

ARTICLE XVII
Business B District

§ 70-137. Application of provisions.

The provisions of this Article shall apply to a Business B District.

§ 70-138. Permitted uses.

A building may be erected, altered or used and a lot or premises may be used for any of the purposes set forth in this Article and for no other:

- A. All permitted uses set forth in Article XVI applicable to Business A Districts.
- B. Shops for carpenters, hand cabinetmaking, furniture repair or upholstery, electrical work, hand metalworking, blacksmith, tinsmith, new and unused plumbing, gas, steam or hot water fittings, bicycle repair.
- C. Barber, drafting, hairdressing or secretarial schools.
- D. Medical or dental laboratories.
- E. Radio or television studios.
- F. Research laboratories in electronics or precision instruments.
- G. Accessory uses on the same lot and customarily incidental to any of the above permitted uses, except for accessory drive-through facilities, which shall be subject to the provisions of § 70-203T, and for below-grade parking structures, which shall be subject to the provisions of § 70-203U. **[Added 1-24-2006 by L.L. No. 2-2006; amended 10-3-2006 by L.L. No. 14-2006]**

§ 70-139. Conditional uses. [Amended 9-13-1983 by L.L. No. 6-1983; 6-8-1999 by L.L. No. 7-1999]

A building may be erected, altered or used and a lot or premises may be used for any of the purposes set forth in this Article, when authorized by the Board of Zoning and Appeals pursuant to the provisions of Article XXIV and for no other:

- A. All conditional uses set forth in Article XVI applicable to Business A Districts.
- B. Building used for storage and sale of materials at wholesale, provided that the materials handled are of the same general character as those permitted to be sold at retail in a Business B District.
- C. Animal hospital, dog kennel, livery stable.
- D. Creamery, butter or cheese making, milk or other bottling or distributing station.
- E. Newspaper or job printing, bookbinding.
- F. Manufacturing of articles not prohibited under Article XIX when carried on in existing

buildings and when adequate provision is made for off-street parking.

- G. Places of amusement and recreation areas as follows:
- (1) Bowling alleys.
 - (2) Billiard hall.
 - (3) Skating rink.
 - (4) Miniature golf.
 - (5) Batting or golf driving range.
 - (6) Kiddie amusement center, except go-cart, trampoline, midget auto uses or amusement arcades.
- H. Automatic car wash carried on in an enclosed building, subject to the provisions of § 70-203T. **[Amended 1-24-2006 by L.L. No. 2-2006; 10-3-2006 by L.L. No. 14-2006]**
- I. Accessory building on the same lot with and customarily incidental to any of the above permitted uses in accordance with a plot plan approved by the Board of Zoning and Appeals. **[Amended 1-24-2006 by L.L. No. 2-2006; 10-3-2006 by L.L. No. 14-2006]**
- J. Senior citizen facilities, including the following. A single building may contain any combination of the senior citizen facilities listed below.
- (1) Senior independent-living facilities.
 - (2) Senior congregate-living facilities.
 - (3) Senior assisted-living facilities.
 - (4) Senior day-care facilities.
- K. Accessory uses for senior citizen facilities. Senior citizen facilities and nursing homes may contain or provide uses necessary to and customarily incidental to such facilities where such uses are limited to use by residents, their guests and employees, as follows:
- (1) All accessory uses, as set forth in Article VIII, applicable to Multiple Residence Districts.¹
- L. Indoor smoking establishment, as defined in §70-231, conforming to the following: **[Added 8-9-2016 by L.L. No. 7-2016]**
- (1) No such establishment shall be permitted within a radius of 500 feet of any area zoned for residential use nor within 1,000 feet of the lot line of any premises used for a school, church or other place of religious worship, park, playground or playing field, library, hospital or similar public or semipublic place of general congregation, or non-degree-granting instruction/programs, including tutoring centers, self-defense, dance,

1. Editor's Note: Former § 70-139.1, Additional conditional uses, added 1-24-2006 by L.L. No. 2-2006, which immediately followed this subsection, was repealed 10-3-2006 by L.L. No. 14-2006.

swimming, gymnastics and other sports.

- (2) No more than one indoor smoking establishment shall be located on any lot.

§ 70-140. Special uses. [Amended 8-9-2005 by L.L. No. 6-2005; 12-8-2009 by L.L. No. 18-2009]

- A. Any use of the same general character as any of the uses hereinbefore specifically permitted may be authorized by the Board of Zoning and Appeals after a public hearing pursuant to Article XXIV, except as provided for in § 70-140B, C and D below. **[Amended 12-11-2012 by L.L. No. 19-2012]**
- B. "Big-box commercial use," defined as a single-use commercial retail establishment with 85,000 square feet or more of gross floor area, may be permitted only when authorized by the Town Board after a public hearing, pursuant to the provisions of Article XXVIII, Special Permits.
- C. "Motor vehicle repair shop," as defined in § 70-231, may be permitted only when authorized by the Town Board after a public hearing, pursuant to the provisions of Article XXVIII. In the consideration and determination of such applications, the Town Board shall apply the following standards:
- (1) Whether the proposed use is harmonious with surrounding uses and not in conflict with the general character of the community.
 - (2) Whether the proposed use will be objectionable to surrounding properties by reason of excessive light, noise or vibrations.
 - (3) Whether the proposed use will be hazardous to or conflicting or incongruous with the immediate neighborhood by reason of excessive traffic or parking of vehicles.
 - (4) Whether the proposed use provides an essential service to the community.
- D. For properties located within the Port Washington Business Overlay District and in full conformity with the standards of Article XXC, mixed-use buildings having a ground floor containing one or more of the uses authorized under § 70-138A through C and residential use on the upper floors may be permitted when authorized by the Town Board after a public hearing, pursuant to the provisions of Article XXVIII. In determining the eligibility of a property for mixed-use occupancy, the provisions of § 70-195.25 will be applied in addition to the criteria established in § 70-225B. **[Added 12-11-2012 by L.L. No. 19-2012]**

§ 70-141. Incidental uses.

In connection with any of the aforesaid permitted uses, the incidental uses as set forth in this section are hereby permitted:

- A. The manufacture or treatment of products clearly incidental to the operation of a retail business conducted on the premises or the performing of a service primarily for residents of the neighborhood on a scale requiring not more than five horsepower and not more than five operators engaged on such work and to an extent involving for such work not more than the

rear 3/4 of the entire first floor space of the building.

§ 70-141.1. Parking requirements. [Added 3-25-1986 by L.L. No. 3-1986; 6-8-1999 by L.L. No. 7-1999]

- A. Parking shall be provided in accordance with the requirements set forth in § 70-103, except for "big-box commercial use," which shall meet the following parking and loading standards: **[Amended 8-9-2005 by L.L. No. 6-2005]**
- (1) A standard parking space requirement shall be a minimum of 10 feet in width and 20 feet in length.
 - (2) Drive aisles shall be a minimum of 24 feet.
 - (3) A minimum of three loading areas shall be provided for a "big-box commercial use" that is between 85,000 and 120,000 gross square feet in floor area. One additional loading area shall be provided for each additional 20,000 square feet or fraction thereof that is greater than 120,000 gross square feet in floor area.
 - (4) No more than 60% of the off-street parking area for the entire property shall be located between the front facade within the front yard of the principal building(s) and the primary abutting street unless the principal building(s) and/or parking lots are screened from view by out-parcel development (such as restaurants) and additional tree plantings and/or berms.
 - (5) Loading docks and truck parking shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets, and no attention is attracted to the functions by the use of screening materials that are different from or inferior to the principal materials of the building and landscape.
- B. Landbanked parking as defined in § 70-231 may be permitted within the required buffer for senior independent-, congregate- and assisted-living facilities subject to the following restrictions:
- (1) Landbanked parking shall be limited to 40% of the required parking.
 - (2) Landbanked parking shall be indicated as such on the site plan and shall be maintained as landscaped or open green space.
 - (3) No structure shall be erected in any designated landbanked area.
 - (4) Landbanked parking shall be located a minimum of 15 feet from any property line abutting a residence district.
- C. For properties located within the Port Washington Business Overlay District and in full conformity with the standards of Article XXC, the parking requirements may be altered in accordance with § 70-195.24 when authorized by the Town Board after a public hearing. **[Added 12-11-2012 by L.L. No. 19-2012]**

§ 70-142. Height. [Amended 2-15-1985 by L.L. No. 2-1985; 6-8-1999 by L.L. No. 7-1999]

- A. No building shall exceed three stories, with a maximum height of 40 feet.
- B. In the case of a building containing senior citizen facilities, no building or part thereof shall exceed three stories with a maximum height of 45 feet.
- C. In the case of a property located within the Port Washington Business Overlay District and in full conformity with the standards of Article XXC, the maximum height may be increased to 45 feet for a peaked roof, in accordance with § 70-140, when authorized by the Town Board after a public hearing. In no case shall a building in excess of three floors be permitted. **[Added 12-11-2012 by L.L. No. 19-2012]**

§ 70-143. Plot area; frontage; density of population. [Amended 6-8-1999 by L.L. No. 7-1999]

- A. No building or structure shall be constructed on a lot containing an area of less than 2,000 square feet.
- B. Buildings containing the following senior citizen facilities and nursing homes shall be constructed on lots containing the following area dimensions:

Type of Facility	Minimum Lot Size (square feet)	Minimum Lot Width (feet)	Minimum Front Setback to Structures (feet)	Maximum Density (units/acre)
Senior independent living	40,000	100	25	32
Senior congregate living	40,000	100	25	35
Senior assisted living	40,000	100	25	38
Nursing home	1 acre	100	25	50 beds
Senior day care	20,000	100	25	N.A.

- C. For buildings containing more than one senior citizen facility, a composite total of 35 units per acre shall be permitted, with each use assessed at the following rate:

Type of Facility	Equivalent Unit
Senior independent living	1.1
Senior congregate living	1.0
Senior assisted living	.925

- D. A 25% density bonus homes² shall be available for senior independent living facilities where

such units are made available as affordable senior citizen facilities.

- E. No "big-box commercial use" as defined in § 70-231³ shall be constructed on a lot containing an area of less than three acres. **[Added 8-9-2005 by L.L. No. 6-2005]**
- F. In the case of a property located within the Port Washington Business Overlay District and in full conformity with the standards of Article XXC, the residential density shall be a maximum of 18 dwelling units per acre in accordance with § 70-140. The maximum density may be increased to 24 dwelling units per acre when authorized by the Town Board after a public hearing for properties achieving a minimum score of 80% pursuant to the rating system established in § 70-195.25. **[Added 12-11-2012 by L.L. No. 19-2012]**

§ 70-144. Lot coverage. [Amended 12-14-1999 by L.L. No. 14-1999]

In the case of any building erected, altered or used for commercial purposes, the total coverage for buildings and structures shall not exceed 85% of the lot area.

§ 70-144.1. Floor area. [Added 6-8-1999 by L.L. No. 7-1999]

- A. Buildings containing the following senior citizen facilities shall have the following minimum and maximum gross habitable floor area per unit:

Type of Facility	Minimum Floor Area/ Unit (square feet)	Maximum Floor Area/ Unit (square feet)
Senior independent living	600	1,600
Senior congregate living	550	1,600
Senior assisted living	350	1,000

- B. In buildings containing more than one facility, the maximum permitted floor area shall be calculated based on the sum of the separate floor areas for each type of facility.
- C. In senior independent-, congregate- and assisted-living facilities, a minimum of 40% of the dwelling units shall be one bedroom units. No dwelling unit shall contain more than two bedrooms.
- D. No basement apartments shall be permitted in any senior citizen facility other than one such apartment for the use of a superintendent, custodian or other person in charge of the maintenance of such dwelling.

§ 70-145. Front yard. [Amended 4-28-1987 by L.L. No. 10-1987]

- A. No front yard is required except where a building has vehicular entrance doors facing a street, in which case, such entrance doors shall be set back a distance of at least 18 feet from the street line, and an open, unoccupied space shall be maintained between said doors and the

2. Editor's Note: So in original (The word "homes" was adopted unintentionally.)
 3. Editor's Note: See the definition of "big-box commercial use" in § 70-140B.

street line.

- B. A "big-box commercial use" shall provide a front yard, the minimum of which shall be not less than 50 feet. **[Added 8-9-2005 by L.L. No. 6-2005]**

§ 70-146. Side and rear yard. [Amended 6-8-1999 by L.L. No. 7-1999]

- A. There shall be a rear yard, the depth of which shall be not less than 15 feet for buildings provided with municipal sewerage systems and not less than 20 feet for buildings not provided with municipal sewerage systems.
- B. Other than an access driveway, no side yard shall be required for buildings used for commercial purposes except where the side line boundaries of the plot adjoin a residence district, in which case a minimum side yard setback of 15 feet shall be maintained. In the case of senior citizen facilities or nursing homes, minimum side yard setbacks of 15 feet shall be maintained on each side in all cases.
- C. A "big-box commercial use" shall provide a minimum rear yard, the depth of which shall be a minimum of 50 feet, except where the rear yard boundaries of the plot adjoin a residence district, in which case a minimum rear yard of 150 feet shall be provided. **[Added 8-9-2005 by L.L. No. 6-2005]**
- D. A "big-box commercial use" shall provide a minimum side yard, the depth of which shall be a minimum of 50 feet, except where the side yard boundaries of the plot adjoin a residence district, in which case a minimum side yard of 150 feet shall be provided. **[Added 8-9-2005 by L.L. No. 6-2005]**

§ 70-146.1. Separation of buildings. [Added 6-8-1999 by L.L. No. 7-1999]

- A. For senior citizen facilities, the minimum distance between two buildings used for residence purposes shall be at least 25 feet.
- B. All buildings used for senior citizen facilities shall be situated in such a manner as to provide adequate light and air.

§ 70-146.2. Open space and amenity space. [Added 6-8-1999 by L.L. No. 7-1999]

- A. A minimum of 80 square feet per dwelling unit of indoor common amenity space other than dining space shall be provided for senior citizen facilities.
- B. A minimum of 50 square feet of common outdoor active and passive recreation and open space shall be provided per dwelling unit for senior citizen facilities.

§ 70-146.3. Design features. [Added 6-8-1999 by L.L. No. 7-1999; amended 8-9-2005 by L.L. No. 6-2005; 12-8-2009 by L.L. No. 18-2009]

- A. All senior citizen facilities shall be designed to meet the special needs of senior citizens and, at a minimum, shall contain the following:
- (1) All design features, as set forth in Article VIII, applicable to the RM District.

- B. A big-box commercial use shall be designed to provide visual interest at the scale of the pedestrian, reduce massive aesthetic effects, recognize local character and, at a minimum, shall contain the following:
- (1) Facades and exterior walls. Developments with facades over 100 feet in linear length shall incorporate wall projections or recesses a minimum of three feet in depth and a minimum of 20 contiguous feet within each 100 feet of facade length and shall extend over 20% of the facade. Developments shall use animating features such as arcades, display windows, entry areas or awnings along at least 60% of the facade.
 - (2) Rooflines. Rooflines shall be varied with a change in height every 100 linear feet in the building length. Parapets, mansard roofs, gable roofs, hip roofs, or dormers shall be used to conceal flat roofs and rooftop equipment from public view. Alternating lengths and designs may be approved by the Commissioner of Planning and Buildings.
 - (3) Entrances. All sides of a principal building that directly face an abutting public or private right-of-way shall feature at least one customer entrance. Where a principal building directly faces more than two abutting public or private rights-of-way, this requirement shall apply only to two sides of the building, including the side of the building facing the primary street and another side of the building facing a secondary street.
 - (4) Unenclosed areas for the storage and sale of seasonal inventory. Unenclosed areas for the storage and sale of seasonal inventory shall be permanently defined and screened with walls and/or fences. Materials, color and designs of screening walls and/or fences and the cover shall conform to those used as predominant materials and colors of the building. If such areas are to be covered, then the covering shall conform to those used as predominant materials and colors on the buildings.
 - (5) Sidewalks. Sidewalks at least six feet in width shall be provided along all sides of the lot that abut a public or private right-of-way, excluding interstates, expressways and parkways, or as otherwise approved by the Commissioner of Planning and Buildings. Sidewalks, no less than five feet in width, shall be provided along the full length of the building along any facade featuring a customer entrance and along any facade abutting public parking areas. Such sidewalks shall be located at least six feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.
 - (6) Pedestrian walkways. Continuous internal pedestrian walkways, no less than five feet in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all principal buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings and building and store entry points and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers or other such materials for no less than 50% of their length.
- C. A motor vehicle repair shop shall be designed to minimize adverse aesthetic impacts and recognize local character and shall conform to the following requirements:

- (1) There shall be at least one property boundary with frontage on a street with a minimum right-of-way width of 75 feet.
- (2) Wherever feasible, vehicular entrance doors shall be located on a side or rear wall of the building and not along the front elevation.
- (3) Outside storage of an inoperative or unlicensed motor vehicle or vehicles shall not be allowed. Not more than four customer vehicles may be stored overnight in an outdoor location on the premises. A vehicle that is not in working order shall not be stored on such premises for more than 48 hours. Storage of all auto parts and materials used or sold on the premises shall be in an enclosed building.
- (4) The hours of operation shall be no earlier than 8:00 a.m. nor later than 7:00 p.m.

§ 70-147. Fences. [Amended 5-21-1996 by L.L. No. 8-1996]

Fences shall not exceed seven feet in height.

§ 70-148. Sewage disposal.

All proposed buildings not connected with a municipal sewerage system must be equipped with an independent sewerage system and disposal facilities approved by the Nassau County Department of Health and/or Town of North Hempstead Building Department.