

Proposed Zoning Ordinance Amendments (Section 70 of the Code of New Market)

Highlighting denotes new text, while a line through a word indicates deleted text

See Page 16 for amendments that upon adoption would read as shown

Sec. 70- 10 Specific Definitions

Projection. Building features which extend outward from a structure's foundation including, but not limited to decks, patios, chimneys, open fire escapes, and bay windows.

Dwelling

(g.) Cluster home. A single-family detached dwelling, on its own lot, located in a grouping of at least three such units that includes dedicated open space. Cluster homes as a result may occupy smaller lots than traditional single-family detached dwellings.

Sec. 70- 132 Projections into Yards

The following projections shall be permitted into required yards and shall not be considered in the determination of yard size or lot coverages:

(a.) Chimneys may extend up to three (3) feet into any required yard; provided that they are not closer than five (5) feet to any adjoining lot line.

(b.) Open fire escapes may extend up to five (5) feet into a required yard; provided that they are not closer than five (5) feet to any adjoining lot line.

(c.) Cornices, awnings, gutters or similar structural overhangs which are at least eight (8) feet above grade may extend up to three (3) feet into any required yard; provided that they are not closer than five (5) feet to any lot line. No such projection shall have a vertical surface area whose areas is more than twenty-five (25) percent of the area obtained by multiplying the mean height of the structure by the length of the structure along which the yard is violated.

(d.) Uncovered patios, stoops, terraces or decks which are attached to the principal structure and which have no part of their floor higher than three (3) feet above grade on the lot may extend up to five (5) feet into a required front yard, ten (10) feet into a required rear yard, and three (3) feet into a **one** required side yard; provided that any such patio, stoop, terrace or deck shall not be located closer to any lot line than one-half (1/2) the distance measured from the applicable lot line to the closest point of the corresponding building face. When two town houses are attached, such patio, terrace, stoop or deck shall not be located closer than two (2) feet to the commonly shared side lot line.

Uncovered patios, terraces, stoops or decks which are attached to the principal structure and which are more than three (3) feet above grade on the lot may extend up to ten (10) feet into a required rear yard; provided that such ratio, terrace, stoop or deck is not located closer to the rear lot line than one-half (1/2) the distance measured from the rear lot line to the closest point of the dwelling. The front and side yard requirements as set forth in the applicable district regulations shall apply; however, when two town houses are attached, such patio,

terrace, stoop or deck shall not be located closer than two (2) feet to the commonly shared lot line.

(e.) A one story bay window may project not more than three (3) feet into any required yard area.

Sec. 70- 137 Home Occupations

It is the intent of this Section to ensure the compatibility of home occupations with other permitted uses, to preserve the character of residential neighborhoods, and to prevent excessive noise, traffic, nuisance, safety hazards, and other potentially adverse impacts of commercial uses conducted in residential areas. Home occupations may be permitted in any dwelling in any district where residential uses are permitted. In addition to applicable restrictions in each district, home occupations shall be subject to the following restrictions:

(a.) The home occupation shall be operated only by residents of the dwelling unit. If the operator is a tenant, written permission of the land owner is required. Not more than one person who is not a member of the family occupying such dwelling shall be employed on the premises in connection with the home occupation.

(b.) The home occupation shall be clearly incidental or secondary to the use of the dwelling as a residence and shall be restricted to the residence only. ~~No~~ **An** accessory building ~~shall~~ **may** be constructed or used for storage of inventory in conjunction with the home occupation.

(c.) Home occupation activities shall not occupy more than twenty-five (25) percent of the floor area of the dwelling.

(d.) No storage or display of products, goods or commodities shall be visible from outside the dwelling.

(e.) No alteration to the exterior appearance of the dwelling or premises shall be made which changes the residential character of the property.

(f.) No on-premises sale of merchandise shall be allowed.

(g.) No equipment shall be used except as is customarily used for purely domestic or household purposes. No toxic, explosive, flammable, combustible, corrosive, radioactive or other dangerous or hazardous materials shall be used or stored on the site. The dwelling or premises shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to emission of odor, gas, smoke, dust, noise, vibration, glare, electrical disturbance, or similar condition.

(h.) No motor vehicle shall be regularly operated from the premises that display advertising for the home occupation.

(i.) There shall be no advertising on the premises in the R-1 Residential District, and there shall be no advertising on the premises other than a single, non-illuminated, non-electric sign in any other residential district, in accordance with the provisions of Sec. 70-

152 of this chapter. Such sign shall not exceed six (6) feet in height, and shall be set back at least five (5) feet from all property lines and road right-of-ways.

(j.) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the home occupation is required to be provided on-site, and shall be done in a manner which protects the residential character of the area and the visual appearance of the residence.

(k.) A home occupation shall comply with all applicable town ordinances and regulations, including the need to obtain applicable business licenses and a home occupation permit, in accordance with the provisions of this Section. In addition, home occupations shall comply with all applicable county, state or federal regulations governing the activity.

(l.) In-home day care, as defined, for up to nine (9) persons shall be considered a permitted home occupation, provided that the other provisions of this Section and chapter are complied with.

(m.) Permitted home occupations shall not, in any event, include: in-home day care for more than (9) persons; bed and breakfast establishments; rooming or boarding houses; nursing homes; beauty parlors, barbershops, or manicurists with more than one chair; massage parlors; animal hospitals; kennels; animal grooming business; dance instruction or exercise studios; restaurants; automobile repair or paint shops; wayside stands; outdoor repair or service; rental of any equipment or other items; welding or machine shops; or other similar uses. If there is a question regarding the appropriateness of an activity, the zoning administrator shall determine, based upon the criteria set forth in this Section and in this chapter, if the activity is a permitted home occupation. The administrator may request review by the planning commission or other appropriate agencies prior to making such a determination.

(n.) Application, Review and Enforcement Procedures

1. Any person desiring to establish a home occupation, as authorized herein, shall submit a home occupation permit application to the zoning administrator on a form provided by the town. The administrator shall review the application for compliance with this Section and other applicable provisions of law and shall make a decision to approve, approve with conditions, disapprove, or refer the application to the planning commission or other agencies for review, within two (2) weeks of the date a complete application is received. The zoning administrator may impose reasonable conditions on the conduct of the home occupation use.

2. All home occupation permits shall remain valid unless there is a violation of this Section or of the conditions of the permit, or unless a current business license is not maintained. Home occupation permits shall be renewed annually by application for a business license.

3. Home occupation applicants shall permit reasonable inspections of the premises by the zoning administrator or his designee to determine compliance with this Section and the conditions of the home occupation permit.

4. The zoning administrator, upon becoming aware of any violation of this Section or of the conditions of the permit, shall serve a notice of violation to the operator of the home occupation. Upon the receipt of such notice, the operator of such activity will have ten (10) days to correct the violation.

5. The zoning administrator may revoke a home occupation permit for violation of this Section or the conditions of the permit. Notice of such revocation shall be given in writing by the

administrator to the operator of the home occupation, by hand delivery or certified mail, setting forth the reasons for the revocation, the date and time upon which the revocation is effective, and the appeals procedure. This provision shall not preclude the use of any other remedy prescribed by law with respect to violations of the provisions of this chapter.

6. Any person aggrieved by an action of the zoning administrator in granting, denying or revoking a home occupation permit may appeal the decision to the board of zoning appeals, in accordance with the provisions of Article XIX of this chapter.

7. Fees for appropriate business licenses shall be in accordance with applicable town ordinances and regulations.

Sec. 70- 152 Sign Regulations

(h.) Nonconforming Signs

Any Sign or Sign Structure which was lawfully in existence at the time of the effective date of this Chapter which does not conform to the provisions herein, shall be deemed a Nonconforming Sign. Every sign at a location shall be deemed a Nonconforming Sign when the total sign area exceeds that permitted in the applicable zoning district. A Nonconforming Sign and may remain, except as qualified below, provided that they are kept in good repair:

1. No Nonconforming Sign or nonconforming Sign Structure shall be enlarged, moved, extended, or structurally reconstructed, unless the enlargement, extension, reconstruction, or moving will make the Sign a conforming Sign.
2. Nothing in this Section shall be deemed to prevent keeping in good repair a Nonconforming Sign or nonconforming Sign Structure. Nonconforming Signs shall not be extended or structurally reconstructed or altered in any manner, except that a Sign Face may be changed so long as the new Sign Face is equal to or reduced in height and/or Sign Area.
3. A Nonconforming Sign or nonconforming Sign Structure which is destroyed or damaged to the extent exceeding fifty percent of its Sign Area shall not be altered, replaced or reinstalled unless it is in conformance with these sign regulations. If the damage or destruction is fifty percent or less of the Sign Area, the Sign may be restored within two years of the destruction, but shall not be enlarged in any way.
4. A Nonconforming Sign or Sign Structure shall be removed if the structure or use to which the Sign is accessory is destroyed or demolished to the extent exceeding fifty percent of the Structure's appraised value, as provided in Article XVI of this chapter.
5. A Nonconforming Sign or nonconforming Sign Structure shall be removed if the use to which it is accessory has ceased operation for a period of two years or more. The owner of the lot upon which the Sign or Sign Structure is located shall remove the Sign or Sign Structure after notice is provided by the Zoning Administrator, providing the owner thirty days to remove it. If the owner fails to comply with the notice, the Zoning

Administrator or his designee may enter the lot upon which the Sign or Sign Structure is located and remove any such Sign or Sign Structure or may initiate such legal action as may be necessary to gain compliance with this provision. The cost of such removal shall be chargeable to the owner of the lot.

6. A Nonconforming Sign which is changed to a conforming Sign or is replaced by a conforming Sign, shall no longer be deemed to be nonconforming, but shall still be in accordance with the provisions of this Section.

Sec. 70- 31 Permitted Uses with a Condition Use Permit.

The following uses may be permitted in the R-2 Residential District, subject to the procedures and the criteria established in this chapter:

- (a.) Two-family attached (duplex) dwellings, each unit of which may be separately owned.
- (b.) Two-family dwellings.
- (c.) Town houses, in accordance with Sec. 70- 145 of this chapter.
- (d.) Multi-family dwellings, including apartment houses, garden apartments and condominiums, as defined and in accordance with Sec. 70- 146 of this chapter.
- (e.) Professional offices and office buildings, in accordance with Sec. 70- 142 of this chapter.
- (f.) Rooming houses, as defined.
- (g.) Boarding houses, as defined.
- (h.) Bed and breakfast establishments, in accordance with Sec. 70- 143 of this chapter.
- (i.) Resorts, country clubs and memorials.
- (j.) Private clubs and organizations.
- (k.) Public safety and other community services facilities and public and semi-public uses, as defined, that are not listed in Sec. 70- 30 of this chapter.
- (l.) Major public utilities, as defined.
- (m.) Nursing homes, rest homes and retirement homes, in accordance with Sec. 70- 141 of this chapter.
- (n.) Hospitals.
- (o.) Day care centers/facilities, as defined and in accordance with Sec. 70-140 of this chapter.
- (p.) Boarding facilities accessory to, and operating in conjunction with private schools, in accordance with Sec. 70- 38 of this Article.

- (q.) More than one main use may be permitted with a conditional use permit on any lot or parcel of land in the R-2 Residential District provided that:
 1. The proposed uses are permitted by right or permitted with a conditional use permit in the R-2 zoning district;
 2. Each of the proposed uses complies with all other requirements of this chapter; and
 3. The governing body, in accordance with the provisions of this chapter, determines that the utilization of the property for more than one main use will in no way adversely impact the property in question or the surrounding neighborhood.
- (r.) Private medical transport service, as defined in Section 70-10, provided that no emergency lights, sirens or any other loud warning devices are used in conjunction with the operation of the business. This business shall comply with the requirements of Section 70-150 and 70-152.
- (s.) Courtyard homes, in accordance with Section 70-146A of this chapter.
- (t.) Cluster homes, in accordance with Section 70-146B of this chapter.

Sec. 70- 32 Area Regulations.

The minimum lot area for uses in the R-2 Medium Density Residential District shall be ~~12,500~~ 10,000 square feet, with the following exceptions:

- (a.) Two-family attached (duplex) dwellings – 15,000 square feet (7,500 square feet for each unit).
- (b.) Town houses – Interior lot: 2,000 square feet per unit.
End and corner lots: 3,000 square feet per unit.
The maximum density for town house development shall not exceed ten (10) lots per gross acre.
- (c.) Multi-family dwellings – 15,000 square feet for the first two dwelling units, plus: 1,500 square feet for each dwelling unit in excess of two (2) contained in an apartment house, as defined; or 2,500 square feet for each dwelling unit in excess of two (2) contained in a garden apartment or condominium, as defined.
- (d.) The following exception shall apply only to that area located within the boundaries of Congress Street, Dixie Lane, John Sevier Road and Fairway Drive on the East side of Congress Street; and that area located within the boundaries of Congress Street, tax map lot #103A2-A-287 (including this lot), Cadet Road and West Old Cross Road (U.S. Rt. 211 W). On the West side of Congress Street:

The minimum lot area for all uses other than town houses, two-family attached (duplex) dwellings and multi-family dwellings shall be 4,500 square feet, provided that:

1. Any new lot which is created by subdivision after the date of the adoption or amendment of this chapter shall have frontage on a public street, and;

2. On any lot, existing on-site parking that is not in excess of the minimum requirements set forth in Sec. 70 – 150 of this chapter shall not be reduced, nor shall access to such parking be prevented, as a result of subdivision.

The town council, after notice, joint public hearing and recommendation from the planning commission, may further reduce the minimum lot size for subdivision in this area only if the size limitation of the original lot shall make it impossible to meet the 4,500 square foot area requirement. Such further reduction shall meet the following standards:

1. the reduced lot size shall not constitute a hazard to public health, safety or welfare;
2. the reduced lot size shall not adversely affect surrounding properties; and
3. the reduced lot size shall conform to all other requirements of this chapter.

(e.) Courtyard Homes – ~~6,000~~ 5,500 square feet.

(f.) Cluster Homes – 7,000 square feet.

Sec. 70- 38 Special Provisions

(a.) Corner lots.

With the exception of town houses, and unless otherwise provided in this chapter, the following provisions shall apply to corner lots in the R-2 Residential District:

1. Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets; however, this provision may be waived by the planning commission, upon recommendation by the zoning administrator, in instances when it is determined that the interests of safety and/or practicality are best served by the granting of such a waiver.
2. The side yard on the side facing the side street shall be thirty (30) feet or more for both main and accessory buildings. For courtyard homes, the side yard on the side of the lot facing the side street plus any common open space shall insure that the minimum distance from the right-of-way line of the side street is thirty (30) feet.
3. For subdivisions platted after the enactment of this chapter, each corner lot shall have a minimum setback width at the setback line of not less than seventy-five (75) feet; except that two family attached (duplex) lots shall have a minimum setback width at the setback line of not less than fifty (50) feet (per unit); multi-family dwellings shall have a minimum setback width at the setback line of not less than one-hundred, twenty-five (125) feet; town houses shall have a minimum setback width at the setback line of not less than thirty (30) feet; and courtyard homes shall have a minimum setback width at the setback line of not less than fifty (50) feet.

(b.) Recreational uses.

As provided in Sec. 70-28 of this chapter.

(c.) Open space.

A minimum of twenty-five (25) percent of a site developed for town houses that exceeds one (1) acre in area, or of a site developed for multi-family dwellings that contains more than twenty (20) units, or of the gross area of a courtyard home development, excluding paved areas (except as hereinafter described for courtyard homes), shall be maintained as open space, as provided in Sec. 70- 145, Sec. 70- 146 and Sec. 70-146A of this chapter. **A minimum of fifteen (15) percent of a site developed for cluster homes shall be maintained as open space, as provided in Sec. 70-146B of this chapter.**

(d.) Boarding facilities for private schools.

1. Structures shall maintain compatibility with those of the neighborhood in which they are situated. The total square footage shall not exceed 4,000 square feet per structure, and the structures shall not exceed two levels.
2. Occupancy density shall not exceed that of the acceptable density for the district.
3. Any active play area or any parking area for more than three vehicles which is closer than twenty-five (25) feet to an adjacent residential lot, without an intervening street, shall be screened in accordance with Sec. 70-135 of this chapter.
4. Open space around the boarding structures shall be consistent with the requirements of the district.
5. A minimum of two (2) parking spaces shall be provided for each structure.

Sec. 70- 50 Permitted Uses.

Unless otherwise provided in Section 70-51 of this Article, the structures to be erected or land to be used in the R-3 Residential District shall be for one of the following uses and its permitted accessory uses; provided that, with the exception of multi-family dwellings, only one main building and its accessory structures may be erected on any lot or parcel of land in this district.

- (a.) Single-family detached dwellings.
- (b.) Two-family dwellings.
- (c.) Two-family attached (duplex) dwellings, each unit of which may be separately owned.
- (d.) Town houses, in accordance with Sec. 70-145 of this chapter.
- (e.) Multi-family structures, including apartment houses, garden apartments and condominiums, as defined and in accordance with Sec. 70-146 of this chapter.
- (f.) Public school, and private schools which have been granted a non-profit, tax exempt status as educational institutions.

- (g.) Churches and other places of worship, but not including rescue missions.
- (h.) Libraries.
- (i.) Existing cemeteries and the expansion of such cemeteries when the expansion abuts an existing cemetery.
- (j.) Public parks, playgrounds and play fields, bikeways, pedestrian trails, walkways, nature preserves, swimming pools and tennis courts, in accordance with Sec. 70- 28 of this chapter.
- (k.) Minor Public Utilities, as defined.
- (l.) Home occupations, in accordance with Sec. 70- 136 of this chapter.
- (m.) Group homes, as defined and in accordance with Sec. 70- 139 of this chapter.
- (n.) Rooming houses, as defined.
- (o.) Boarding houses, as defined.
- (p.) Off-street parking and loading, in accordance with Sec. 70- 150 and Sec. 70- 151 of this chapter.
- (q.) Signs, in accordance with Sec. 70- 152 of this chapter.
- (r.) Fences, in accordance with Sec. 70- 133 of this chapter.
- (s.) Storage of recreational vehicles, in accordance with Sec. 70- 129 of this chapter.
- (t.) Temporary buildings, in accordance with Sec. 70- 136 of this chapter.
- (u.) Dish antennae, in accordance with Sec. 70- 130 of this chapter.
- (v.) Other customary accessory residential buildings and uses that are clearly incidental to the principal building and/or use, as defined and in accordance with Sec. 70- 128 of this chapter.
- (w.) Courtyard homes, in accordance with Section 70-146A of this chapter.
- (x.) Cluster homes, in accordance with Section 70-146B of this chapter.

Sec. 70- 52 Area Regulations.

The minimum lot area for uses in the R-3 Residential District shall be ~~8,000~~ 7,500 square feet with the following exceptions:

- (a.) Two-family attached (duplex) dwellings – 10,000 square feet (5,000 square feet per unit).

- (b.) Town houses – Interior lot: 1,800 square feet per unit.
End and corner lot: 3,000 square feet per unit.
The maximum density for town house development shall not exceed ten (10) lots per gross acre.
- (c.) Multi-family dwellings – 10,000 square feet for the first two (2) dwelling units, plus: 1,500 square feet for each dwelling unit in excess of two contained in an apartment house, as defined; or 2,500 square feet for each dwelling unit in excess of two contained in a garden apartment or condominium, as defined.
- (d.) Courtyard homes – 4,000 square feet
- (e.) Cluster homes – 5,500 square feet

Sec. 70- 66 Height Regulations.

- (a.) Buildings in the B-1 Business Districts may be erected up to thirty-five (35) feet in height from grade, except that:
- (b.) **Any use** ~~A public or semi-public use such as a school, church, library or general hospital~~ may be erected up to a height of sixty (60) feet from grade, upon recommendation by the zoning administrator and approval by the planning commission. Additional yard areas may be required as a condition for additional height allowances.
- (c.) Church spires, cupolas, belfries, water towers, chimneys, flues, flagpoles, television antennae and radio aerials shall be exempted. Parapet walls may be up to four (4) feet above the height of the building upon which the walls rest.

Sec. 70- 75 Yard Regulations.

- (a.) Side. **None, with the exception of shopping centers which shall be in accordance with Sec. 70-144 of this chapter and when such use abuts a residential district, which shall require a side yard of at least twenty (20) feet.**

~~With the exception of shopping centers, the minimum width of each side yard in the B-2 Business District shall be ten (10) feet; except, that when such use abuts a residential district, there shall be a side yard of twenty (20) feet.~~

- (b.) Rear. **None, with the exception of shopping centers which shall be in accordance with Sec. 70-144 of this chapter and when such use abuts a residential district, which shall require a rear yard of at least twenty (20) feet.**

~~With the exception of shopping centers, the minimum rear yard shall be ten (10) feet; except that when such use abuts a residential district, the minimum rear yard shall be twenty feet.~~

Sec. 70- 76 Height Regulations.

- (a.) Buildings in the B-2 Business District may be erected up to thirty-five (35) feet in height from grade, except that:

- (b.) ~~Any use~~ A public or semi-public building, such as a school, church, library or general hospital may be erected to a height of sixty (60) feet from grade, upon recommendation by the zoning administrator and approval by the planning commission. Additional yard areas may be required as a condition for additional height allowances provided, that the required front, side and rear yards shall be increased one foot for each one foot of height over thirty five (35) feet.
- (c.) Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, television antennae and radio aerials shall be exempted. Parapet walls may be up to four (4) feet above the building upon which the walls rest.

Sec. 70- 77 Lot Coverage

The maximum combined building coverage and paved area shall not exceed eighty-five (85) percent of the total lot area, with the exception of Lot coverage for shopping centers which shall be in accordance with Sec. 70- 144 of this chapter.

Sec. 70-146B Cluster Home Regulations.

Cluster home developments, as defined and where permitted by this chapter, shall comply with all requirements set forth in the district regulations, and shall also comply with the following provisions:

(a.) Dimensional and Density Requirements.

1. The minimum lot size for any cluster home development shall be one (1) acre.
2. The minimum lot width for a cluster home development shall be two-hundred-twenty five (225) feet at the setback line.
3. Lot area, setback, yard, frontage and height regulations for individual cluster home lots and units shall be as established in the various districts where courtyard home development is permitted.

(b.) Open Space.

1. Open space requirements for cluster home developments shall be established in the various district regulations where cluster homes are permitted, but shall be not less than fifteen (15) percent of the gross area of the cluster home development.
2. Open space for the cluster home development shall be green space established for the common use and enjoyment of the residents of the cluster home development, and shall not include public streets or roads, parking areas (other than parking provided solely for recreational facilities, which may comprise up to ten (10) percent of the required open space), or for building or structures (other than buildings or structures established for recreational uses, which may comprise up to twenty-five (25) percent of the required open space). Open space may include

natural green space or developed recreational space, such as parks, pedestrian ways, bicycle paths and other similar uses.

3. Open space shall not include yard areas of individual cluster home lots for calculating the required minimum open space area, however common easements, such as for pedestrian walkways, may be established on the individual lots, in accordance with the provisions of this Section.

1. All open space shall be preserved for its intended purpose, as expressed in the approved site plan.

2. Management of open space shall be in accordance with the provisions of this Section.

(c.) Access and Circulation.

1. The cluster home development's vehicular and pedestrian circulation systems shall be designed to provide safe and convenient access to individual courtyard home lots and common open space.

2. All courtyard home lots shall front on a dedicated public street.

3. Individual walkways, a minimum of four (4) feet in width and constructed of concrete, brick or other suitable material, shall be installed in accordance with the Town's Subdivision Ordinance.

4. The minimum radius for cul-de-sacs shall be fifty (50) feet.

5. Other requirements may be imposed by the zoning administrator and/or the planning commission when deemed necessary for the public safety.

(d.) Off-Street Parking.

In addition to the applicable provisions in Sec. 70-150 of this Article, off-street parking shall be provided as follows:

1. A minimum of two (2) parking spaces shall be provided for each cluster home dwelling. Such parking spaces shall contain a minimum of two-hundred (200) square feet each and shall be located on the same lot as the dwelling they serve. A garage may provide such required parking spaces, provided that adequate space for vehicle maneuvering is provided on the lot.

2. Each individual lot parking area, including driveways, shall be paved with a permanent hard surface material.

3. Each off-street parking area, including driveways, shall have unobstructed access to a public street or to an access easement. Driveways shall have a minimum width of twelve (12) feet at the street curb line and at the right-of-way line.

4. Common parking areas, such as overflow parking or parking for recreational open space, shall be expressed on the approved site plan.

5. Common parking areas shall not be located or designed so as to require vehicles entering or exiting the site to make an unlawful maneuver within the public right-of-way.
6. Entrances and exits to access drives or common parking areas shall have a minimum width of twelve (12) feet, at the street line, for each lane of traffic entering or leaving the site.
7. Entrances, exits and access easements to common parking areas shall be designed so as to prevent the blocking of vehicles entering or leaving the site.
8. All dead end common parking areas shall be designed to provide sufficient backing-out area for end parking spaces.
9. Concrete curb and gutter and permanent hard surface material paving shall be required for common parking areas only if it is deemed necessary by the zoning administrator and/or the planning commission for the management of storm drainage, channeling of traffic, protection of buildings or landscaping, and the separation of pedestrian and vehicular traffic. For infrequent used or low traffic volume common parking areas, such as overflow parking or recreational use parking, the use of environmental friendly methods and practices, such as grass pavers, is encouraged in place of impervious pavement and concrete.

(e.) Utilities, Services and Easements.

1. Within the cluster home development, all utilities, including telephone, television cable and electric systems, shall be installed underground. Appurtenances to these systems which require above ground installation must be effectively screened, thereby exempting them from this requirement.
2. Cluster home developments must provide adequate drainage and easements for the installation and maintenance of utilities.
3. All cluster home dwellings must be individually connected to the Town's public water and sewer systems.
4. An easement of access must be provided for all common maintenance areas. This easement, in addition for the purpose of access, shall also be for ingress and egress and for performing any and all tasks, obligations, and duties of the Developer, Association, and managing agent, including, but not limited to, maintenance, repairs, rebuilding, relocation of utility lines, grounds care, and replacement of components.

(f.) Design Standards and Improvements.

All applicable design standards and improvements as required and set forth in this chapter and the Town's Subdivision Ordinance shall be followed, unless exempted, and subject to approval of the zoning administrator and/or the planning commission, as provided herein.

(g.) Accessory Buildings.

Accessory buildings are permitted in accordance with Sec. 70-128 of this chapter.

(h.) Lighting.

Lighting for a cluster home development shall be provided for the safety and convenience of residents, but shall be arranged so as not to reflect toward any public streets or cause annoyance to surrounding property owners or residents.

(i.) Storage of Trash and Rubbish.

Collection of trash and rubbish shall be provided for cluster home lots through the Town of New Market's refuse collection system.

(j.) Screening, Buffering and Landscaping.

Screening, buffering and landscaping areas shall be expressed on the approved site plan. Such screening and/or buffering shall be provided in accordance with Sec. 70-135 of this Article.

(k.) Management of Open Space and Improvements.

Management of all common open space and improvements shall be as follows:

1. The developer shall provide for the establishment of an incorporated property owner association of all individuals or corporations owning property within the cluster home development to insure the maintenance of all common open space, land, facilities, utilities and improvements, including, but not limited to, pedestrian walkways, recreational open space and facilities, common green space and detention ponds and/or other erosion and sedimentation facilities and/or stormwater management structures.
2. An organization established for this purpose shall meet the following requirements:
 - a. The organization shall be established prior to the sale of any lots.
 - b. Membership in the organization shall be mandatory for all property owners, present and future, within the cluster home development, and the said organization shall not discriminate in its membership or stockholders.
 - c. The organization shall manage all open space and recreational facilities, and shall provide for the maintenance, administration and operation of said land and improvements and any other common land within the development. It shall also secure adequate liability on such land.
 - d. All such lands and improvements shall be described as to location, size, use and control in the declaration of covenants, conditions and restrictions. This declaration shall set forth the method of assessment for

maintenance of such lands and improvements. Such assessments shall constitute a pro-rata lien upon the individual cluster home lots. Covenants, conditions and restrictions shall run with the land and be for the benefit of present, as well as future, property owners.

3. All property deeds shall be subject to the above covenants, conditions and restrictions, and shall contain a prohibition against partition.
4. The responsibility for the maintenance of cluster home exteriors, individual lawns, snow removal from other than public streets and other similar services, shall also be addressed by the covenants, conditions and restrictions.
5. The developer shall be responsible for the management and maintenance of all common areas, open space, easements and improvements within the courtyard home development until such common areas, open space, easements and improvements are taken over by the property owners association. All said lands, easements and improvements shall be in good operating order and condition and in compliance with all applicable laws, codes and regulations at the time of transfer to the property owners association. The developer shall notify the zoning administrator when the transfer occurs.
6. Maintenance of detention ponds and other erosion and sedimentation and/or stormwater management structures shall be in accordance with current town standards, as determined during the erosion and sedimentation plan approval process and as required by the Subdivision Ordinance of the Town of New Market. A maintenance plan for such structures shall be submitted by the developer for review at the time of the erosion and sedimentation plan review. A formal agreement for the maintenance of such structures shall be made with the Town prior to Final Plat or Final Site Plan approval, whichever is applicable, and subject to review after final site inspection, in accordance with current administrative guidelines.
7. The Town shall have the right to inspect any common area, easement, detention pond or other erosion and sedimentation and/or stormwater management structure of dedicated facility to insure compliance with the Code of the Town of New Market. If the maintenance of such areas, easements, structures or facilities is neglected or becomes a danger to public health and safety, the zoning administrator shall give ten (10) days written notice to the responsible party to correct the violation. Upon failure to comply with this notice, the Town shall have the authority to perform the work necessary to bring the area into compliance with all applicable codes, and to recover all costs from the owner(s).
8. All maintenance within the cluster home development shall be provided for in such a manner so as to discharge any responsibility from the Town.

(1.) Site Plans.

A detailed site plan shall be submitted, in accordance with the provisions of Article XVII of this chapter. Upon approval by the zoning administrator, a properly prepared subdivision plat, showing all the information required by the Subdivision Ordinance and by this chapter, may be submitted as a site plan.

Proposed Zoning Ordinance Amendments (Section 70 of the Code of New Market)

Text upon adoption would be printed within a new edition of the zoning ordinance as shown

Sec. 70- 10 Specific Definitions

Projection. Building features which extend outward from a structure's foundation including, but not limited to decks, patios, chimneys, open fire escapes, and bay windows.

Dwelling

(g.) Cluster home. A single-family detached dwelling, on its own lot, located in a grouping of at least three such units that includes dedicated open space. Cluster homes as a result may occupy smaller lots than traditional single-family detached dwellings.

Sec. 70- 132 Projections into Yards

The following projections shall be permitted into required yards and shall not be considered in the determination of yard size or lot coverages:

(f.) Chimneys may extend up to three (3) feet into any required yard; provided that they are not closer than five (5) feet to any adjoining lot line.

(g.) Open fire escapes may extend up to five (5) feet into a required yard; provided that they are not closer than five (5) feet to any adjoining lot line.

(h.) Cornices, awnings, gutters or similar structural overhangs which are at least eight (8) feet above grade may extend up to three (3) feet into any required yard; provided that they are not closer than five (5) feet to any lot line. No such projection shall have a vertical surface area whose areas is more than twenty-five (25) percent of the area obtained by multiplying the mean height of the structure by the length of the structure along which the yard is violated.

(i.) Uncovered patios, stoops, terraces or decks which are attached to the principal structure and which have no part of their floor higher than three (3) feet above grade on the lot may extend up to five (5) feet into a required front yard, ten (10) feet into a required rear yard, and three (3) feet into one required side yard; provided that any such patio, stoop, terrace or deck shall not be located closer to any lot line than one-half (1/2) the distance measured from the applicable lot line to the closest point of the corresponding building face. When two town houses are attached, such patio, terrace, stoop or deck shall not be located closer than two (2) feet to the commonly shared side lot line.

Uncovered patios, terraces, stoops or decks which are attached to the principal structure and which are more than three (3) feet above grade on the lot may extend up to ten (10) feet into a required rear yard; provided that such ratio, terrace, stoop or deck is not located closer to the rear lot line than one-half (1/2) the distance measured from the rear lot line to the closest point of the dwelling. The front and side yard requirements as set forth in the applicable district regulations shall apply; however, when two town houses are attached, such patio, terrace, stoop or deck shall not be located closer than two (2) feet to the commonly shared lot line.

(j.) A one story bay window may project no more than three (3) feet into any required yard area.

Sec. 70- 137 Home Occupations

It is the intent of this Section to ensure the compatibility of home occupations with other permitted uses, to preserve the character of residential neighborhoods, and to prevent excessive noise, traffic, nuisance, safety hazards, and other potentially adverse impacts of commercial uses conducted in residential areas. Home occupations may be permitted in any dwelling in any district where residential uses are permitted. In addition to applicable restrictions in each district, home occupations shall be subject to the following restrictions:

(o.) The home occupation shall be operated only by residents of the dwelling unit. If the operator is a tenant, written permission of the land owner is required. Not more than one person who is not a member of the family occupying such dwelling shall be employed on the premises in connection with the home occupation.

(p.) The home occupation shall be clearly incidental or secondary to the use of the dwelling as a residence and shall be restricted to the residence only. An accessory building may be constructed or used for storage of inventory in conjunction with the home occupation.

(q.) Home occupation activities shall not occupy more than twenty-five (25) percent of the floor area of the dwelling.

(r.) No storage or display of products, goods or commodities shall be visible from outside the dwelling.

(s.) No alteration to the exterior appearance of the dwelling or premises shall be made which changes the residential character of the property.

(t.) No on-premises sale of merchandise shall be allowed.

(u.) No equipment shall be used except as is customarily used for purely domestic or household purposes. No toxic, explosive, flammable, combustible, corrosive, radioactive or other dangerous or hazardous materials shall be used or stored on the site. The dwelling or premises shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to emission of odor, gas, smoke, dust, noise, vibration, glare, electrical disturbance, or similar condition.

(v.) No motor vehicle shall be regularly operated from the premises that display advertising for the home occupation.

(w.) There shall be no advertising on the premises in the R-1 Residential District, and there shall be no advertising on the premises other than a single, non-illuminated, non-electric sign in any other residential district, in accordance with the provisions of Sec. 70- 152 of this chapter. Such sign shall not exceed six (6) feet in height, and shall be set back at least five (5) feet from all property lines and road right-of-ways.

(x.) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the home occupation is required to be provided on-site, and shall be done in a manner which protects the residential character of the area and the visual appearance of the residence.

(y.) A home occupation shall comply with all applicable town ordinances and regulations, including the need to obtain applicable business licenses and a home occupation permit, in accordance with the provisions of this Section. In addition, home occupations shall comply with all applicable county, state or federal regulations governing the activity.

(z.) In-home day care, as defined, for up to nine (9) persons shall be considered a permitted home occupation, provided that the other provisions of this Section and chapter are complied with.

(aa.) Permitted home occupations shall not, in any event, include: in-home day care for more than (9) persons; bed and breakfast establishments; rooming or boarding houses; nursing homes; beauty parlors, barbershops, or manicurists with more than one chair; massage parlors; animal hospitals; kennels; animal grooming business; dance instruction or exercise studios; restaurants; automobile repair or paint shops; wayside stands; outdoor repair or service; rental of any equipment or other items; welding or machine shops; or other similar uses. If there is a question regarding the appropriateness of an activity, the zoning administrator shall determine, based upon the criteria set forth in this Section and in this chapter, if the activity is a permitted home occupation. The administrator may request review by the planning commission or other appropriate agencies prior to making such a determination.

(bb.) Application, Review and Enforcement Procedures

1. Any person desiring to establish a home occupation, as authorized herein, shall submit a home occupation permit application to the zoning administrator on a form provided by the town. The administrator shall review the application for compliance with this Section and other applicable provisions of law and shall make a decision to approve, approve with conditions, disapprove, or refer the application to the planning commission or other agencies for review, within two (2) weeks of the date a complete application is received. The zoning administrator may impose reasonable conditions on the conduct of the home occupation use.

2. All home occupation permits shall remain valid unless there is a violation of this Section or of the conditions of the permit, or unless a current business license is not maintained. Home occupation permits shall be renewed annually by application for a business license.

3. Home occupation applicants shall permit reasonable inspections of the premises by the zoning administrator or his designee to determine compliance with this Section and the conditions of the home occupation permit.

4. The zoning administrator, upon becoming aware of any violation of this Section or of the conditions of the permit, shall serve a notice of violation to the operator of the home occupation. Upon the receipt of such notice, the operator of such activity will have ten (10) days to correct the violation.

5. The zoning administrator may revoke a home occupation permit for violation of this Section or the conditions of the permit. Notice of such revocation shall be given in writing by the administrator to the operator of the home occupation, by hand delivery or certified mail, setting forth the reasons for the revocation, the date and time upon which the revocation is effective, and

the appeals procedure. This provision shall not preclude the use of any other remedy prescribed by law with respect to violations of the provisions of this chapter.

6. Any person aggrieved by an action of the zoning administrator in granting, denying or revoking a home occupation permit may appeal the decision to the board of zoning appeals, in accordance with the provisions of Article XIX of this chapter.

7. Fees for appropriate business licenses shall be in accordance with applicable town ordinances and regulations.

Sec. 70- 152 Sign Regulations

(h.) Nonconforming Signs

Any Sign or Sign Structure which was lawfully in existence at the time of the effective date of this Chapter which does not conform to the provisions herein shall be deemed a Nonconforming Sign. Every sign at a location shall be deemed a Nonconforming Sign when the total sign area exceeds that permitted in the applicable zoning district. A Nonconforming Sign may remain, except as qualified below, provided that they are kept in good repair:

1. No Nonconforming Sign or nonconforming Sign Structure shall be enlarged, moved, extended, or structurally reconstructed, unless the enlargement, extension, reconstruction, or moving will make the Sign a conforming Sign.
2. Nothing in this Section shall be deemed to prevent keeping in good repair a Nonconforming Sign or nonconforming Sign Structure. Nonconforming Signs shall not be extended or structurally reconstructed or altered in any manner, except that a Sign Face may be changed so long as the new Sign Face is equal to or reduced in height and/or Sign Area.
3. A Nonconforming Sign or nonconforming Sign Structure which is destroyed or damaged to the extent exceeding fifty percent of its Sign Area shall not be altered, replaced or reinstalled unless it is in conformance with these sign regulations. If the damage or destruction is fifty percent or less of the Sign Area, the Sign may be restored within two years of the destruction, but shall not be enlarged in any way.
4. A Nonconforming Sign or Sign Structure shall be removed if the structure or use to which the Sign is accessory is destroyed or demolished to the extent exceeding fifty percent of the Structure's appraised value, as provided in Article XVI of this chapter.
5. A Nonconforming Sign or nonconforming Sign Structure shall be removed if the use to which it is accessory to has ceased operation for a period of two years or more. The owner of the lot upon which the Sign or Sign Structure is located shall remove the Sign or Sign Structure after notice is provided by the Zoning Administrator, providing the owner thirty days to remove it. If the owner fails to comply with the notice, the Zoning Administrator or his designee may enter the lot upon which the Sign or Sign Structure is

located and remove any such Sign or Sign Structure or may initiate such legal action as may be necessary to gain compliance with this provision. The cost of such removal shall be chargeable to the owner of the lot.

6. A Nonconforming Sign which is changed to a conforming Sign or is replaced by a conforming Sign, shall no longer be deemed to be nonconforming, but shall still be in accordance with the provisions of this Section.

Sec. 70- 31 Permitted Uses with a Condition Use Permit.

The following uses may be permitted in the R-2 Residential District, subject to the procedures and the criteria established in this chapter:

- (a.) Two-family attached (duplex) dwellings, each unit of which may be separately owned.
- (b.) Two-family dwellings.
- (c.) Town houses, in accordance with Sec. 70- 145 of this chapter.
- (d.) Multi-family dwellings, including apartment houses, garden apartments and condominiums, as defined and in accordance with Sec. 70- 146 of this chapter.
- (e.) Professional offices and office buildings, in accordance with Sec. 70- 142 of this chapter.
- (f.) Rooming houses, as defined.
- (g.) Boarding houses, as defined.
- (h.) Bed and breakfast establishments, in accordance with Sec. 70- 143 of this chapter.
- (i.) Resorts, country clubs and memorials.
- (j.) Private clubs and organizations.
- (k.) Public safety and other community services facilities and public and semi-public uses, as defined, that are not listed in Sec. 70- 30 of this chapter.
- (l.) Major public utilities, as defined.
- (m.) Nursing homes, rest homes and retirement homes, in accordance with Sec. 70- 141 of this chapter.
- (n.) Hospitals.
- (o.) Day care centers/facilities, as defined and in accordance with Sec. 70-140 of this chapter.
- (p.) Boarding facilities accessory to, and operating in conjunction with private schools, in accordance with Sec. 70- 38 of this Article.
- (q.) More than one main use may be permitted with a conditional use permit on any lot or parcel of land in the R-2 Residential District provided that:

4. The proposed uses are permitted by right or permitted with a conditional use permit in the R-2 zoning district;
 5. Each of the proposed uses complies with all other requirements of this chapter; and
 6. The governing body, in accordance with the provisions of this chapter, determines that the utilization of the property for more than one main use will in no way adversely impact the property in question or the surrounding neighborhood.
- (r.) Private medical transport service, as defined in Section 70-10, provided that no emergency lights, sirens or any other loud warning devices are used in conjunction with the operation of the business. This business shall comply with the requirements of Section 70-150 and 70-152.
- (s.) Courtyard homes, in accordance with Section 70-146A of this chapter.
- (t.) Cluster homes, in accordance with Section 70-146B of this chapter.

Sec. 70- 32 Area Regulations.

The minimum lot area for uses in the R-2 Medium Density Residential District shall be 10,000 square feet, with the following exceptions:

- (a.) Two-family attached (duplex) dwellings – 15,000 square feet (7,500 square feet for each unit).
- (g.) Town houses – Interior lot: 2,000 square feet per unit.
 End and corner lots: 3,000 square feet per unit.
 The maximum density for town house development shall not exceed ten (10) lots per gross acre.
- (h.) Multi-family dwellings – 15,000 square feet for the first two dwelling units, plus: 1,500 square feet for each dwelling unit in excess of two (2) contained in an apartment house, as defined; or 2,500 square feet for each dwelling unit in excess of two (2) contained in a garden apartment or condominium, as defined.
- (i.) The following exception shall apply only to that area located within the boundaries of Congress Street, Dixie Lane, John Sevier Road and Fairway Drive on the East side of Congress Street; and that area located within the boundaries of Congress Street, tax map lot #103A2-A-287 (including this lot), Cadet Road and West Old Cross Road (U.S. Rt. 211 W). On the West side of Congress Street:

The minimum lot area for all uses other than town houses, two-family attached (duplex) dwellings and multi-family dwellings shall be 4,500 square feet, provided that:

1. Any new lot which is created by subdivision after the date of the adoption or amendment of this chapter shall have frontage on a public street, and;
2. On any lot, existing on-site parking that is not in excess of the minimum requirements set forth in Sec. 70 – 150 of this chapter shall not be reduced, nor shall access to such

parking be prevented, as a result of subdivision.

The town council, after notice, joint public hearing and recommendation from the planning commission, may further reduce the minimum lot size for subdivision in this area only if the size limitation of the original lot shall make it impossible to meet the 4,500 square foot area requirement. Such further reduction shall meet the following standards:

4. the reduced lot size shall not constitute a hazard to public health, safety or welfare;
 5. the reduced lot size shall not adversely affect surrounding properties; and
 6. the reduced lot size shall conform to all other requirements of this chapter.
- (j.) Courtyard Homes –5,500 square feet.
- (k.) Cluster Homes – 7,000 square feet.

Sec. 70- 38 Special Provisions

(b.) Corner lots.

With the exception of town houses, and unless otherwise provided in this chapter, the following provisions shall apply to corner lots in the R-2 Residential District:

4. Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets; however, this provision may be waived by the planning commission, upon recommendation by the zoning administrator, in instances when it is determined that the interests of safety and/or practicality are best served by the granting of such a waiver.
5. The side yard on the side facing the side street shall be thirty (30) feet or more for both main and accessory buildings. For courtyard homes, the side yard on the side of the lot facing the side street plus any common open space shall insure that the minimum distance from the right-of-way line of the side street is thirty (30) feet.
6. For subdivisions platted after the enactment of this chapter, each corner lot shall have a minimum setback width at the setback line of not less than seventy-five (75) feet; except that two family attached (duplex) lots shall have a minimum setback width at the setback line of not less than fifty (50) feet (per unit); multi-family dwellings shall have a minimum setback width at the setback line of not less than one-hundred, twenty-five (125) feet; town houses shall have a minimum setback width at the setback line of not less than thirty (30) feet; and courtyard homes shall have a minimum setback width at the setback line of not less than fifty (50) feet.

(e.) Recreational uses.

As provided in Sec. 70-28 of this chapter.

(f.) Open space.

A minimum of twenty-five (25) percent of a site developed for town houses that exceeds one (1) acre in area, or of a site developed for multi-family dwellings that contains more than twenty (20) units, or of the gross area of a courtyard home development, excluding paved areas (except as hereinafter described for courtyard homes), shall be maintained as open space, as provided in Sec. 70- 145, Sec. 70- 146 and Sec. 70-146A of this chapter. A minimum of fifteen (15) percent of a site developed for cluster homes shall be maintained as open space, as provided in Sec. 70-146B of this chapter.

(g.) Boarding facilities for private schools.

1. Structures shall maintain compatibility with those of the neighborhood in which they are situated. The total square footage shall not exceed 4,000 square feet per structure, and the structures shall not exceed two levels.
2. Occupancy density shall not exceed that of the acceptable density for the district.
3. Any active play area or any parking area for more than three vehicles which is closer than twenty-five (25) feet to an adjacent residential lot, without an intervening street, shall be screened in accordance with Sec. 70-135 of this chapter.
4. Open space around the boarding structures shall be consistent with the requirements of the district.
5. A minimum of two (2) parking spaces shall be provided for each structure.

Sec. 70- 50 Permitted Uses.

Unless otherwise provided in Section 70-51 of this Article, the structures to be erected or land to be used in the R-3 Residential District shall be for one of the following uses and its permitted accessory uses; provided that, with the exception of multi-family dwellings, only one main building and its accessory structures may be erected on any lot or parcel of land in this district.

- (b.) Single-family detached dwellings.
- (b.) Two-family dwellings.
- (c.) Two-family attached (duplex) dwellings, each unit of which may be separately owned.
- (d.) Town houses, in accordance with Sec. 70-145 of this chapter.
- (e.) Multi-family structures, including apartment houses, garden apartments and condominiums, as defined and in accordance with Sec. 70-146 of this chapter.
- (f.) Public school, and private schools which have been granted a non-profit, tax exempt status as educational institutions.
- (g.) Churches and other places of worship, but not including rescue missions.

- (i.) Libraries.
- (i.) Existing cemeteries and the expansion of such cemeteries when the expansion abuts an existing cemetery.
- (j.) Public parks, playgrounds and play fields, bikeways, pedestrian trails, walkways, nature preserves, swimming pools and tennis courts, in accordance with Sec. 70- 28 of this chapter.
- (p.) Minor Public Utilities, as defined.
- (q.) Home occupations, in accordance with Sec. 70- 136 of this chapter.
- (r.) Group homes, as defined and in accordance with Sec. 70- 139 of this chapter.
- (s.) Rooming houses, as defined.
- (t.) Boarding houses, as defined.
- (p.) Off-street parking and loading, in accordance with Sec. 70- 150 and Sec. 70- 151 of this chapter.
- (q.) Signs, in accordance with Sec. 70- 152 of this chapter.
- (y.) Fences, in accordance with Sec. 70- 133 of this chapter.
- (z.) Storage of recreational vehicles, in accordance with Sec. 70- 129 of this chapter.
- (aa.) Temporary buildings, in accordance with Sec. 70- 136 of this chapter.
- (bb.) Dish antennae, in accordance with Sec. 70- 130 of this chapter.
- (cc.) Other customary accessory residential buildings and uses that are clearly incidental to the principal building and/or use, as defined and in accordance with Sec. 70- 128 of this chapter.
- (dd.) Courtyard homes, in accordance with Section 70-146A of this chapter.
- (ee.) Cluster homes, in accordance with Section 70-146B of this chapter.

Sec. 70- 52 Area Regulations.

The minimum lot area for uses in the R-3 Residential District shall be 7,500 square feet with the following exceptions:

- (f.) Two-family attached (duplex) dwellings – 10,000 square feet (5,000 square feet per unit).
- (g.) Town houses – Interior lot: 1,800 square feet per unit.
End and corner lot: 3,000 square feet per unit.

The maximum density for town house development shall not exceed ten (10) lots per gross acre.

- (h.) Multi-family dwellings – 10,000 square feet for the first two (2) dwelling units, plus: 1,500 square feet for each dwelling unit in excess of two contained in an apartment house, as defined; or 2,500 square feet for each dwelling unit in excess of two contained in a garden apartment or condominium, as defined.
- (i.) Courtyard homes – 4,000 square feet
- (j.) Cluster homes – 5,500 square feet

Sec. 70- 66 Height Regulations.

- (a.) Buildings in the B-1 Business Districts may be erected up to thirty-five (35) feet in height from grade, except that:
- (b.) Any use may be erected up to a height of sixty (60) feet from grade, upon recommendation by the zoning administrator and approval by the planning commission. Additional yard areas may be required as a condition for additional height allowances.
- (c.) Church spires, cupolas, belfries, water towers, chimneys, flues, flagpoles, television antennae and radio aerials shall be exempted. Parapet walls may be up to four (4) feet above the height of the building upon which the walls rest.

Sec. 70- 75 Yard Regulations.

- (a.) Side. None, with the exception of shopping centers which shall be in accordance with Sec. 70-144 of this chapter and when such use abuts a residential district, which shall require a side yard of at least twenty (20) feet.
- (b.) Rear. None, with the exception of shopping centers which shall be in accordance with Sec. 70-144 of this chapter and when such use abuts a residential district, which shall require a rear yard of at least twenty (20) feet.

Sec. 70- 76 Height Regulations.

- (a.) Buildings in the B-2 Business District may be erected up to thirty-five (35) feet in height from grade, except that:
- (b.) Any use may be erected to a height of sixty (60) feet from grade, upon recommendation by the zoning administrator and approval by the planning commission. Additional yard areas may be required as a condition for additional height allowances
- (c.) Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, television antennae and radio aerials shall be exempted. Parapet walls may be up to four (4) feet above the building upon which the walls rest.

Sec. 70- 77 Lot Coverage

The maximum combined building coverage and paved area shall not exceed eighty-five (85) percent of the total lot area, with the exception of shopping centers which shall be in accordance with Sec. 70- 144 of this chapter.

Sec. 70-146B Cluster Home Regulations.

Cluster home developments, as defined and where permitted by this chapter, shall comply with all requirements set forth in the district regulations, and shall also comply with the following provisions:

(m.) Dimensional and Density Requirements.

1. The minimum lot size for any cluster home development shall be one (1) acre.
2. The minimum lot width for a cluster home development shall be two-hundred-twenty five (225) feet at the setback line.
3. Lot area, setback, yard, frontage and height regulations for individual cluster home lots and units shall be as established in the various districts where courtyard home development is permitted.

(n.) Open Space.

1. Open space requirements for cluster home developments shall be established in the various district regulations where cluster homes are permitted, but shall be not less than fifteen (15) percent of the gross area of the cluster home development.
2. Open space for the cluster home development shall be green space established for the common use and enjoyment of the residents of the cluster home development, and shall not include public streets or roads, parking areas (other than parking provided solely for recreational facilities, which may comprise up to ten (10) percent of the required open space), or for building or structures (other than buildings or structures established for recreational uses, which may comprise up to twenty-five (25) percent of the required open space). Open space may include natural green space or developed recreational space, such as parks, pedestrian ways, bicycle paths and other similar uses.
3. Open space shall not include yard areas of individual cluster home lots for calculating the required minimum open space area, however common easements, such as for pedestrian walkways, may be established on the individual lots, in accordance with the provisions of this Section.
3. All open space shall be preserved for its intended purpose, as expressed in the approved site plan.

4. Management of open space shall be in accordance with the provisions of this Section.

(o.) Access and Circulation.

1. The cluster home development's vehicular and pedestrian circulation systems shall be designed to provide safe and convenient access to individual courtyard home lots and common open space.
2. All courtyard home lots shall front on a dedicated public street.
3. Individual walkways, a minimum of four (4) feet in width and constructed of concrete, brick or other suitable material, shall be installed in accordance with the Town's Subdivision Ordinance.
4. The minimum radius for cul-de-sacs shall be fifty (50) feet.
5. Other requirements may be imposed by the zoning administrator and/or the planning commission when deemed necessary for the public safety.

(p.) Off-Street Parking.

In addition to the applicable provisions in Sec. 70-150 of this Article, off-street parking shall be provided as follows:

1. A minimum of two (2) parking spaces shall be provided for each cluster home dwelling. Such parking spaces shall contain a minimum of two-hundred (200) square feet each and shall be located on the same lot as the dwelling they serve. A garage may provide such required parking spaces, provided that adequate space for vehicle maneuvering is provided on the lot.
2. Each individual lot parking area, including driveways, shall be paved with a permanent hard surface material.
3. Each off-street parking area, including driveways, shall have unobstructed access to a public street or to an access easement. Driveways shall have a minimum width of twelve (12) feet at the street curb line and at the right-of-way line.
4. Common parking areas, such as overflow parking or parking for recreational open space, shall be expressed on the approved site plan.
5. Common parking areas shall not be located or designed so as to require vehicles entering or exiting the site to make an unlawful maneuver within the public right-of-way.
6. Entrances and exits to access drives or common parking areas shall have a minimum width of twelve (12) feet, at the street line, for each lane of traffic entering or leaving the site.
7. Entrances, exits and access easements to common parking areas shall be designed so as to prevent the blocking of vehicles entering or leaving the site.

8. All dead end common parking areas shall be designed to provide sufficient backing-out area for end parking spaces.
9. Concrete curb and gutter and permanent hard surface material paving shall be required for common parking areas only if it is deemed necessary by the zoning administrator and/or the planning commission for the management of storm drainage, channeling of traffic, protection of buildings or landscaping, and the separation of pedestrian and vehicular traffic. For infrequent used or low traffic volume common parking areas, such as overflow parking or recreational use parking, the use of environmental friendly methods and practices, such as grass pavers, is encouraged in place of impervious pavement and concrete.

(q.) Utilities, Services and Easements.

1. Within the cluster home development, all utilities, including telephone, television cable and electric systems, shall be installed underground. Appurtenances to these systems which require above ground installation must be effectively screened, thereby exempting them from this requirement.
2. Cluster home developments must provide adequate drainage and easements for the installation and maintenance of utilities.
3. All cluster home dwellings must be individually connected to the Town's public water and sewer systems.
4. An easement of access must be provided for all common maintenance areas. This easement, in addition for the purpose of access, shall also be for ingress and egress and for performing any and all tasks, obligations, and duties of the Developer, Association, and managing agent, including, but not limited to, maintenance, repairs, rebuilding, relocation of utility lines, grounds care, and replacement of components.

(r.) Design Standards and Improvements.

All applicable design standards and improvements as required and set forth in this chapter and the Town's Subdivision Ordinance shall be followed, unless exempted, and subject to approval of the zoning administrator and/or the planning commission, as provided herein.

(s.) Accessory Buildings.

Accessory buildings are permitted in accordance with Sec. 70-128 of this chapter.

(t.) Lighting.

Lighting for a cluster home development shall be provided for the safety and convenience of residents, but shall be arranged so as not to reflect toward any public streets or cause annoyance to surrounding property owners or residents.

(u.) Storage of Trash and Rubbish.

Collection of trash and rubbish shall be provided for cluster home lots through the Town of New Market's refuse collection system.

(v.) Screening, Buffering and Landscaping.

Screening, buffering and landscaping areas shall be expressed on the approved site plan. Such screening and/or buffering shall be provided in accordance with Sec. 70-135 of this Article.

(w.) Management of Open Space and Improvements.

Management of all common open space and improvements shall be as follows:

1. The developer shall provide for the establishment of an incorporated property owner association of all individuals or corporations owning property within the cluster home development to insure the maintenance of all common open space, land, facilities, utilities and improvements, including, but not limited to, pedestrian walkways, recreational open space and facilities, common green space and detention ponds and/or other erosion and sedimentation facilities and/or stormwater management structures.
2. An organization established for this purpose shall meet the following requirements:
 - a. The organization shall be established prior to the sale of any lots.
 - b. Membership in the organization shall be mandatory for all property owners, present and future, within the cluster home development, and the said organization shall not discriminate in its membership or stockholders.
 - c. The organization shall manage all open space and recreational facilities, and shall provide for the maintenance, administration and operation of said land and improvements and any other common land within the development. It shall also secure adequate liability on such land.
 - d. All such lands and improvements shall be described as to location, size, use and control in the declaration of covenants, conditions and restrictions. This declaration shall set forth the method of assessment for maintenance of such lands and improvements. Such assessments shall constitute a pro-rata lien upon the individual cluster home lots. Covenants, conditions and restrictions shall run with the land and be for the benefit of present, as well as future, property owners.
3. All property deeds shall be subject to the above covenants, conditions and restrictions, and shall contain a prohibition against partition.
4. The responsibility for the maintenance of cluster home exteriors, individual lawns, snow removal from other than public streets and other similar services, shall also be addressed by the covenants, conditions and restrictions.

5. The developer shall be responsible for the management and maintenance of all common areas, open space, easements and improvements within the courtyard home development until such common areas, open space, easements and improvements are taken over by the property owners association. All said lands, easements and improvements shall be in good operating order and condition and in compliance with all applicable laws, codes and regulations at the time of transfer to the property owners association. The developer shall notify the zoning administrator when the transfer occurs.
6. Maintenance of detention ponds and other erosion and sedimentation and/or stormwater management structures shall be in accordance with current town standards, as determined during the erosion and sedimentation plan approval process and as required by the Subdivision Ordinance of the Town of New Market. A maintenance plan for such structures shall be submitted by the developer for review at the time of the erosion and sedimentation plan review. A formal agreement for the maintenance of such structures shall be made with the Town prior to Final Plat or Final Site Plan approval, whichever is applicable, and subject to review after final site inspection, in accordance with current administrative guidelines.
7. The Town shall have the right to inspect any common area, easement, detention pond or other erosion and sedimentation and/or stormwater management structure of dedicated facility to insure compliance with the Code of the Town of New Market. If the maintenance of such areas, easements, structures or facilities is neglected or becomes a danger to public health and safety, the zoning administrator shall give ten (10) days written notice to the responsible party to correct the violation. Upon failure to comply with this notice, the Town shall have the authority to perform the work necessary to bring the area into compliance with all applicable codes, and to recover all costs from the owner(s).
8. All maintenance within the cluster home development shall be provided for in such a manner so as to discharge any responsibility from the Town.

(x.) Site Plans.

A detailed site plan shall be submitted, in accordance with the provisions of Article XVII of this chapter. Upon approval by the zoning administrator, a properly prepared subdivision plat, showing all the information required by the Subdivision Ordinance and by this chapter, may be submitted as a site plan.