

# **TOWN OF NORTHAMPTON**

## **ZONING ORDINANCE**

**ADOPTED: SEPTEMBER 1972**

**REVISED APRIL 1973  
REVISED JUNE 1978  
REVISED MARCH 2003**

AN ORDINANCE ESTABLISHING A COMPREHENSIVE ZONING PLAN FOR THE TOWN OF NORTHAMPTON BY DIVIDING THE TOWN INTO DISTRICTS AND PRESCRIBING CERTAIN REGULATIONS FOR EACH OF SUCH DISTRICTS:

THE TOWN BOARD OF THE TOWN OF NORTHAMPTON IN THE COUNTY OF FULTON UNDER THE AUTHORITY OF THE TOWN LAW OF THE STATE OF NEW YORK, does hereby ordain and enact as follows:

Section I: Short Title:

This ordinance shall be known and may be cited as "The Zoning Ordinance of the Town of Northampton, New York".

Section II: Definitions:

Except where specifically defined herein, all words used in this ordinance shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall" is intended to be mandatory; "occupies" or "uses" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied".

**ACCESSORY USE:** A use customarily incidental and subordinate to the principal use of building and located on the same lot with such principal use of building.

**AGRICULTURAL USES:** Agricultural uses include a farm; raising, producing and selling of horticultural products; Christmas tree plantations; greenhouses.

**ALTERATIONS:** As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

**AREA, BUILDING:** The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps; all dimensions shall be measured between the exterior faces of walls.

**BOAT CLUB/MARINA:** A building and/or land used for secure mooring of boats, including facilities for storage and repair of boats and sale of boating supplies and fuel for use by the owner or resident of the lot and those other than the owner or resident of the lot upon which the facility is located.

**BUILDING:** Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.

**BUILDING, ACCESSORY:** A supplemental building, the use of which is incidental to that of a main or principal building and located on the same lot therewith.

**BUILDING, HEIGHT:** The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambel roofs.

**CHURCH:** A building where persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. It includes synagogues, temples, mosques, or other such places of worship and religious activity.

**CLUB, MEMBERSHIP:** Buildings and/or land owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose to which membership is required for participation and not primarily operation for profit nor to render a serve that is customarily carried on as a business.

**COMMERCIAL STABLES:** A building and/or land used in or on which equines are kept for sale or hire to the public. Breeding, boarding or training of equines may also be conducted.

**DOG KENNEL:** A structure used for the harboring of more than three (3) dogs that are more than six months old.

**DWELLING:** A building designed or used exclusively as the living quarters for one or more families.

**FAMILY:** One or more persons who live together in one dwelling unit and maintain a common household. It may consist of a single person or of two or more persons, whether or not related by blood, marriage or adoption. May also include domestic servants and gratuitous guests.

**FARM:** Any parcel or land containing at least five (5) acres which is used for gain in raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes the raising of fur-bearing animals, riding academies, livery or commercial stables, dog kennels and commercial hog farms.

**FILLING STATION:** Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubrication substances, including any sale of motor vehicle accessories and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means.

**FORESTRY USES:** Forestry uses include the raising and growing of trees, both natural stands and plantations; logging operations, including temporary storage sheds and portable sawmills.

**GARAGE, PRIVATE:** An enclosed space for the storage of one or more motor vehicles (a private airplane may be considered as a motor vehicle in this instance) provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car leased to a non-resident of the premises.

**GARAGE, PUBLIC:** Any garage other than a private garage available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

**HOTEL:** A building offering transit and lodging accommodations on a daily rate to the general public and providing additional services such as restaurants, meeting rooms and recreational facilities.

**HOME OCCUPATION:** An occupation or profession which:

- a. is customarily carried on in a dwelling unit or in another structure accessory to a dwelling unit;
- b. is carried on by a member of the family residing in a dwelling unit;
- c. is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and
- d. which conforms to the following additional conditions:
  1. The occupation or profession shall be carried on wholly in either the principal building or within a building or other structure accessory thereto.
  2. Not more than one person outside the family shall be employed in the Home Occupation.
  3. There shall be no exterior display, no exterior sign (except as permitted under Section VIII-3-b.), no exterior storage or materials and no other exterior indication of the Home Occupation or variation from the residential character of the principal building.
  4. No offensive noise, vibration, smoke, dust, odor, heat or glare shall be produced.

In particular, a Home Occupation includes, but is not limited to, the following:

Art studio; barber shops and beauty parlors; dressmaking; professional office of a physician, dentist, lawyer, engineer, architect, realtor, insurance agent or accountant within a dwelling occupied by same.

However, a Home Occupation shall not be interpreted to include the following:

Commercial stables and kennels; restaurants.

**INDUSTRIAL ESTABLISHMENTS:** Industrial establishments are meant to include assembly productions, woodworking plants, sawmills and lumber yards, glove shops, contractors' offices and storage yards.

**LOT:** A parcel of land occupied or to be occupied by one main building or use, with its accessories and including the open spaces accessory to it. No area shall be counted as accessory to more than one main building or use, and no area necessary for compliance with the open space requirements for one main building or use shall be included or counted in the calculation of the open space accessory to any other main building or use.

**LOT COVERAGE:** The area of a site covered by buildings or roofed areas excluding allowed projecting eaves, balconies, decks and similar features.

**LOT, DEPTH OF:** A mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lines.

**LOT, WIDTH OF:** The mean width measured at right angles to its depth.

**MAJOR, RECREATIONAL EQUIPMENT:** Major recreational equipment includes travel trailers, pick-up campers or coaches, motorized dwellings, tent trailers, boats and boat trailers, snow machines and snow machine trailers, all-terrain vehicles and the like, and cases or boxes used for transporting recreational equipment whether occupied by such equipment or not.

**MOBILE HOME:** A mobile home is any portable vehicle or structure which is designed to be transported on its own wheels or those of another vehicle; which is used, designed to be used and capable of being used, as a detached single family residence; and which is used, designed to be used and capable of being used, as a detached single family residence; and which is intended to be occupied as permanent living quarters containing sleeping accommodations, a flush toilet, a tub or shower, kitchen facilities and plumbing and electrical connections for attachment to outside systems.

**MOBILE HOME PARK:** A mobile home park is any parcel of land which is planned and improved for the placement of three (3) or more mobile homes which are used as dwellings and for occupancy of more than ninety (90) consecutive days.

**MOTEL:** A building or group of buildings containing apartments and/or rooming units each of which maintains a separate outside entrance. Such building or group of buildings is designed, intended or used primarily for the accommodation of automobile travelers and provides automobile parking conveniently located on the premises.

**MULTIPLE DWELLING:** A dwelling or group of dwellings on one lot containing separate living units for three (3) or more families having separate or joint entrances and including apartments, group homes, right-of-way houses and condominiums.

**NATURAL PRODUCTION USES:** Natural production uses include the excavation, processing and/or sale of earth; topsoil; sand; gravel; clay or other natural mineral deposits or the quarrying of any kind of rock formation.

**NONCONFORMING USE:** A building, structure or use of land existing at the time of enactment of this ordinance, and which does not conform to the regulations of the district or zone in which it is situated.

**PROFESSIONAL BUILDING:** A building or structure designed to be used for medical or dental clinic; a professional office building used as offices for attorney, accountant, realtor, insurance agent, engineer or similar profession; or combination clinic and office building.

**PUBLIC WATER AND SEWER SYSTEMS:** Any municipal water and sewer system or privately operated water and sewer system regulated by the Public Service Commission and approved by the Health Department or their successor agencies.

**RESORT:** A hotel or motel that serves as a destination point for visitors. A resort generally provides recreational facilities for persons on vacation. A resort shall be self-contained and provide personal services customarily furnished in hotels including the serving of meals. Buildings and structures in a resort should compliment the scenic qualities of the location in which the resort is situated.

**RETAIL ESTABLISHMENTS:** Retail establishments are meant to include stores and establishments selling goods and services directly to consumers. This includes restaurants, wholesaling establishments, lumberyards, marinas, filling stations or public garages.

**SEASONAL CAMP:** A dwelling not used for permanent residence and not occupied for more than six (6) months in each year.

**SEASONAL STORAGE:** Any building that is used, for not more than six (6) months at a time, for storage and does not have a door or other entranceway into a dwelling unit and that does not have water fixtures within its confines, the use of which is limited solely to storage of inanimate objects.

**SIGN:** Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia or any government or government agency, or of any civic, charitable, religious, patriotic, fraternal or similar organization.

**SINGLE-FAMILY RESIDENCES:** A building providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**STABLE, COMMERCIAL:** A building in which horses are kept for private use and not for hire, remuneration or sale.

**STABLE, PRIVATE:** An accessory building in which horses are kept for private use and not for hire, remuneration or sale.

**VACATION TRAILER:** A vacation trailer is any portable vehicle or structure which is designed to be transported on its own wheels which is designed and intended to be used for temporary living quarters for travel, recreational or vacation purposes and which may or may not include one or all of the accommodations and facilities included in a mobile home.

**VACATION CAMPGROUND:** A vacation campground is any parcel of land which is planned and improved for the placement of two (2) or more vacation trailers which are used as temporary living quarters and for occupancy of not more than ninety (90) consecutive days.

**YARD, FRONT:** The depth of the front yard shall be measured between the front line of the building and the highway right-of-way line and shall include only that area directly in front of the main building on the lot. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard.

**YARD, REAR:** An open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot, and shall include only that area directly to the rear of the main building on the lot.

**YARD, SIDE:** An open unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

### Section III: Establishment of Districts

For the purpose of promoting the public health, safety, morals and general welfare of the Town of Northampton, the Town is hereby divided into the following types of districts:

1. ODA      Open Development Area
2. L-R      Lake Front Residential
3. R        Resort
4. R-R      Rural Residential
5. M-D-R   Medium Density Residential
6. C        Commercial
7. I        Industrial
8. OS      Open Space
9. P-D      Planned Development

### Section IV: Zoning Map

Said districts are bounded as shown on a map entitled "Zoning Map of the Town of Northampton" adopted July 1, 1973, certified by the Town Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this ordinance.

### Section V: Interpretation of District Boundaries

Where an uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

1. Where district boundaries are indicated as approximately following the center lines of streets or highways, the district boundaries shall be the center line of said street or highway.

2. Where district boundaries are indicated as approximately following a stream, the district boundaries shall be the center of the stream.
3. Where district boundaries are so indicated that they are approximately parallel to the street, highways or streams, such district boundaries shall be constructed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimensions shall be determined by the use of the scale on said zoning map.
4. Whereas the purpose of the Open Space District is to protect the area from encroachment; to protect the watershed area from contamination; to safeguard the health and safety of potential developers; the district boundaries were drawn to include the high water table, swamp area and the abutting forested and wet wooded areas.
5. The purpose of the Open Development Area is to incorporate Section 280a of the Town Law, as amended, into the Zoning Ordinance and allow development without access to town highways. The district boundaries were drawn to incorporate the generally inaccessible, steep mountain areas into the Open Development Area.

## Section VI: Application of Regulations

Except as hereinafter provided:

1. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is located.
2. No building shall hereafter be erected or altered:
  - a. to exceed the height;
  - b. to accommodate or house a greater number of families;
  - c. to occupy a greater percentage of lot area; or
  - d. to have narrower or smaller rear yards, front yards, and side yards, than is specified herein for the district in which such building is located.

## Section VII: District Regulations and Zoning Schedule

### A. Zoning Schedule

To facilitate public understanding of this ordinance and for the better administration thereof; the regulations limiting the use of buildings and land and the bulk and arrangement of buildings, are set forth in the annexed zoning schedule for each of the districts established by Section III of this ordinance. Such zoning schedule is hereby adopted and declared to be a part of this ordinance, hereinafter referred to as the schedule, and may be amended in the same manner as any other part of this ordinance.

All limitations as to use, percentage of area, building height, required yards and minimum sizes thereof and other requirements shall be thus set forth in such schedule which for each district named shall be read across the schedule from left to right.

Any use which is, in the opinion of the Board of Appeals, similar to those listed, may also be permitted in the respective districts.

## B. Planned Development District

The following procedure, standards and regulations are applicable for Planned Development Districts:

1. Purpose - Planned Development Districts are for the purpose of promoting large scale, planned development, especially for those uses unforeseen, at the time this ordinance was adopted, but appropriate for a rural area or for a recreational area.
2. Procedure for establishment of a Planned Development District.
  - a. Application for establishment of a Planned Development District shall be made to the Town Board. The Town Board shall refer the application to the Planning Board.
  - b. The Planning Board shall conduct a review of the application for a Planned Development District. This review is to consider the following:
    1. a meeting with the applicant may be requested;
    2. the requirements of this ordinance and the standards and requirements for Planned Development Districts;
    3. the need for the proposed use in the proposed location, the existing character of the area in which the use would be located and safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property.
  - c. The Planning Board shall approve, approve with modification or conditions, or disapprove said application's site plan. The Planning Board shall enter its reasons for such action on its record and its report.
  - d. The Planning Board shall report its action to the Town Board.
  - e. The Town Board may amend the Zoning Map creating such Planned Development District for any approved or modified application received from the Planning Board. Said amendment is to be in accordance with Section XIII - Amendments.
3. Standards and Requirements for Planned Development Districts
  - a. Area - Minimum area for Planned Development Districts shall be not less than ten (10) acres.
  - b. Uses - The Planned Development District may be considered for, but not limited to, the following uses: residential developments - permanent; seasonal or mobile homes; resorts and customary accessory uses and facilities; golf courses and country clubs; ski developments; campgrounds or camping areas; industrial park; institutional uses; commercial development (shopping centers).

- c. Density - For residential development, not less than one-half (1/2) acre per dwelling unit.
- d. Coverage and Open Space - Building coverage shall not exceed twenty percent (20%) of the land area; all buildings shall be at least twenty five (25) feet from the right-of-way of any highway; all residential buildings shall be at least twenty (20) feet from any side lot lines and twenty (20) feet from any rear lot line. All other buildings, except residential accessory buildings, shall be at least fifty (50) feet from any side or rear lot lines.
- e. Access and Parking - All facilities and uses shall have sufficient access (ingress and egress) to the highway system with sufficient capacity to avoid undue congestion and injurious effect on surrounding properties. Sufficient parking spaces or area shall be provided on the site for the amount of parking expected to be needed or generated by the proposed uses of the site plan.
- f. Permit Procedures - Upon rezoning of a Planned Development District, a zoning permit may be issued for the specific uses and buildings as indicated on an approved or a modified application for a Planned Development District in accordance with Section X: Enforcement.

## Section VIII: Supplementary Regulations

### A. Standards for Special Use Permits

The types of uses for which special permits are required shall be deemed to be permitted in their respective districts, subject as to each specific use, to the satisfaction of the requirements and the standards set forth herein. Each specific use for which a special permit is sought shall be considered as an individual case and shall conform to the detailed application of the following standards in a manner appropriate to the particular circumstances of such use.

1. Public hearing preceded by due notice as specified in Section XI-C.
2. Appropriate conditions and safeguards to be fixed by the Board of Appeals as deemed necessary in each case.
3. For each special use permit for each special use, the Board of Appeals shall determine in its judgement that:
  - a. it will not interfere with the public health or general interest or welfare of the community."
  - b. it is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal drainage and similar facilities;
  - c. adequate off-street parking spaces will be provided for the expected traffic to be generated;

- d. neighborhood character and surrounding property values are reasonably safeguarded;
  - e. use, therefore, will not cause undue traffic congestion or create a traffic hazard;
  - f. fulfillment of any other conditions or standards specified in this ordinance and especially those listed for specific uses in subsection 4 of this section.
4. Additional standards deemed necessary before a special use permit may be issued for certain specific uses.

**GOLF COURSES:**

- a. minimum land area shall be as follows: 120 acres for standard 18-hole golf course; 60 acres for a standard 9-hole golf course; 20 acres for a 9-hole, par 3, golf course; 40 acres for an 18-hole, par 3, golf course;
- b. off-street parking space minimum requirements are as follows: 18-hole standard golf course - 100 cars; 9-hole standard golf course - 50 cars; 18-hole, par 3, golf course - 50 cars; 9-hole, par 3, golf course - 25 cars.

**MEMBERSHIP CLUBS:**

- a. minimum lot area of two (2) acres;
- b. minimum distance from any lot line to principal building -- 100 feet;
- c. no off-street parking in required front yard;
- d. one parking space for each two members of proposed membership plus one space for each two employees.

**MOBILE HOME PARKS:**

- a. minimum land area -- three (3) acres;
- b. maximum mobile home lots or sites -- six (6) per gross acre;
- c. mobile home site or lot minimum of 5,000 square feet;
- d. no mobile home shall be closer than thirty (30) feet to any other mobile home;
- e. no mobile home shall be closer than fifty (50) feet from any property line;
- f. no mobile home shall be closer than 100 feet from the right-of-way line of any public highway.
- g. Plan for mobile home parks shall be reviewed by the Town Planning Board for adequate drainage; access to park and to each mobile home site; facilities to service the park; parking spaces;
- h. State Health Department, or its legal successor, approval;
- i. 10% of gross area or common open space for use by park occupants.

**MOTELS:**

- a. minimum distance of 15 feet from any lot line to any building;
- b. minimum distance of 10 feet between buildings;
- c. minimum distance of 40 feet from highway right-of-way line;
- d. minimum lot area of 2,000 square feet per unit;
- e. minimum parking requirement of one space per unit plus owner or manager;

- f. water supply and sewerage disposal approval by appropriate state agency.

**MULTIPLE DWELLELINGS:**

- a. the lot area for multiple dwelling shall be equal to the lot area required in each respective district for the first dwelling unit plus 10,000 square feet for each additional dwelling unit;
- b. the maximum number of units per building shall not exceed eight (8);
- c. the minimum floor area shall average 720 square feet for the dwelling units in the multiple dwelling;
- d. off-street parking space shall be required in the amount of two (2) spaces per dwelling unit; the required off-street parking spaces shall not be located within the front yard setback area;
- e. approval of the water supply and sewerage disposal system by the New York Department of Health, or its legal successor, shall be required;
- f. compliance with the Multiple Residence Law shall be required;
- g. each side yard shall be thirty (30) feet or the height of the building, whichever is greater.

**NATURAL PRODUCTION USES:**

- a. the slope of the material in such sand, gravel or other pit shall not exceed the normal angle of repose of such material and the plane of such angle shall not come nearer than fifty (50) feet to any property line or 100 feet to the right-of-way of any highway;
- b. a plan for restoration and rehabilitation of the area used for a natural production use shall accompany the request for a special permit; the Board of Appeals, upon approval of the plan, shall require a performance bond, line of credit, or other financial assurance to assure the restoration and rehabilitation of the area.

**VACATION CAMPING GROUNDS:**

- a. minimum area of three (3) acres;
- b. maximum number of sites, either camping, tenting, or travel trailer sites, twelve (12) per gross acre;
- c. each site shall have a total area of not less than 2,500 square feet;
- d. each site shall be at least fifty (50) feet from property line and 100 feet from public highway right-of-way;
- e. approval of water supply and sewerage disposal systems by State Department of Health or its legal successors;
- f. plan for camping ground must be reviewed by Town Planning Board for adequate drainage; access to public highway and each site; roadways; facilities to service campground; off-street parking facilities;
- g. open space for common usage of campground occupants of ten percent (10%) of gross area.

## B. Supplementary Use Regulations

The provisions of this ordinance shall be subject to such exceptions, additions, or modifications as herein provided by the following supplementary use regulations:

1. Dwelling on Small Lots. Notwithstanding the limitations imposed by any other provision of this ordinance, the Board of Appeals may permit erection of a dwelling on any lot separately owned or under contract of sale and containing, at the time of the passage of this ordinance, an area or a width smaller than that required for a one-family dwelling.
2. Visibility at Intersection. On a corner lot in any residential district, no fence, wall hedge, or other structure or planting more than three and one-half (3-1/2) feet in height shall be erected, placed or maintain within the triangular area formed by the intersecting street lines at points which are thirty (30) feet distant from the point of intersection measured along said street lines.
3. Fences and Walls in Residential District. A fence or wall, not over six (6) feet in height may be erected within the front, side or rear yard of any residential property provided:
  - a. the fence or wall is erected at least one (1) foot from the property line of such residential property;
  - b. the factory finished side of said wall or fence is facing the adjoining property;
  - c. the residential property is not a corner lot in which case the said fence or wall shall be limited to three and one-half (3-1/2) feet in height.

A retaining wall erected in the side or rear yard of any residential property may exceed six (6) feet in height; however, a fence or free standing wall above such height must be built so that at least seventy-five percent (75%) of the whole structure shall be unobstructed and open in a uniformly distributed manner.

4. Roadside Stands. Roadside stands are allowed only as an accessory agricultural use to sell agricultural produce. Stand is to be at least twelve (12) feet from the highway right-of-way line and provision for minimum parking spaces for three (3) cars shall be provided.
5. Signs. Signs are permitted for the appointed uses in the respective districts with a limit of one per building, use, lot or establishment, except in b. below. The types of signs are limited as follows:
  - a. announcements or professional sign, but not to exceed two (2) square feet;
  - b. signs pertaining to the sale, lease, rent or use of a lot or building on which placed but not to exceed twelve (12) square feet; one sign is allowed on and for each highway frontage;
  - c. institutional and religious announcement signs but not to exceed twelve (12) square feet;
  - d. temporary signs during construction, repairs or alterations but not to exceed twelve (12) square feet;
  - e. signs pertaining to business establishment, professional building, cemetery, roadside stand, farm, club, golf club, mobile home park, natural production uses, camping

grounds, resorts, and marinas, not to exceed thirty-six (36) square feet; said signs shall be of the "rustic" variety (signs further restricted by Section 9-0305 of the Environmental Conservation Law, as amended).

6. Swimming Pools. Swimming pools are allowed in residential districts provided they are not built within the required front, side or rear setback areas of the district in which they are located. A fence erected as a swimming pool enclosure must remain outside the required front, side or rear setback areas. Said fences shall also conform to the Uniform Fire Protection and Building Code, General Requirements 720.1-Exemptions 720.2 and General Requirements 744-1-Exemptions 744.2.
7. Junkyard and Junk Cars. A junkyard shall be deemed to mean and encompass any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old or secondhand motor vehicles, regardless of their condition or intended use, and whether for the purpose of resale, or resale of parts therefrom, are placed or otherwise stored.

Where a junkyard exists, as defined herein, or in the hereinafter mentioned Town Ordinance, the provision of the "Auto and Appliance Junkyard" ordinance for the Town of Northampton, as enacted by the Town Board of the Town of Northampton on September 12, 1966, after a hearing held on August 25, 1966, and having taken effect on October 11, 1966, will control; or, if the Town of Northampton deems it necessary, it may decide to enforce this provision by General Municipal Law Section 136 of the laws of the State of New York, or by any other law of the State of New York existing at the time of the enforcement of any violation herein. That the above laws may be used in conjunction and simultaneously with each other.

If a violation of this provision is found, the Town may, at its own discretion, remove and/or destroy the vehicles and/or parts of vehicles in violation hereof, and thereafter tax such expense to the property owner.

Violators of any of the portions of this section shall be guilty of an offense punishable by a fine not exceeding one hundred dollars (\$100.00) per day, and each day that such violation is carried on or continues shall constitute a separate violation.

All amendments or regulations heretofore adopted in conflict with this Ordinance are hereby repealed.

### C. Supplementary Height Regulations

The provisions of this ordinance shall be subject to such exceptions, additions, or modifications as herein provided by the following supplementary height regulations.

1. Height Exceptions. The height limitations of this ordinance shall not apply to church spires, belfries, cupolas, domes not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, bulkheads, similar features, and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve and

shall not exceed in cross-sectional area twenty percent (20%) of the ground floor area of the building.

2. Agricultural Buildings. Silos and agricultural buildings are excepted from the height limitations provided that such buildings above thirty-five (35) feet in height are at least twice the distance from any residence as the height of the building.

#### D. Supplementary Area Regulations

The provisions of this ordinance shall be subject to such exceptions, additions, or modifications as herein provided by the following area regulations:

Reduction of Lot Area. Where a lot or lots are formed hereafter from the part of a lot already occupied by a building, such separation and reduction of lot area shall be effected in such manner as not to impair conformity with any of the requirements of this ordinance with respect to the existing building, and all yards and other required spaces in connection therewith, and no permit shall be issued for the erection of a building or buildings on the new lot or lots thus created unless the lot or lots comply with all the provisions of this ordinance.

#### E. Supplementary Yard Regulations.

The provisions of this ordinance shall be subject to such exceptions, additions, or modifications as herein provided by the following supplementary yard regulations:

1. Covered areas. Any covered or roofed area, whether enclosed or open, shall be considered as a part of the building area in the determination of the size of yards or lot coverage.
2. Yards for corner lots. On a corner lot, each side which abuts a street shall be deemed a front lot line and the required yard along each such lot line shall be required front yard. The owner shall decide which of the remaining yards shall be the required side yard and the required rear yard.
3. Resort district. Permanent residential lots in existence at the enactment of this ordinance, or in single ownership, may have the required lot frontage reduced by thirty percent (30%), provided the required lot area is not reduced.

#### F. Major Recreational Equipment

Major Recreational Equipment is considered as an accessory use to the principal residence subject to the following supplemental regulations:

1. Parking, storage or use of major recreational equipment. No major recreational equipment shall be parked or stored in the required front yard.
2. Storage in required side or rear yard. Any major recreational equipment less than six (6) feet in height above the ground may be stored in any required side or rear yard except when such yard is adjacent to a street.

3. Occupancy. No major recreational equipment intended for portable temporary housing shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot, or in any other location not approved for such use, provided, however, that such equipment may be used for the housing of guests or occupants of the principal residence if (a) occupancy shall not exceed 30 consecutive days and (b) no charge is made for such occupancy.
4. Derelicts. No major recreational equipment shall be stored out of doors on residential premises unless it is in condition for safe and effective performance of the functions for which it is intended or can be made so at a cost not exceeding the value of the equipment in its existing state. In no case shall any such equipment be so stored for a period of more than six (6) months if not in condition for safe and efficient performance of the function for which it is intended.

#### Section IX: Nonconforming Buildings and Uses.

The lawful use of any building or land existing at the time of the enactment of this ordinance may be continued although such use of building does not conform with the provision of this ordinance.

1. Unsafe structure. Any structure or portion thereof declared unsafe may be restored to a safe condition.
2. Abandonment. Whenever a nonconforming use has been abandoned for a period of one year, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provision of this ordinance.
3. Changes. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.
4. Destruction. Any building destroyed by fire or other natural causes may be reconstructed within or on the existing foundation or footing. Said reconstruction not to exceed the size of the original building prior to its destruction.

#### Section X: Enforcement.

A. Building Inspector. This ordinance shall be enforced by the Building Inspector, who shall be appointed by the Town Board. No building permit or certificate of occupancy shall be issued by him except where all the provisions of this ordinance have been complied with.

#### B. Building Permits

1. No building or structure shall be erected, added to, or structurally altered until a permit therefor has been issued by the Building Inspector. Except upon a written order of the Board of Appeals, no such building permit or certificate of occupancy shall be issued for

any building where said construction, addition, or alteration or use thereof would be in violation of any of the provisions of this ordinance.

2. There shall be submitted with all applications for building permits two copies of a layout or plot plan drawn to scale showing the actual size and location on the lot of the building and accessory to determine and provide for the enforcement of this ordinance.
3. One copy of such layout or plot plan shall be returned when approved by the Building Inspector together with such permit to the applicant upon the payment of a fee as per the schedule of fees established by the Town Board.
4. Building permits shall be valid for one year from date of issue.
5. Building permits may be extended for one additional year with the payment of extension fee as per the schedule of fees established by the Town Board.

#### C. Certificate of Occupancy

1. No land shall be occupied or used and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Building Inspector, stating that the buildings or proposed use thereof complies with the provisions of this ordinance.
2. No non-conforming use shall be maintained, renewed, changed, or extended without a certificate of occupancy (certificate of existing use, therefor) having first been issued by the Building Inspector.
3. All certificates of occupancy shall be applied for coincident with the application for a building permit. Said certificate shall be issued within ten (10) days after the erection or alteration shall have been approved as complying with the provisions of this ordinance.
4. The Building Inspector shall maintain a record of all certificates and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected.

### Section XI: Board of Appeals

#### A. Creation, Appointment and Organization

A Board of Appeals is hereby created. Said Board of appeals shall consist of five (5) members. The Board of Appeals shall appoint a secretary and shall prescribe rules for the conduct of its affairs.

## B. Powers and Duties

The Board of Appeals shall have all the power and duties prescribed by law and by this ordinance, which are more particularly specified as follows:

1. Interpretation - Upon appeal from a decision by the Building Inspector to decide any question involving the interpretation of any provision of this ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
2. Special Permits - To issue special permits for any of the uses for which this ordinance requires the obtaining of such permits from the Board of Appeals.
3. Variances - To vary or adapt the strict application of any of the requirements of this ordinance in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. No variance in the strict application of this ordinance shall be granted by the Board of Appeals unless it finds:
  - a. that there are special circumstances or conditions, fully described in the findings of the Board of Appeals, applying to such land or buildings and not applying generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of such land or buildings;
  - b. that, for reasons fully set forth in the findings of the Board of Appeals, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board of Appeals is the minimum variance that will accomplish this purpose;
  - c. that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting any variance, the Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.

## C. Procedure

The Board of Appeals shall act in strict accordance with the procedure specified by law and by this ordinance. All appeals and applications made to the Board of Appeals shall be in writing, on forms prescribed by the Board of Appeals. Every appeal or application shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the ground on which it is claimed that the variance should be granted, as the case may be.

Every decision of the Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board of Appeals in the particular case.

## D. Referrals

1. County Planning Board Referrals. Prior to taking action on any matter which would cause any change in the regulations or use of land or buildings on real property as specified in Section 239-m of the General Municipal Law, as amended, the Board of Appeals shall make referrals to the County Planning Board.

Within thirty (30) days after receipt of a full statement of such referral matter, the County Planning Board shall report its recommendations thereon to the Board of Appeals. If the County Planning Board disapproved the proposal, or recommends modification thereof, the Board of Appeals shall not act contrary to such disapproval or recommendations except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary actions. A copy of such resolution shall be forwarded to the County Planning Agency.

The Chairman shall read the report of the County Planning Board at the public hearing on the matter under review.

If the County Planning Board fails to report within such period of thirty (30) days or such longer period as may be agreed upon by the respective boards, the Board of Appeals may act without such report.

2. Town Planning Board Referrals. A copy of the matter referred to the County Planning Board shall also be referred to the Town of Northampton Planning Board.

In addition, at least five (5) days before the date of the hearing required by law on any application or appeal to the Board of Appeals, the Secretary of the Board of Appeals shall transmit to the Town Planning Board a copy of the notice of the aforesaid hearing and shall request that the Town Planning Board submit a report of such advisory opinion prior to the date of said hearing. Upon failure to submit such report, the Town Planning Board shall be deemed to have approved the application or appeal.

## Section XII: Violations and Penalties

A violation of this ordinance is an offense punishable by a fine not exceeding fifty dollars (\$50.00) or by imprisonment for a period not exceeding six (6) months or both. Each week's continued violation shall constitute a separate additional violation.

## Section XIII: Amendments

The Town Board may from time to time on its own motion, or on petition, or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this ordinance after public notice and hearing.

Every such proposed amendment or change whether initiated by the Town Board or by petition shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. The Town Board by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as follows:

- A. By publishing a notice at least ten (10) days before the time and place of such hearing in a paper of general circulation in the town.
- B. A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any state park, state forest lands or parkway shall be given to the Division of Lands and Forests having jurisdiction over such State forest lands or parkway at least ten (10) days prior to the date of such public hearing.
- C. A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries on any town, village or county, shall be given to the clerk of such municipality and to the Clerk of the Board of Supervisors at least ten (10) days prior to the date of such hearing.
- D. In case, however, of a protest against such change signed by the owners of twenty percent (20%) or more of the area of land included in such proposed change or of that immediately adjacent extending 100 feet therefrom or of that directly opposite thereto, extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four (4) members of the Town Board.
- E. Prior to taking action on any matter which would cause any change in the regulations or use of land or buildings on real property as specified in Section 239-m of the General Municipal Law, as amended, the Town Board shall make referrals to the County Planning Board.

Within thirty (30) days after receipt of a full statement of such referral matter, the County Planning Board shall report its recommendations thereto to the Town Board. If the County Planning Board disapproved the proposal, or recommends modification thereof, the Town Board shall not act contrary to such disapproval or recommendations except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary actions. A copy of such resolution shall be forwarded to the County Planning Board.

If the County Planning Board fails to report within such period of thirty (30) days or such longer period as may be agreed upon by the respective boards, the Town Board may act without such report.

#### Section XIV: Interpretation, Conflict with Other Laws

If their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, or the general welfare. Whenever the requirements of this ordinance are at variance with the requirements of any

other lawfully adopted rules, regulations, or ordinances. The most restrictive, or that imposing the higher standards, shall govern.

Section XV: Validity

The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision thereof.

Section XVI: Effective Date

This ordinance shall take effect July 1, 1973, ten (10) days after publication and posting.