be guilty of a violation of this ordinance and shall be subject to its penalties.
 7. Violations and Penalties - Any violator of any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished as provided in the Town of North East Zoning Ordinance, Article 10, Section 10-11.
 8. Appeals - Any variations from the terms of this ordinance as to height, area, size, location or materials used, shall not be allowed unless approved in the form of a Variance by the Board of Appeals.
 9. Private legal restrictions and/or covenants regarding the use of land contained in a deed or other document recorded in the land records of Cecil County may be enforced through private civil action. These restrictions are not enforced by the Zoning Administrator unless the Town of North East has recorded the restrictions.

Section 6-14. Utility Buildings

1. These regulations relating to utility buildings shall apply in all districts.
2. Permit - Any person or persons, corporation, firm or association intending to erect a utility building shall, before any work is commenced, make application for permit. No such construction may be commenced without obtaining a permit.
3. Location - The building, including overhang or projections there from must be at least three (3) feet from any property line.
4. Utility buildings including overhang or projections there from must be constructed or placed in the rear yard or side yards provided they are at least three (3) feet from the property line, and in the case of a utility building in a side yard, provided that they are least eight (8) feet to the rear of a lateral projection of the front foundation of the building.
5. Construction Requirements - The base of the building or the floor thereof must not exceed one foot in height from the average height of the ground upon which it is placed.
6. Definition - For purposes of this section, a utility building is defined as an accessory building for the purpose of storage of tools, utensils or similar equipment such as a garden shed, etc. A utility building shall include but not be limited to temporary utility building, canopy carports, carports, roof with rafters.
7. A utility building shall not exceed 200 square feet in size and shall not exceed fifteen (15) feet in height.
8. Only one (1) utility building per lot is permitted. On a lot which contains a duplex home, one utility building per unit shall be permitted. Two (2) utility buildings may be permitted on one contiguous property provided the property is greater than four (4) acres. [AMENDED PER ORDINANCE 2011-03-01]
9. A utility building shall not be converted to an accessory apartment.

Section 6-15. Alcoholic Beverage Sales/Liquor Store

1. Off-Premise Consumption - A retail and/or commercial establishment which provides for the sale of alcoholic beverages or liquor for off-premise consumption may be permitted as a Special Exception in the "GC" district provided that no such establishment is located nearer than 1,500 feet to any principal structure used as a hospital, house of worship, school, public or private having a curriculum and conditions under which teaching is conducted equivalent to a public school; and shall be permitted in the "HC", LI and "HI" districts provided that no such establishment is located nearer than 1,500 feet to any principal structure used as a hospital, house of worship or school public or private having a curriculum and conditions under which teaching is conducted equivalent to a public school.

2. On-Premise Consumption - A restaurant where the food and beverage is consumed on-premises, and which provides for the sale of alcoholic beverages or liquor for on-premise consumption, may be permitted as a Special Exception in the GC, VC and VM districts; and shall be permitted in the HC, LI and HI districts.

Section 6-16. Satellite Simulcast Betting/Off - Track Betting

Satellite Simulcast Betting/Off-Track Betting means:

Pari-mutuel betting at a satellite simulcast facility in the State of Maryland on a race that is simulcast from a sending track-by-mile thoroughbred racing licensee, a harness racing licensee or the State Fair Society; and transmission of the pari-mutuel information regarding the bets at the satellite simulcast facility to the sending track. Satellite Simulcast Betting/Off-Track Betting may be permitted as a Special Exception in the "LI" Light Industrial and "HI" Heavy Industrial districts provided that no such establishment is located nearer than 1,500 feet to any principal structure used as a hospital, house of worship or school.

Section 6-17. Screening of Dumpsters and/or Above Ground Utility Tanks or Receptacles and/or Service Structures

All dumpsters or other similar receptacles for trash or other waste, all above ground utility tanks or receptacles, and any utility generators, transformers, or substations and service structures shall be screened from the view of any adjoining property owner and from the view of any person traveling on an adjacent roadway as provided in Section 12 or from any sidewalk or primary pedestrian path or way. [AMENDED PER ORDINANCE 2010-02-01]

A service structure shall include propane tanks, air conditioning units and condensers, electrical transformers, and other equipment or elements providing service to a site.

A landscaped vegetative screen or fence may be used to provide required screening. All proposed screening plans shall be approved by the Zoning Administrator and/or his designee.

Section 6-18. Shopping Centers and Malls

A shopping center or mall is defined as a retail and/or service commercial development designed, built or used as an integrated use with more than one tenant or occupant and characterized by common parking, access, landscaping and/or utilities.

Shopping centers shall be permitted in the “HC” Highway Commercial District provided:

1. The shopping center shall be constructed according to an approved Site Plan. The Plan shall make adequate provisions for access, utilities, and adequate protection of the surrounding properties, subject to approval by the Planning Commission. At a minimum, the Site Plan shall contain the following information in addition to the information required in accordance with Article 10 of the Zoning Ordinance and all applicable Subdivision Regulations.
2. General Design Standards
 - a. Buildings shall be designed so that facades, signs and other appurtenances will have an integrated and harmonious and attractively arranged, and in a manner which will not adversely affect the appearance of surrounding developments.
 - b. Shopping centers shall be located where traffic congestion does not exist on roads used for immediate access to the center, and where congestion is not likely to be created by the proposed center; or where such congestion will be alleviated by currently scheduled improvements to access roads, by demonstrable provision for proper exits and entrances, and by internal provision for parking and traffic circulation.
 - c. Shopping centers shall be served by underground community sewer, gas, water, and electric facilities unless prohibited by any other municipal, county, State or Federal regulation.
 - d. Parking areas, and freight loading and delivery areas shall be separately located and safety provisions must be made for the protection of pedestrians, including appropriate locations of roadways, parking areas, sidewalks, islands, entrances, exits, crossovers and underpasses which are provided with drainage, lighting, directional signs, and supervision as may be required.
 - e. Copies of any master lease between the shopping center developers and prospective tenants must be provided. Provisions of the lease must take adequate provisions for annual maintenance, providing specifically for the professional maintenance of all required landscaping and buffer plantings as well as periodic cleaning of pervious pavements, stormwater

management systems, and snow removal. Application of salts to any areas that drain into rain gardens and landscaped/buffer areas in the winter are specifically prohibited. The annual maintenance plan shall provide measures to ensure replacement of plants of equal size that may be damaged as a consequence of sickness, disease, damage or road salt damage. It shall remain the responsibility of the property owner to ensure compliance with these requirements. [AMENDED PER ORDINANCE 2010-02-01]

- f. All roadways, parking areas and pedestrian walks shall be paved with concrete, blacktop or other materials as approved by the Planning Commission which shall be maintained in good condition at all times and shall be properly illuminated when in use after dark in such a manner as to prevent the direct transmission of light into adjacent residential properties.
- g. Whenever a shopping center is located adjacent to a residential development or zoning district, the use shall be screened by a solid wall or a solid fence, not less than six (6) feet in height, together with a ten (10) foot wide planted buffer strip on the outside of such wall or fence, planted as specified in Bufferyard standard C and Bufferyard standard D in the Highway Commercial Overlay District, appearing in Appendix A found at the end of Article 12. [AMENDED PER ORDINANCE 2010-02-01]
- h. All signs within the center shall be controlled by written agreement between the owners and tenants of the center, so as to avoid excessive advertising and insure attractive and harmonious appearance throughout the center. Signs should be uniform in appearance and shown on the Site Plan and must comply with all requirements of any other provisions of the Zoning Ordinance and Subdivision Regulations. In order to meet this requirement, applicant shall provide the Planning Commission with elevations to perspective renderings of proposed signs sufficient to permit a determination of the sign's relationship to the views of and from the site by drivers and pedestrians. [AMENDED PER ORDINANCE 2010-02-01]
- i. All concept plans for shopping centers or other commercial developments in the Highway Commercial Overlay District shall show all zoning districts that are adjacent to the development site, including lands on the opposite side of the highway from the site. [ADDED PER ORDINANCE 2010-02-01]

Section 6-19. Restaurants

Drive-in or Drive-thru Restaurants are defined as any establishment where ready to eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so that it can be readily eaten inside or outside the premises and whose method of operation is also to serve customers in motor vehicles either at a drive-thru window or while parked.

Fast food Restaurants are defined as any establishment where ready to eat food primarily intended for immediate consumption is available upon a short waiting time and presented so that it can be eaten readily inside or outside the premises.

Fast food/Cafeteria Restaurants are defined as any establishment where ready to eat food primarily intended for immediate consumption is available upon a short waiting time and served to customers so that it may be consumed at a table, booth or counter inside the establishment.

Fast food/Carry-out Restaurants are defined as any establishment where ready to eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so that it can be readily eaten away from the premises as there are no facilities for on premises consumption.

Standard Restaurants are defined as a food serving establishment whose principal business is the sale of food and the principal method of operation is its service when ordered from a menu to seated customers at a table, booth or counter inside the establishment. A snack bar or refreshment stand at a public or non-profit playground, park or swimming pool operated solely for the convenience of its patrons shall not be considered a restaurant.

Limited Restaurants are subject to the same definition as outlined in "Standard Restaurants," however, shall be limited to a total of 90 seats (indoor seating/ outdoor seating or combination thereof). (ADOPTED PER ORDINANCE 2009-05-01)

Drive-in or Drive-thru Restaurants and/or fast food restaurants and/or fast food/cafeteria restaurants shall be permitted in the "HC" Highway Commercial, "LI" Light Industrial and "HI" Heavy Industrial Districts provided:

1. The use will not constitute a nuisance because of noise, illumination, fumes, odors, or physical activity in the location proposed.
2. The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads and intersections, or its location in relation to other buildings or cause frequent turning movements across sidewalks and pedestrian ways,

thereby disrupting pedestrian circulation within a concentration of retail activity. A traffic impact study shall be required.

3. The use of the proposed location will not pre-empt frontage on any highway or public road in such manner so as to substantially reduce the visibility and accessibility of an interior commercial area zoned or proposed for commercial use that is oriented to the same highway or public road.
4. When such use abuts a residential district or institutional premises, including but not limited to educational institutions and/or houses of worship, the use shall be screened by a solid wall or a solid fence, not less than ten feet in height, together with a ten-foot wide planted buffer strip on the outside of such wall or fence, as specified in Buffer yard standard D appearing in Appendix A found at the end of Article 12 and which shall be maintained in good condition. Location, maintenance, vehicle sight distance provision, advertising, and parking areas pertaining to screening shall be as provided for in this ordinance. [AMENDED PER ORDINANCE 2010-02-01]
5. When such use occupies a corner lot, the ingress or egress driveways shall be located at least sixty (60) feet from the intersection of the front and side street lines of the lot and such driveways shall not exceed 25 feet in width.
6. Drive through lanes shall be marked with distinctive pavement markings and/or special striping and shall not block exits or entries to building or to off-street parking spaces otherwise required on the site.

Adequate spaces for storage (line-up) at drive through facilities shall be provided. At a minimum seven per station, five of which must be before the ordering station.

Standard Restaurants and Fast Food/Carry-out Restaurants shall be permitted as a Special Exception by the Board of Appeals in the "GC" General Commercial District and shall be permitted as a matter of right in the "HC" Highway Commercial District, "LI" Light Industrial District and "HI" Heavy Industrial District.

Section 6-20. Mini-warehouses

A mini-warehouse shall be permitted in the "LC" Limited Commercial District, "HC" Highway Commercial District, "LI" Light Industrial and "HI" Heavy Industrial Districts provided: (AMENDED PER ORDINANCE 2009-05-01)

1. At least 75 percent of the total on-site storage space shall be contained in individual enclosed stalls containing no more than 500 square feet each and no greater than 10 feet high.
2. No activities other than the dead storage or transfer of non-volatile goods or leasing of storage space are permitted. Prohibited uses include, but are not limited to, miscellaneous sales; fabrication or repair of vehicles, equipment, or other goods; transfer-storage business located on site; residential uses (other than the resident manager's apartment), or any use that creates a nuisance due to noise, odor, dust, light, or electrical interference.
3. An on-site manager or resident manager shall be required and shall be responsible for the operation of the facility in conformance with conditions of approval. A resident manager's apartment shall be included in the use permit.
4. Adequate access and parking shall be provided. Parking for storage purposes shall be provided via a driving/parking lane adjacent to each storage space/stall, with a minimum 30-foot width for one-way routes where accessed on one side of the land and a 45-foot width for a two-way route or where accessed on both sides.
5. Adjoining properties used or zoned for residential/dwelling purposes:
 - a. Street-facing and Non-street-facing property lines shall be improved with a minimum six-foot high, solid wooden fence or finished masonry wall along the entire length (except for approved access crossings); said improvements are to be located outside any public right-of-way and interior to a minimum 50-foot natural buffer as specified in Buffer yard standard E appearing in Appendix A found at the end of Article 12.
6. Adjoining all properties used or zoned for other than residential/dwelling purposes:
 - a. Non-street facing property lines shall be improved with a minimum six-foot high solid wooden fence or finished masonry wall along the entire length, interior to a 10-foot landscape strip.
 - b. Street-facing property lines shall be provided with a minimum 20-foot landscape buffer strip as specified in Buffer yard standard C appearing in Appendix A found at the end of Article 12 and a minimum six-foot high solid wooden fence or finished masonry

wall along the entire length (except for approved access crossings) located outside any public right-of-way and interior to any required landscape buffer strips.

Section 6-21. Grocery Stores, Mini-Markets, Supermarkets

A **grocery store** is defined as a retail store containing less than 2500 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household items to customers who purchase only a relatively few items (in contrast to a supermarket). This type of retail store does not provide for the sale of gasoline or other fuel.

A **mini-market/convenience store** is defined as a retail store containing 2500 to 5000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household items to customers who purchase only a relatively few items (in contrast to a supermarket). This type of retail store may or may not provide for the sale of gasoline or other fuels. This type of retail store is designed to attract a large volume of traffic.

A **supermarket** is defined as a retail store containing more than 5000 square feet of gross floor area that is designed and stocked to sell food, household items and any other items, and may include a bakery, a delicatessen, a counter for meat cut to order and other specialty items.

1. A grocery store shall be permitted as a matter of right in the “GC” General Commercial, “HC” Highway Commercial, “LI” Light Industrial and “HI” Heavy Industrial Districts.
2. A mini-market shall be permitted as a matter or right in the “HC” Highway Commercial, “LI” Light Industrial and “HI” Heavy Industrial Districts. In the case of a mini-market which provides for the sale of gasoline or other fuel:
 - a. No gasoline pump, fuel pump or holding facility for gasoline or other fuel shall be permitted within 500 feet from a stream, waterway or tributary (named or unnamed) to the North East River or Chesapeake Bay.
 - b. All bulk storage of flammable liquids shall be in conformance with applicable environmental and safety codes.
3. A supermarket shall be permitted as a matter of right in the “HC” Highway Commercial, “LI” Light Industrial and “HI” Heavy Industrial Districts.

Section 6-22. Drive-In Banks

Drive-in banks or banks with a drive-thru facility may be permitted as a Special Exception by the Board of Appeals in the "GC" General Commercial District and shall be permitted as a matter of right in the "HC" Highway Commercial, "LI" Light Industrial and "HI" Heavy Industrial Districts provided:

1. The use will not constitute a nuisance because of noise, illumination, fumes, odors, or physical activity in the location proposed.
2. The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads and intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic patterns from such buildings or cause frequent turning movements across sidewalks and pedestrian ways, thereby disrupting pedestrian circulation within a concentration of retail activity. A traffic impact study shall be required.
3. The use of the proposed location will not pre-empt frontage on any highway or public road in such manner so as to substantially reduce the visibility and accessibility of an interior commercial area zoned or proposed for commercial use that is oriented to the same highway or public road.
4. When such use abuts a residential district or institutional premises the use shall be screened by a solid wall or a solid fence, not less than six feet in height, together with a five-foot wide planting strip on the outside of such wall or fence, planted in shrubs and evergreens three feet high at the time of original planting and which shall be maintained in good condition. Location, maintenance, vehicle sight distance provision, advertising, and parking areas pertaining to screening shall be provided for in this ordinance.
5. When such use occupies a corner lot, the ingress or egress driveways shall be located at least sixty (60) feet from the intersection of the front and side street lines of the lot and such driveways shall not exceed 25 feet in width.
6. Drive through lanes shall be marked with distinctive pavement markings and/or special striping and shall not block exit or entry to building or to off-street parking spaces otherwise required on the site.
7. Adequate spaces for storage (line-up) at drive through facilities shall be provided. Specifically, at a minimum, five (5) for the first station plus two (2) for each additional station.
8. Vehicular access shall not be by means of any street internal to a subdivision for single-family dwellings.

Section 6-23. Automobile Filling Stations

An automobile filling station is defined as a station that is designed primarily for the sale of gasoline or other type of fuel.

An automobile filling station may be permitted as a Special Exception by the Board of Appeals in the "GC" General Commercial District and shall be permitted as a matter of right in the "HC Highway Commercial, "LI" Light Industrial and "HI" Heavy Industrial Districts, upon a finding that:

1. The use will not constitute a nuisance because of noise, fumes, or odors in the location proposed.
2. The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to other uses, necessity of turning movements in relation to its access to public roads or intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic pattern from such buildings, or by reason of its location near a vehicular or pedestrian entrance or crossing to a public or private school, park, playground or hospital, or other public use or place of public assembly. A traffic impact study shall be required.
3. The use at the proposed location will not adversely affect nor retard the logical development of the general neighborhood or of the industrial or commercial district in which the station is proposed, considering service required, population, character, density, and number of similar uses.

In addition, the following requirements shall be complied with:

- a. Signs, product displays, parked vehicles, and other obstructions that impede visibility at intersections or to station driveways shall be prohibited.
- b. Lighting, including permitted illuminated signs, shall be arranged so as not to reflect or cause glare into any residential district.
- c. When such use occupies a corner lot, the ingress or egress driveways shall be located at least sixty (60) feet from the intersection of the front and side street lines of the lot, and such driveways shall not exceed 45 feet in width.
- d. Gasoline pumps or other service appliances shall be located on the lot at least 10 feet behind the building line, and all service storage or similar activities in connection with such use shall be conducted entirely within the building. There shall be at least 20 feet between driveways on each street, and all driveways shall be perpendicular to the curb or street line.

- e. Light automobile repair work may be done at an automobile filling station, provided, that no major repairs, spray paint operation, or body or fender repair is permitted.
- f. Vehicles shall not park so as to overhang the public right-of-way.
- g. Adequate vehicle storage is provided so as not to impair access from the street or pedestrian traffic in the area.
- h. No gasoline pump, fuel pump or holding facility for gasoline or other fuel shall be permitted within 500 feet from a stream, waterway or tributary (named or unnamed) to the North East River or Chesapeake Bay.
- i. All bulk storage of flammable liquids shall be in conformance with applicable environmental and safety codes.

For the purposes of this Section, a pump is defined as an individual nozzle for the distribution of fuel.

Section 6-24. Motorcycle, and Motor Vehicle Repair and Maintenance, not Including Body Work

A motor vehicle repair and maintenance shop is limited to the sale, installation, repair, replacement, modification, adjustment, or servicing of the power plant or drive-train of a motor vehicle may be permitted as a Special Exception by the Board of Appeals in “GC” General Commercial and the “HC” Highway Commercial Districts and shall be permitted as a matter of right in the “LI” Light Industrial and “HI” Heavy Industrial Districts subject to the following standards:

1. The minimum lot size shall be 20,000 square feet.
2. All activity and storage of parts with the permitted use shall occur entirely within completely enclosed building. Any vehicle storage shall be temporary, in side or rear yards, and screened from adjacent properties.
3. No building, structure or storage area for vehicles shall be located in any required yard or setback.
4. Wall openings in structures are permitted in those walls directly facing an existing Commercial or Industrial zoning district. Wall openings necessary for ventilation, fire exits, and light, pursuant to the standards of the Building Code and the Fire Safety Code, shall be permitted.
5. The maximum permitted total floor area shall not exceed twenty-five (25) percent of total lot area.
6. A minimum ten (10) foot wide landscape strip shall be provided adjacent to and completely across all property lines. Curb cuts shall be minimized.
7. No outdoor display of merchandise sold, serviced, or rented is permitted.
8. Vehicles shall not be parked so as to overhang the public right-of-way.
9. Lubrication Equipment and Outdoor Storage and Refuse Areas. Hydraulic racks and service pits shall be located within the main structure. The site plan shall indicate the disposal methods to be used for all waste material including recycling of waste oil generated by the operation.
10. No maintenance or repair work on motorized vehicles or equipment shall be performed after the hour of 10:00 p.m.
11. No gasoline pump, fuel pump or holding facility for gasoline or other fuel shall be permitted within 500 feet from a stream, waterway or tributary (named or unnamed) to the North East River or Chesapeake Bay.

For the purposes of this Section, a pump is defined as an individual nozzle for the distribution of fuel.

Section 6-25. Antenna or Communication Towers Greater Than 50 Feet in Height and Associated Substation

An antenna or tower greater than fifty (50) feet in height and associated substations (radio, television, microwave broadcasting, etc.) may be permitted as a Special Exception by the Board of Appeals in any district provided:

1. Any proposed broadcasting tower shall have a setback of one foot from all property lines for every foot of height of tower, provided that any broadcasting tower lawfully existing prior to the effective date of this Ordinance shall be exempt from the setback limitations imposed by this subsection and may be continued, structurally altered, reconstructed, or enlarged provided that no structural change, repair, addition, alteration, or reconstruction shall result in increasing the height of such tower above the then existing structurally designed height.
2. The applicant shall demonstrate that a diligent effort has been made to locate the proposed communication facility on an existing structure or in a non-residential zoning district, and that due to valid considerations, including physical constraints and economic or technical feasibility, no other appropriate location is available. All structures shall be located at least two hundred (200) feet from an existing dwelling.
3. New communication towers shall be designed to accommodate antennas for more than one user, unless the applicant demonstrates why such design is not feasible for economic, technical, or physical reasons. Unless collocation has been determined to be infeasible, the Plan shall delineate an area near the base of the tower to be used for the placement of additional equipment buildings for other users.
4. Ground level equipment and buildings and the tower base shall be screened from public streets and residentially zoned properties. A minimum ten (10) foot landscape strip shall be required and maintained around all property lines exterior to any fence or wall.
5. Communication towers shall be gray or a similar color that minimizes visibility, unless a different color is required by the Federal Communications Commission or the Federal Aviation Administration.
6. No signals or lights shall be permitted on a tower unless required by the Federal Communication Commission or the Federal Aviation Administration.
7. A communication tower that is no longer in use shall be removed from the site within six (6) months of the date that the use ceases.

Section 6-26. Adult Oriented Commercial Enterprises and Services

It is recognized that some uses, because of their nature, have characteristics which have a serious and deleterious impact upon residential, office and commercial areas. Regulation of these uses is necessary to ensure that negative secondary impact shall not occur. The purpose of this Ordinance is to locate these uses in areas where the impact of their operation may be minimized by the separation of such uses from one another and from residential neighborhoods and other uses which may be impacted.

Adult Oriented Commercial enterprises and services shall be defined as follows:

1. Adult bookstores and/or adult entertainment centers
2. Escort Services and/or Escort Agencies
3. Massage Parlors
4. Tattoo Studios/Body Piercing Studios and/or Branding Studios
5. Pawnbrokers and/or Pawnshops
6. Palm Readers/Fortune-Tellers and/or Soothsayers
7. Smoking Shop or Smoke Shop (ADOPTED PER ORDINANCE 2009-05-01 and AMENDED PER ORDINANCE 2014-12-01)
8. Gun Shop (ADOPTED PER ORDINANCE 2009-05-01)
9. Bail Bondsman and Bail Bond Offices.(ADOPTED PER ORDINANCE 2014-12-01)

Adult bookstores and/or adult entertainment centers shall be defined as an establishment including but not limited to, the principal use of which is to offer for sale or viewing books, magazines, printed material, films, tapes, peep shows, DVDs, internet sites or transmissions, electronic devices and live acts which depict, describe, or relate to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below) or establishments with a segment or section devoted to the sale or display of such material. Specified sexual activities are defined as:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast. Specified anatomical areas are defined as:
 - a. Less than completely and opaquely covered;
 - (1) human genitals, pubic region,

- (2) buttock, and
 - (3) female breast above a point immediately below the top of the areola; and
- b. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

Escort Services and/or Escort Agencies shall be defined as a service or agency of any type of business association that furnishes, offers to furnish or advertises to furnish escorts for a fee or other monetary consideration. An escort shall be defined as a person, who for monetary consideration, agrees to or acts as a companion, guide, or date for another person.

Massage Parlors shall be defined as an establishment in which manipulative exercises using the hands or hand held mechanical device are conducted by one or more persons on the exposed skin of one or more other persons within private or semi-private rooms and that is related to some sort of monetary compensation paid by the person(s) receiving the massage.

A Massage Parlor shall not include:

1. Messages within a licensed hospital, nursing home or health care professional office;
2. Therapeutic massages that are clearly related to a permitted exercise club, athletic program or health club or spa; or
3. Messages involving persons who are related to one another.

Tattoo Studios, Body Piercing Studios, and/or Branding Studios shall be defined as an establishment in which the following services are performed:

1. External body modification through the application of a tattoo, body piercing, or branding;
2. Location of an indelible mark made upon the body of an individual by the insertion of pigment under the skin or an indelible design made upon the body by the production of scars other than branding;
3. Location of a permanent mark by burning with a hot iron or other instrument, or
4. The perforation of human tissue other than an ear for a non-medical purpose.

Pawnbrokers shall be defined as any person, corporation, or member or members of any partnership or other entity, which loans money on deposit, or pledge of personal property or other things other than securities or printed evidence of indebtedness or who deals in the purchasing of personal property or

other valuable thing on the condition of selling the same back at a stipulated price.

Pawnshops shall be defined as any location where a pawnbroker conducts business.

Palm Readers/Fortune-Tellers and/or Soothsayers shall be defined as an establishment the principle use of which is to predict the future or give advice of any type through the use of fortune telling devices or practices, including but not limited to palm reading or the reading of other body parts, the reading of tarot cards, the reading of any other items of property if the device or prediction is given in consideration of a fee or other consideration.

Smoking Shop and/or Smoke Shop. The smoking and/or smoke shop is a retail establishment that is dedicated in whole or in part to sales including but not limited to water pipes, bongos, bullets, legal buds, rolling papers, hookahs, herbal vaporizers, roach clips and drug paraphernalia. The smoking and/or smoke shop may also be dedicated in whole or in part, to the smoking of tobacco electronic vaping devices or similar substances and includes any establishment that allows either the payment of consideration by a customer to the establishment for on-site delivery of tobacco, tobacco accessories, electronic vaping devices, vapor accessories or similar substances, and products to the customer; and, the onsite smoking of such. This definition shall be construed to include establishments known variously as retail tobacco stores, tobacco product shops, vapor shops, and similar establishments. (ADOPTED PER ORDINANCE 2009-05-01 AND AMENDED PER ORDINANCE 2014-12-01)

Smoke lounge. An assembly establishment that is dedicated, in whole or in part, to entertaining smokers of tobacco, electronic vaping devices or other similar substances and includes any establishment that allows either the payment of consideration by a customer to the establishment for onsite delivery of tobacco, tobacco accessories, electronic vaping devices, vapor accessories or similar substances and products to the customer; and, the onsite smoking of such. This definition shall be construed to include establishments known variously as retail tobacco stores, tobacco product shops, hookah cafes, tobacco clubs, tobacco bars, vapor shops/lounges, and similar establishments. (ADOPTED PER ORDINANCE 2014-12-01)

Electronic vaping device. Any electronically powered or battery powered device designed to simulate the smoking of tobacco, cigarettes, pipes or cigars. An electronic vaping device includes personal vaporizers, electronic cigarettes (e-cigarettes), electronic pipes (e-pipes), electronic cigars (e-cigars) and any other type of electronic nicotine delivery system or any part thereof. (ADOPTED PER ORDINANCE 2014-12-01)

Bail Bondsman Office or Bail Bond Agents. A Bail Bondsman Office or Bail Bond Agent is a person or corporation that will act as a surety and pledge money or property as bail for the appearance of persons accused in court. (ADOPTED PER ORDINANCE 2014-12-01)

Gun Shop A gun shop shall be defined as a retail store which sells guns, pistols, rifles, long guns, shot guns, ammunition, firearms, weapons. (ADOPTED PER ORDINANCE 2009-05-01)

General Requirements

An adult oriented enterprise(s) or service(s) may be permitted by the Board of Appeals as a Special Exception in the "HC" Highway Commercial, "LI" Light Industrial or "HI" Heavy Industrial" Districts provided:

1. That no such establishment shall be located nearer than 1500 feet to any principal structure used as a hospital, house of worship or school.
2. That no such establishment shall be located nearer than 1,000 feet to any principal structure used as another Adult Bookstore, Adult Entertainment Center, Escort Service, Escort Agency, Massage Parlor, Tattoo Studio, Body Piercing Studio, Branding Studio, Pawnbroker, Pawnshop, Palm Reader, Fortune-Teller and/or Soothsayer.
3. That no such establishment shall be located within 500 feet to any principal structure used as a residence.

Section 6-27. Accessory Dwelling Unit

An accessory dwelling unit may be permitted by the Board of Zoning Appeals as a special exception in the “R-1” and “R-2” districts and may be permitted by the Planning Commission in the “R-4” district provided that there shall be no more than one accessory dwelling unit per lot of record and provided such accessory dwelling unit shall comply with the following standards.

1. Purpose

Accessory dwelling units are allowed in certain situations to:

- a. Create new housing units while respecting the look and scale of single-family dwelling neighborhoods;
- b. Increase the housing stock of existing neighborhoods in a manner that is less intense than alternatives;
- c. Allow more efficient use of existing housing stock and infrastructure;
- d. Provide a mix of housing that responds to changing family needs;
- e. Provide a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services; and
- f. Provide a broader range of affordable housing.

2. Location

An accessory dwelling unit may be located on the same lot as a detached single family dwelling unit in the “R-1”, “R-2”, “VC” and “R-4” districts. An accessory dwelling unit may not be located on the same lot as a two-family dwelling, townhouse or multi-family dwelling.

3. Design Standards

- a. Purpose. Standards for creating accessory dwelling units address the following purposes:
 - (1) Ensure that accessory dwelling units are compatible with the desired character and livability of residential districts;
 - (2) Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards; and
 - (3) Ensure that accessory dwelling units are smaller in size than the principal residential unit.

- b. Generally, the design standards for accessory dwelling units are stated in this section. If not addressed in this section, the base zoning district development standards apply.
4. Requirements for all accessory dwelling units. All accessory dwelling units must meet the following:
- a. Creation. An accessory dwelling unit may only be created through the following methods:
 - (1) Converting existing living area, attic, or basement;
 - (2) Adding floor area;
 - (3) An accessory building, attached or detached, may not be converted to an accessory dwelling unit.
 - b. Location of Entrances. Only one entrance may be located on the front facade of the principal dwelling facing the street, unless the principal dwelling contained additional front facade entrances before the accessory dwelling unit was created.
 - c. Parking
 - (1) No additional parking space is required for the accessory dwelling unit if it is created on a site with an existing house and on-street parking is permitted and adequate.
 - (2) One additional parking space located on or within 100 feet of the lot is required for the accessory dwelling unit: (a) when none of the roadways in abutting streets can accommodate on-street parking or (b) when the accessory dwelling unit is created at the same time as the principal dwelling.
 - d. Maximum Size. The size of an accessory dwelling unit may be no more than fifty (50%) percent of the living area of the principal dwelling or eight-hundred (800) square feet, whichever is less.
5. Accessory dwelling units created through the addition of floor area must meet the following standards:
- a. The exterior finish material must be the same or visually match in type, size, and placement, the exterior finish materials of the principal dwelling.
 - b. The roof pitch must be the same as the predominant roof pitch of the principal dwelling. The Planning Commission may permit a different roof pitch if needed due to the shape of the roof on the

existing principal dwelling if it determines that the proposed roof pitch will maintain a compatible appearance.

- c. Trim on the edges of elements on the addition must visually match the type, size and location as the trim used on the rest of the principal dwelling.
- d. Windows must match those in the principal dwelling in proportion and orientation.
- e. Eaves must project from the building walls the same distance as the eaves on the rest of the principal dwelling.

Section 6-28. Home Occupation

1. The Town recognizes the desire and/or need of some citizens to use their residence for business activities in order to reduce travel and to provide another economic development tool, but also recognizes the need to protect the surrounding areas from the adverse impacts generated by these business activities. The standards in this section ensure that the home occupation remains subordinate to the residential use, and that the residential character of the dwelling unit is maintained. The standards recognize that many types of jobs can be done in a home with little or no effects on the surrounding neighborhood.
2. There are two types of home occupations, Type 1 and Type 2. Uses are allowed as a home occupation only if they comply with all of the requirements of this Chapter. Determination of whether or not a proposed home occupation is a Type 1 or Type 2 shall be made by the Zoning Administrator.
 - a. Type 1. A Type 1 home occupation is one wherein the residents use their home as a place of work; however, no employees or customers come to the site. A Type 1 home occupation shall be permitted by the Town in all zoning districts.
 - b. Type 2. A Type 2 home occupation is one where either one employee (residing outside of the dwelling) or customers/clients come to the site. Examples are day care services, counseling, tutoring, and other such instructional services.
3. Permitted Home Occupations. Examples of permitted home occupations include, but are not necessarily limited to, the following:
 - a. Offices for such professionals as, but not limited to, architects, brokers, counselors, clergy, doctors, draftspersons and cartographers, engineers, land planners, insurance agents, lawyers, real estate agents, accountants, editors, publishers, journalists, psychologists, contract management, graphic design, construction contractors, landscape design, surveyors, cleaning services, salespersons, and manufacturer's representatives, travel agents.
 - b. Instructional services, including music, dance, art and craft classes.
 - c. Studios for artists, sculptors, photographers and authors.
 - d. Workrooms for tailors, dressmakers, milliners, and craft persons, including weaving, lapidary, jewelry, making cabinetry, and woodworking.

4. A Type 2 home occupation may be permitted by the Board of Zoning Appeals as a special exception in the “R-1”, “R-2”, “R-3”, and “R-O” districts provided that such use shall conform to the following standards which shall be the minimum requirements:

a. Operational Standards

- (1) Conditions of approval established by the Board of Zoning Appeals shall specify the hours of operation, maximum number of customer/client visits that may occur in any one day and the maximum number of customers/clients that can be present during hours of operation.
- (2) A Type 2 home occupation shall have no more than one (1) nonresident on the premises at any one time. The number of nonresident employees working at other locations other than the home occupation is not limited.
- (3) The home occupation shall be limited to the parking/storage of one (1) commercial vehicle on the premises, not exceeding a 15,000 pounds gross vehicle weight.
- (4) Type 1 home occupations are not required to provide any additional parking beyond what is required for the residential use. Type 2 home occupations shall provide two (2) hard surfaced, dust-free parking areas.
- (5) The equipment used by the home occupation and the operation of the home occupation shall not create any vibration, heat, glare, dust, odor, or smoke discernable at the property lines, generate noise exceeding those permitted by State code and the North East Code of Ordinances, create electrical, magnetic or other interference off the premises, consume utility quantities that negatively impact the delivery of those utilities to surrounding properties, or use/or store hazardous materials in excess of the quantities permitted in a residential structure.

b. Site Related Standards

- (1) Outdoor activities.
 - (a) All activities must be in completely enclosed structures.
 - (b) Exterior storage or display of goods or equipment is prohibited.

- (2) Appearance of structure and site. The dwelling and site must remain residential in appearance and characteristics. Internal or external changes which will make the dwelling appear less residential in nature or function are prohibited.
- (3) Signage shall be limited to one unlighted or indirectly lighted sign per address not exceeding two (2) square feet in area either mounted flush with and on the front facade of the dwelling unit or hung on an independent post.

Section 6-29. Assisted Living Facilities/Group Homes

For purposes of this Ordinance there shall be three types of group home or assisted living facility, residential, small institutional or large institutional as follows:

1. Residential - A residential group home or assisted living facility servicing eight (8) or less clients/residents shall be permitted in all base residential districts. (AMENDED PER ORDINANCE 2014-03-01)
2. Small Institutional - Small institutional group homes or assisted living facilities serving between 9 and 15 clients/residents may be permitted by the Board of Appeals as a Special Exception in all base residential districts.
3. Large Institutional – Large institutional – Large institutional group homes or assisted living facilities serving 16 clients/residents or more may be permitted as a special exception by the Board of Appeals in the “HC” Highway Commercial, “LI” Light Industrial or “HI” Heavy Industrial districts.
4. Small or large institutional group homes or assisted living facilities shall be subject to the following conditions: (AMENDED PER ORDINANCE 2014-03-01)
 - a. Residents are provided service and supervision by licensed operators in accordance with federal, state and local laws, regulations and requirements.
 - b. Treatment and counseling shall be limited to the residents of the dwelling or facility.
 - c. There are no other small or large institutional group homes or assisted living facilities within fifteen hundred (1,500) feet of any property line.
 - d. Permitted Signs: See Article 7. Signs.

Section 6-30. Outdoor Festivals or Special Events

Occasional outdoor festivals or special events, including, but not limited to horse shows, carnivals, dog shows, arts and crafts shows, music festivals, etc., and seasonal business use may be permitted in any district by the Mayor and Commissioners provided that fees are paid and licenses obtained as required by the Town of North East and further provided:

1. The proposed site shall be of sufficient size to accommodate the use without adversely affecting adjacent land uses.
2. Temporary sanitary facility, trash receptacle, toilets or tents should be located as far as possible from an existing dwelling as possible.
3. A drawing to scale shall accompany the application and shall accurately depict the standards of this section.
4. The Mayor and Commissioners may limit the number of days in any calendar year non-recurring festivals or events may be permitted in any twelve (12) consecutive month period.
5. Seasonal business uses shall not exceed a total of 90 days in any twelve (12) consecutive month period.
6. A maximum continuous sound level of 60 db and a maximum peak sound level of 75 db shall not be exceeded adjacent to land used for residential purposes, and operations shall cease not later than 11:30 p.m.
7. Activity areas shall be at least twenty-five (25) feet from any adjoining principal residential structure and shall be located at a minimum of three (3) feet from inside the property line of the location the event is taking place.
8. Vehicular access shall be derived only from an arterial or major collector highway or street.
9. A minimum of one (1) parking space shall be provided for every five-hundred (500) square feet of ground area.
10. Where it is deemed necessary, the Mayor and Commissioners may require the applicant to post a letter of credit to ensure compliance with the conditions of the conditional-use permit.
11. If the permit applicant requests the Town to provide extraordinary services or equipment or it is otherwise determined that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services. These requirements shall not apply if the event has been anticipated in the budget process

and sufficient funds have been included in the budget to cover the costs incurred. In addition, the applicant shall be required to maintain adequate liability insurance coverage as may be deemed appropriate.

Section 6-31. Master Planned Community (MPC)

1. The purpose of the “MPC” Master Planned Community is to provide for the development of well-planned, mixed-use neighborhoods that exhibit the following characteristics:
 - a. range of housing types and densities;
 - b. compact design;
 - c. interconnected streets designed to balance the needs of all users, with sidewalks and on-street parking;
 - d. open spaces integral to the community; and
 - e. Location adjacent to and extension of the Town into new areas in a manner that insures development that is consistent with and complimentary to the existing Town character.

There is a general presumption that an application for MPC project at an appropriate location, conditionally approved as a MPC, proposing uses permitted in an MPC, with residential densities as provided in this Ordinance, inures to the general benefit of the Town and is in compliance with the *North East Comprehensive Plan*.

2. Design Intent. The Master Planned Community is intended to promote the following:
 - a. Implement the recommendations of the Comprehensive Plan;
 - b. Develop neighborhoods that accommodate and promote pedestrian travel equally as much as motor vehicle trips;
 - c. Promote design that results in residentially scaled buildings fronting on, and generally aligned with, streets;
 - d. Encourage the inclusion of a diversity of household types, age groups, and income levels;
 - e. Promote traditional town building and site development patterns with an interconnected pattern of streets, alleys, and blocks, providing for a balanced mix of pedestrians and automobiles;
 - f. Encourage creation of a functionally diverse, but visually unified, communities focused on central squares, commons or greens;
 - g. Require use of neighborhood greens, landscaped streets, boulevards, and "single-loaded" parkways (i.e., with structure adjacent to one side of the street only) woven into street and block

patterns to provide space for social activity, parks, and visual enjoyment;

- h. Provide buildings for civic or religious assembly or for other common or institutional purposes that act as visual landmarks and symbols of identity;
 - i. Promote the location of dwellings, shops, and workplaces in close proximity to each other, the scale of which accommodate and promote pedestrian travel for trips within the community;
 - j. Preserve open space, scenic vistas, agricultural lands, and natural areas;
 - k. Permit design flexibility in order to achieve an appropriate mix of residential and non-residential building uses; and
 - l. Require efficient utilization of designated growth areas.
3. Density Determination.
- a. General. Except as is provided below the maximum the number of dwelling units permissible in a MPC in the “R-4” District shall be determined in accordance with the provisions of this section (as adjusted by density bonuses as set forth below) subject to the following:
 - (1) Areas used for nonresidential purposes shall be subtracted from the Adjusted Tract Acreage, as described in subsection (2) below before determining permissible residential density.
 - (2) All dwelling units (commercial apartments) constructed above commercial uses in the Neighborhood Centers shall be permissible in addition to the number of dwelling units otherwise authorized under this Section. However, the total number of dwelling units in a development shall not be increased by more than 10 dwelling units or 10 percent, whichever is greater.
 - b. Base Density Calculation. Base density shall be determined by the land area yielded through calculations of the Adjusted Tract Acreage, as determined by Table b(2). The minimum residential density for a proposed MPC shall be 3.5 dwelling units per adjusted tract acres. Except as may be provided for below the maximum residential density for a proposed MPC shall be no more than 6.0 dwelling units per adjusted tract acre.

Table b(2). Table Density Factors for Calculating Adjusted Tract Acreage

	Density Factor	Description of Constraint
DF 1	0.00	Existing street rights-of-way, floodways within 100-year floodplain
DF 2	0.05	Wetlands and soils classified as "very poorly drained"; Utility easements for high-tension electrical transmission lines (>69 KV)
DF 3	0.25	Steep slopes; that is, those greater than twenty five (25%) percent
DF 5	0.75	Soils classified as 'poorly drained'; Slopes between fifteen (15%) percent and twenty five (25%) percent
DF 6	1.00	Unconstrained land

c. Density Incentives to Further Certain Public Objectives

- (1) A density increase of ten (10%) percent is permitted at the discretion of the Mayor and Commissioners when the proposal provides a mixture of at least four of the five of the following types of housing: single-family detached, two-family or duplex, multi-family, townhouse, and apartments. The architecture of the proposed dwellings shall be harmonious among the various housing types, and they shall be integrated physically; that is, they should not be separated into different neighborhoods but rather mixed in together on the same streets so that at least two dwelling types are located together within the same block.
- (2) Implementation. For each of the public purposes described in (1) above, if the Mayor and Commissioners are satisfied that the public purpose objectives are being satisfied, density bonuses may be implemented by reducing the amount of required open space to no less than twenty (20%) percent of the gross site acreage at the discretion of the Mayor and Commissioners. The cumulative density bonuses applied to a MPC project may not exceed thirty five (35%) percent of the maximum residential base density.

4. General Design Requirements

- a. Design standards referenced in this section shall be considered as minimum performance standards for a MPC.
- b. MPCs are intended to provide for a range of complementary uses and may consist of up to four use areas: Single-Family Residential

(SRA) Areas, Central Residential (CRA) Areas, Neighborhood Centers (NA) Areas, and Conservation (CA) Areas. At a minimum, they must contain both a SRA and a CA. These areas are intended to provide for the diversity necessary for traditional town life, while maximizing the interactions among related uses and minimizing the adverse impacts of different uses upon each other.

- (1) Single-Family Residential Areas (SRA) provide locations for a broad range of housing types, including single-family detached, semi-detached, and attached, and may also include accessory dwelling units.
- (2) Conservation Areas (CA) are permanently protected open spaces, including greens, commons, habitat protection areas and private non-common acreage used for agriculture, wholesale nurseries, tree farms, equestrian facilities, etc.
- (3) The Central Residential Area (CRA) is intended to contain a variety of housing options and related uses.
- (4) The Neighborhood Center Area (NA) is intended primarily to provide uses that meet the retail, employment and service needs of a traditional community center and its vicinity within two to three-story buildings, and may contain other compatible uses, such as civic and institutional uses of community wide importance, specifically including second-floor residential uses. Where it is not practical to support commercial uses, the Neighborhood Center should provide a focal point for neighborhood activity through the design of public spaces, the mix of uses including live-work space, emphasis on pedestrian activity and the location of the largest and most intensively used buildings.

5. Development Standards

- a. The following development standards shall apply to proposed MPC:
 - (1) The setback, lot size, lot dimensions, lot coverage, height, yard requirements and permitted signs in the MPC shall be established for each individual project by the Mayor and Commissioners, with the recommendations of the Planning Commission, in accordance with the *MPC Design Guidelines*. In establishing these requirements the Mayor and Commissioners shall consider such factors as the proposed development intensity and the existing character of adjacent neighborhoods.

- (2) Land Coverage. The maximum amount of land that may be built over (covered) by parking lots, roads, sidewalks, or plazas, buildings, or other structures shall be sixty (60%) percent of the gross land area of the MPC property(ies).
- (3) Minimum Required Open Space
 - (a) A minimum of thirty (30%) percent of the adjusted tract acreage shall be open space including parks, recreational, habitat, forest, agriculture, stream and wetland preservation areas. Not less than fifteen (15%) percent of the minimum required open space shall be in a form usable to and accessible by the residents, such as a central green, neighborhood squares or commons, recreational playing fields, woodland walking trails, other kinds of footpaths, a community park, or any combination of the above. In addition, no more than fifty (50%) percent of the minimum required open space may be comprised of active recreation facilities, such as playing fields, golf courses, tennis courts, etc.
 - (b) Open space land shall be permanently protected through conservation easements, and may be developed for uses consisting of the following:
 - [1] Agricultural uses, including horticultural, wholesale nurseries, and the raising of crops, and buildings related to the same;
 - [2] Equestrian facilities, including related stables and pastures;
 - [3] Woodlots, arboreta, and other similar silvicultural uses
 - [4] Woodland preserve, game preserve, wildlife sanctuary, conservation meadows, or other similar conservation uses
 - [5] Municipal or public uses, public park or recreation area owned and operated by a public or private nonprofit agency, or governmental or public utility buildings or uses, not to include business facilities, storage of materials, trucking or repair facilities, the housing of repair crews, or private or municipal sanitary landfills; and

- [6] Active recreation, if it is noncommercial in nature and provided that no more than fifty (50%) percent of the minimum required open space is so used. Parking areas and any roofed structures associated with the active recreation may not be included within the fifty (50%) percent minimum.
- (c) The required open space shall be located and designed to add to the visual amenities of neighborhoods and to the surrounding area by maximizing the visibility of internal open space as "terminal vistas" (the building or landscape seen at the end of a street, or along the outside edges of street curves) and by maximizing the visibility of external open space as perimeter greenbelt land (the undeveloped and permanently protected acreage around a community). Such greenbelt open space shall be designated to provide buffers and to protect scenic views as seen from existing roadways and from public parks, and shall not be less than one-hundred (100) feet deep.
- (d) MPC developments shall include multiple greens, commons, or passive parks measuring a total of at least fifteen hundred (1,500) square feet for each dwelling unit, plus five hundred (500) square feet of land for active recreation per dwelling unit.
- (e) Civic greens or squares shall be distributed throughout the neighborhood so as to be located within fifteen hundred (1,500) feet of ninety (90%) percent of all residential units in the SRA and CRA areas.

b. Residential Unit Mix

UNIT TYPE	MINIMUM PERCENTAGE	MAXIMUM PERCENTAGE
Detached Single Family Dwelling	30	50
Two Family Dwelling, Duplex	10	40
Townhouse	5	30
Multi-family	5	30
Apartment	5	20

- (1) At a minimum each MPC development shall have at least three (3) of the five (5) unit types. Each phase of a proposed MPC shall have at least three of the five unit types. The Mayor and Commissioners with the recommendation of the Planning Commission may vary this phase requirement if satisfied that at build-out three of five unit types are included in the overall MPC development. Each phase of a proposed MPC development shall provide housing opportunities for a diverse population mix of age groups and income levels. (AMENDED PER ORDINANCE 2007-08-01)
 - (2) The Mayor and Commissioners, with the recommendation of the Planning Commission, may vary the minimum or maximum percentage for any of the proposed unit types delineated in Section 5.b. Residential Unit Mix when it can be demonstrated that topographic, environmental or other natural features on the proposed developmental site make it impractical to achieve the minimum percentages required in Section 5.b. The Mayor and Commissioners, with the recommendation of the Planning Commission, may also vary the minimum or maximum percentage for any of the proposed unit types as set forth in section 5.b. Residential Unit Mix to accommodate specific development design features and/or project amenities that the Planning Commission determines substantially improve the overall quality of the development while continuing to meet the purposes set forth in Section 6.31.1. In no case shall the Mayor and Commissioners grant a variation from Section 5.b. that exceeds 15 percent of the minimum or maximum for each unit type. (AMENDED PER ORDINANCE 2007-08-01)
6. Small MPC Projects. The Mayor and Commissioners may modify the minimum standards established in subsection 5 above for a MPC development of less than twenty-five (25) acres provided:
- a. The proposed MPC development is shown as part of and integrated into a Master Plan for an adjacent (larger) MPC project, the applicant demonstrates that the proposed development could be integrated into an adjacent development(s) or neighborhoods by such features as street extensions, the location of its SA, and the location of common areas and it is determined by the Mayor and Commissioners that the proposed design meets the goals and objectives of the comprehensive plan, and the intent of this section, or
 - b. The Mayor and Commissioners find that the proposed MPC:

- (1) is an infill or transition project between existing developments and/or adjacent to a proposed or planned large scale MPC project, and
 - (2) the proposed design of the MPC project is consistent with the goals and objectives of the Comprehensive Plan and the intent of this section.
- c. All MPC projects shall be consistent with the *MPC Design Guidelines*.

Section 6-32. Community Appearance Standards

1. Purpose and Intent. These standards are not intended to restrict imagination or variety but rather to assist in focusing on design principles that result in creative solutions that will develop a satisfactory visual appearance within the Town. With this in mind, the purpose of these guidelines is to:
 - a. Protect the character of existing and new commercial areas;
 - b. Improve the visual appearance along major highway and street corridors;
 - c. Improve access and circulation to and within commercial and business sites;
 - d. Improve sales and property values;
 - e. Encourage appropriate design linkages between sites; and
 - f. Require context sensitive site planning and building design.
2. Applicability. The following standards shall apply to development and redevelopment of commercial and business sites in the “VC” Village Commercial, “VM” Village Marine, “RO” Residential Office and “GC” General Commercial Districts. Persons proposing commercial, business, office or light industrial development in these districts should consult these guidelines and incorporate them in development plans.
3. Process for Review

The Planning Commission and/or Board of Appeals shall review site plans as required to ensure the standards specified in this section are met. These standards are in addition to other regulations in this ordinance.

4. Relationship of Buildings to Site
 - a. The site shall be planned to accomplish a desirable transition with the streetscape and to provide for adequate planting, safe pedestrian movement, and parking areas.
 - b. Parking areas shall be treated with decorative elements, building wall extensions, plantings, berms, or other innovative means so as to screen parking areas from public ways.
 - c. Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.

- d. Newly installed utility services and service revisions necessitated by exterior alterations shall be underground.
5. Relationship of Buildings and Site to Adjoining Area
 - a. Adjacent buildings of different architectural styles shall be made compatible by such means as screens, site breaks, and materials.
 - b. Attractive landscape transition to adjoining properties shall be provided.
 - c. Harmony in texture, lines, and masses is required. Monotony of design shall be avoided.
6. Landscape and Site Treatment
 - a. Where natural or existing topographic patterns contribute to beauty and utility of a development they shall be preserved and developed. Modifications to topography will be permitted where it contributes to good appearance.
 - b. Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting and stable appearance for the pedestrian.
 - c. Landscape treatment shall be provided to enhance architectural features, strengthen vistas and important accent points, and provide shade.
 - d. Unity of landscape design shall be achieved by repetition of certain plant varieties and other materials and by coordination with adjacent development.
 - e. Plant material shall be selected for interests in its structure, texture and color, and for its ultimate growth. Plants that are indigenous to the area and others that will be hearty, harmonious to design, and of good appearance shall be used.
 - f. In locations where plants will be susceptible to injury by pedestrian or motor traffic they shall be protected by appropriate curbs, tree guards, or other devices.
 - g. Parking areas and traffic ways shall be enhanced with landscaped spaces containing trees or tree groupings.
 - h. Where building sites limit planting, the placement of trees in parkways or paved areas may be required.
 - i. Screening of service yards and other places that tend to be unsightly shall be accomplished by use of walls, fencing,

plantings, or combinations of these. Screening shall be effective in winter and summer.

- j. In areas where general planting will not prosper, other materials such as fences, walls, and pavings of wood, brick, stone gravel, and cobbles shall be used. Carefully selected plants shall be combined with such materials where possible.
- k. Exterior lighting, when used, shall enhance the adjoining landscape. Lighting standards and building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided.

7. Building Design

- a. Architectural style is not restricted. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
- b. Buildings shall have good scale and be in harmonious conformance with permanent neighboring development.
 - (1) Materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.
 - (2) Materials shall be of durable quality.
 - (3) Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same material, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.
- c. In any design in which the structural frame is exposed to view, the structural material shall be compatible within themselves and harmonious with their surroundings.
- d. Building components, such as windows, eaves, doors, parapets, etc., shall have good proportions and relationships to one another.
- e. Colors shall be harmonious and shall use only compatible accents.
- f. Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from public ways.

- g. Exterior lighting shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.
 - h. Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view of public ways.
 - i. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual projects shall be used to prevent a monotonous appearance.
8. Miscellaneous Structures and Street Hardware
- a. Miscellaneous structures and street hardware shall be designed to be part of the architectural concept of design and landscape. Materials shall be compatible with buildings, scale shall be appropriate, colors shall be in harmony with buildings and surroundings, and proportions shall be attractive.
 - b. Lighting in connection with miscellaneous structures and street hardware shall adhere to standards set forth for site, landscape, buildings, and signs.
9. Maintenance - Planning and Design Factors
- a. Continued good appearance depends upon the extent and quality of maintenance. The choice of materials and their use, together with the types of finishes and other protective measures shall be conducive to easy maintenance and upkeep.
 - b. Materials and finishes shall be selected for their durability and wear as well as for their beauty. Proper measures and devices shall be incorporated for protection against the elements, neglect, damage, and abuse.
 - c. Provisions for washing and cleaning of buildings and structures, and control of dirt and refuse shall be incorporated in the design. Configurations that tend to catch and accumulate debris, leaves, trash, dirt, and rubbish shall be avoided.

Section 6-33. Itinerant Merchants/Temporary Sales

The Zoning Administrator may permit an itinerant business in the “HC”, “LI” and “HI” districts provided the applicant can demonstrate the following:

1. Location on Private Property. The business and any activity associated therewith must be located on private property and shall not be located on public property (including public sidewalks, public streets, public parking areas or other public places as defined by the town). Only one business shall be permitted on each parcel of said private property. The business must be located a minimum of ten feet behind the inside edge of the public sidewalk.
2. Lease. There must be a valid lease or written permission from the private property owner expressly allowing the use of property for the business that is the subject of this section. The merchant shall demonstrate the ability to utilize an existing restroom facility on or nearby the property.
3. Traffic Safety/Parking. The business location shall not impede auto and or pedestrian traffic or create auto/pedestrian conflicts. One existing parking stall shall be dedicated for the use of the itinerant merchant’s patrons. An additional parking stall shall be available for the cart and any related seating. Parking spaces encumbered by the itinerant merchant may not be part of the required parking for the existing use(s). Itinerant merchants who are not located in a parking lot shall not encumber an area greater than one hundred eighty square feet for the location of the cart and any related seating.
4. Temporary Only. All aspects of the business shall be temporary.
5. Maintenance. The area around the business shall be kept clean and orderly with appropriate trash receptacles.
6. Hours of Operation. The business may be conducted between the hours of 6:00 a.m. and 10:00 p.m.
7. Regulatory Compliance. All applicable local and State regulations (i.e., food permit, signage, etc.) shall be met.
8. The amount, size and location of proposed signs shall be approved by the Zoning Administrator. All such signs are temporary and shall be removed when business activity ceases.

Section 6-34. Clinics (ADOPTED PER ORDINANCE 2012-09-02)

The following uses are defined as follows:

Clinic: “Clinic” means a freestanding health care facility that is not licensed as a hospital, part of a hospital, or nursing home and is not administratively part of a physician’s or osteopath’s office, but which has a separate staff functioning under the direction of a clinic administrator or health officer and is organized and operated to provide ambulatory or outpatient health services licensed under Health and Mental Hygiene.

Clinic Services: “Clinic Services” means preventative, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished by or under the direction of a licensed physician in a Clinic.

State Licensed Medical Clinic

- A. Freestanding ambulatory-care facility licensed under Title 19, Subtitle 3B, of the Health-General Article of the Annotated Code of Maryland;
- B. A detoxification facility certified under Title 8, Subtitle 4, of the Health-General Article of the Annotated Code of Maryland; or
- C. An alcohol abuse and drug abuse treatment program certified under Title 8, Subtitle 4, of the Health-General Article of the Annotated Code of Maryland.

State Licensed Medical Clinics, Clinics and Clinic Services shall be permitted by an approved special exception in the “LI” Light Industrial District; “HC” Highway Commercial District and “HI” Heavy Industrial District, and shall be subject to the following conditions:

1. Setbacks – Forty (40) feet each side
2. Off street parking – one (1) space for each employee – shall be provided for the maximum employee shift. One (1) space per patient as determined by the number of patients the clinic is licensed to serve by the State of Maryland, divided by the number of hours the clinic is open for operation.
3. Provide a copy of application for licensure from the State of Maryland for a State Licensed Medical Clinic with the special exception application.
4. All permits and licenses required to operate clinic shall be submitted to the Town upon receipt of State approval.
5. As part of the Special Exception approval, the Board may impose other reasonable requirements deemed necessary to safeguard the health, safety, and general welfare of the public.

6. Waiting Area – Must provide interior waiting area sufficient in size to accommodate one person per parking space, as required. Area shall be calculated using five (5) square feet for each person waiting.
7. Hours of operation shall be limited from 8:30 a.m. – 8:30 p.m.

Section 6-35. Wine Tasting Room (ADOPTED PER ORDINANCE 2013-06-01)

1. A Wine Tasting Room is permitted when associated with a Local Vineyard, as defined in Article 3. Definitions. Local Vineyard, subject to the following regulations:

- a. A Wine Tasting Room is permitted by right in the 'GC' General Commercial District and 'HC' Highway Commercial District and shall be permitted in the 'VC' Village Commercial District with an approved Special Exception.
- b. A Wine Tasting room shall comply with all current regulations of the Maryland Annotated Code, Article 2B. Title 2. Subtitle 2. 2-205. Limited Winery License.
- c. Wholesale and retail sales of wine, and pomace brandy, produced by the licensee on the local vineyard are permitted.
- d. Retail sales of grapes or fruit products, produced by the licensee on the local vineyard are permitted.
- e. A retail gift shop is permitted in conjunction with a wine tasting room.
- f. A Wine Tasting Room may prepare, serve and sell limited food items per (b.) above.
- g. A restaurant may be permitted with a Wine Tasting Room, subject to all regulations outlined in the North East Zoning Ordinance; Article 6. Supplementary Regulations. Section 6-19. Restaurants.
- h. Off-street parking shall be provided in accordance with the North East Zoning Ordinance; Article 6. Supplementary Regulations. Section 6-8. Parking Regulations.
- i. Applicant shall comply with all Federal, State, and County regulations.

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