

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. OF 2016**

**A LOCAL LAW AMENDING CHAPTER 70 OF THE TOWN CODE
ENTITLED "ZONING"**

BE IT ENACTED by the Town Board of the Town of North Hempstead, as follows:

Section 1. Legislative Intent.

The Board finds that it is in the best interest of the Town of North Hempstead to make amendments to Chapter 70 entitled "Zoning" in order to regulate indoor smoking establishments as a conditional use in the Business and Industrial zoning districts.

Section 2.

Chapter 70, § 70-126 of the Town Code is hereby amended as follows:

§ 70-126. Conditional uses.

[Amended 1-9-1968; 5-20-1969; 6-23-1970; 1-21-1975 by L.L. No. 1-1975; 2-1-1977 by L.L. No. 2-1977; 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. Hotel, as defined in § 70-231 of Article XXV of this chapter; theater other than an open-air, drive-in or automobile theater; restaurant other than a diner and/or lunchwagon; and bar and grill.
- B. Retail store for storage, sale or distribution of ice, coal, wood, used lumber, used plumbing equipment, material or fittings, used household equipment or materials, used automotive parts, equipment or supplies, live poultry markets.
- C. Pet shops.
- D. Parking space for the parking, storage and sale of automobiles.
- E. Commercial parking lot.
- F. Retail grocery, delicatessen or other store primarily selling food items packaged in units of more than one portion for consumption off the premises.

G. The operation of not more than two amusement devices in conjunction with a lawfully established business. No amusement device shall be operated as authorized herein except on the following conditions:

- (1) No amusement device shall be located outside of a building.
- (2) No amusement device shall be located in any premises within 500 feet of any public, private or parochial school. For the purposes of this section only, the term "public, private or parochial school" shall not include schools whose students are primarily over the age of 18 years or are high school graduates.
- (3) An amusement device may be operated only between the hours of 9:00 a.m. and 9:00 p.m. This limitation shall not apply to amusement devices located in bars, inns, diners, taverns and bowling alleys.

H. Accessory parking in a greater restricted district in accordance with the following and subject to such other conditions and safeguards as the Board may impose. Where a plot in a Business A District in single ownership at the effective date of this ordinance extends in depth beyond the said district into a greater restricted district, the rear portion of said plot extending into the greater restricted district may be used for accessory parking for the building erected and the use maintained on the front portion of said plot. Such accessory use, however, shall not extend to a depth greater than 200 feet when measured from the front property line of said plot, nor shall it extend to a point where the rear boundary line will be less than 100 feet from the front property line of an adjoining plot fronting on a residential street and situated in a residence district. In no event shall any part of such area permitted to be used for accessory parking be used for the storage or abandonment of any article.

I. [1]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.

[1]

Editor's Note: Subsection I, allowing certain accessory buildings as conditional uses, as amended, was repealed 10-3-2006 by L.L. No. 14-2006. This local law also redesignated former Subsections J through L as I through K, respectively.

J. 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.

K. Child care, nursery school or similar facility, subject to the standards and requirements set forth in § 70-203.1 of this chapter.[2]

[Added 10-2-2001 by L.L. No. 8-2001]

[2]

Editor's Note: Former § 70-126.1, 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.

L. Indoor smoking establishment, as defined in §70-231, conforming to the following:

(1) No such establishment shall be permitted within a 500 foot radius 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 semi-public place of general congregation, or non-degree-granting instruction/programs, including tutoring centers, self-defense, dance, swimming, gymnastics and other sports.

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

Section 3.

Chapter 70, § 70-139 of the Town Code is hereby amended as follows:

§ 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]

[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.

L. Indoor smoking establishment, as defined in §70-231, conforming to the following:

(1) No such establishment shall be permitted within a 500 foot radius 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 semi-public place of general congregation, or non-degree-granting instruction/programs, including tutoring centers, self-defense, dance, swimming, gymnastics and other sports.

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

Section 4.

Chapter 70, § 70-187 of the Town Code is hereby amended as follows:

§ 70-187. Conditional 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 the following sections only when authorized by the Board of Zoning and Appeals pursuant to the provisions of Article XXIV.

A. Bag-cleaning establishment.

B. Brick, pottery, tile, concrete block or terra-cotta manufacture, transit mix hopper or hopper for the storage and/or manufacture of sand, stone, cement or gravel or other materials used for the processing or manufacture of concrete mix.

C. Burlap manufacture.

D. Carpet-cleaning establishment.

E. Dismantling of motor vehicles, storage and sale of used parts, only when carried on within an enclosed building.

F. Dry-cleaning establishment conforming to the requirements of § 70-203R.
[Amended 5-19-1998 by L.L. No. 10-1998]

G. Paper and pulp manufacture.

H. Perfume and extract manufacture.

I. Plating works.

J. Sausage manufacture.

K. Storage or baling of scrap paper, iron, bottles, rags or junk, only when carried on within an enclosed building.

L. Tobacco manufacture or treatment.

M. Central station power plant.

N. Gas; illuminating or heating, manufacture or storage, in excess of 10,000 cubic feet.

O. [1] 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]

[1]

Editor's Note: Former Subsection O, listing amusement device regulations, added 9-13-1983 by L.L. No. 6-1983, was repealed 5-29-2012 by L.L. No. 8-2012. This local law also redesignated former Subsections P through R as Subsections O through Q.

P. Food service.

[Added 12-3-1985 by L.L. No. 12-1985]

Q. Temporary care facility, as defined in § 70-231. Such facilities:

[Added 1-24-2012 by L.L. No. 2-2012]

- (1) May not be located within 500 feet of any residence district;
- (2) Must have qualified staff on premises 24 hours daily;
- (3) Shall provide on-site dining services;
- (4) May not house any individual for more than a twenty-four-month period; and
- (5) May not exceed a density of 72 beds/acre.

R. Indoor smoking establishment, as defined in §70-231, conforming to the following:

- (1) No such establishment shall be permitted within a 500 foot radius 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 semi-public place of general congregation, or non-degree-granting instruction/programs, including tutoring centers, self-defense, dance, swimming, gymnastics and other sports.**
- (2) No more than one indoor smoking establishment shall be located on any lot.**

Section 5.

Chapter 70, Article XXIB, § 70-201.6 of the Town Code is hereby amended as follows:

§ 70-231. Definitions.

[Amended 7-23-1968; 10-15-1968; 12-31-1974 by L.L. No. 22-1974; 2-1-1977 by L.L. No. 2-1977; 3-27-1979 by L.L. No. 3-1979; 8-12-1980 by L.L. No. 11-1980; 8-12-1980 by L.L. No. 12-1980; 8-26-1980 by L.L. No. 13-1980; 9-13-1983 by L.L. No. 6-1983; 2-26-1985 by L.L. No. 4-1985; 12-17-1985 by L.L. No. 13-1985; 12-17-1985 by L.L. No. 18-1985; 3-25-1986 by L.L. No. 3-1986; 4-28-1987 by L.L. No. 10-1987; 2-19-1991 by L.L. No. 5-1991; 7-9-1991 by L.L. No. 10-1991; 5-21-1996 by L.L. No. 8-1996; 1-28-1997 by L.L. No. 2-1997; 3-18-1997 by L.L. No. 6-1997; 5-21-1997 by L.L. No. 9-1997; 12-16-1997 by L.L. No. 25-1997; 6-8-1999 by L.L. No. 7-1999; 12-14-1999 by L.L. No. 14-1999; 10-2-2001 by L.L. No. 8-2001; 3-12-2002 by L.L.

No. 2-2002; 6-25-2002 by L.L. No. 9-2002; 3-11-2003 by L.L. No. 1-2003; 9-30-2003 by L.L. No. 12-2003; 11-15-2005 by L.L. No. 13-2005; 1-3-2006 by L.L. No. 1-2006; 1-24-2006 by L.L. No. 2-2006; 8-22-2006 by L.L. No. 13-2006; 10-3-2006 by L.L. No. 14-2006; 12-12-2006 by L.L. No. 16-2006; 5-29-2007 by L.L. No. 4-2007; 5-29-2007 by L.L. No. 5-2007; 12-11-2007 by L.L. No. 12-2007; 7-29-2008 by L.L. No. 7-2008; 9-22-2008 by L.L. No. 9-2008; 10-2-2008 by L.L. No. 10-2008; 5-19-2009 by L.L. No. 9-2009; 6-23-2009 by L.L. No. 11-2009]

For the purpose of this chapter, the terms used herein are defined as follows:

ELECTRIC VEHICLE CHARGING STATION

A system for the charging of an electric vehicle. Components typically include a charging kiosk and transformer.

[Added 5-13-2014 by L.L. No. 7-2014]

ELECTRONIC CIGARETTE

A device containing a liquid or other substance that is vaporized and inhaled for the purpose of simulating the experience of smoking tobacco.

ERECTED

Includes constructed, reconstructed, altered, placed or moved.

HOTEL

A commercial building primarily for transient guests, consisting of three or more stories and having only one dining room and one kitchen for the serving of food to be consumed primarily in said dining room.

INDOOR SMOKING ESTABLISHMENT

Any facility or location whose business operation, whether as its principal or accessory use, includes the indoor smoking of tobacco in any form, electronic cigarettes, vapors, e-liquids, other legal marijuana derivatives or other substances. Smoking is the inhalation of the smoke of burning tobacco encased in cigarettes, pipes, cigars, and pipes commonly known as "hookah", "waterpipe", "shisha", and "narghile" or any similar device, or the inhalation of vapors produced by an electronic cigarette or other device.

INDUSTRIAL PARK

A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors.

Section 6.

This Local Law shall take effect immediately upon filing with the Secretary of State.