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ORDINANCE NO. 12-xx

Note: Where existing subsections remain mostly intact, but are amended, words set as ~~strikeover~~ are to be deleted from those subsections and underlined text is to be added to those subsections. Where a section of the ordinance may be completely or significantly replaced and the use of strikeover or underlined text is not practical (see Section 3 below), the old text was removed entirely to make the draft easier to follow.

AN ORDINANCE IN AMENDMENT OF CHAPTER 21 OF THE CODE OF ORDINANCES, TOWN OF NORTH KINGSTOWN, ENTITLED, "ZONING"

SECTION 1. ARTICLE I. PURPOSES & ADMINISTRATION, Section 21-22 of the Code of Ordinances, Town of North Kingstown, entitled, "Definitions" is hereby amended by adding or amending the following:

Bedroom, for the purpose of establishing a yield plan, means any room in a residential structure that is used to calculate wastewater design flow pursuant to the Rhode Island Department of Environmental Management's (RIDEM) most recent version of Rules Establishing Minimum Standards Relating to Location, Design, Construction and Maintenance of Onsite Wastewater Treatment Systems.

Compact Village Development (CVD) means a land development project that is authorized pursuant to ~~Section 21-325(17)~~ 21-95 of this ordinance and incorporates ~~ing residential or a mix of residential and nonresidential uses in a compact, walkable environment, authorized pursuant to the provisions set forth in Section 21-325(17)~~ 21-95 of this Ordinance.

SECTION 2. ARTICLE XII. MISCELLANEOUS PROVISIONS, Section 21-325(17) of the Code of Ordinances, Town of North Kingstown, entitled "Development standards for certain uses" is hereby deleted.

SECTION 3. ARTICLE II, Section 21-95 of the Code of Ordinances, Town of North Kingstown, entitled "Compact Village Development" is hereby amended by adding the following:

21-95 *Compact Village Development (CVD)*. The intent of the compact village development provisions is to create opportunities for land development projects consistent with the CVD ordinance and to create or reinforce the character and function of village centers through compact arrangement of residential and nonresidential uses which are well related to community needs.

- a. *Establishment of CVD District*. Applications for a CVD may be submitted to the North Kingstown Planning Commission for land within an existing CVD District or as part of a proposed Future Land Use Map amendment (if necessary) and a Zoning Map amendment consistent with the requirements in Section 21-95. Where a change to the Zoning Map is required, applicants shall follow the procedures of Section 21-19 of the Zoning Ordinance. Applicants for a Zoning Map amendment shall accompany the submittal of application materials to the Planning Commission with a site plan that meets the requirements of a master

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plan submittal for Major Land Development projects. A CVD must include both residential and nonresidential uses as allowed in 21-95(d).

- b. *Eligibility.* Locations eligible for CVD shall meet all of the following criteria:
1. At least one lot within a proposed CVD shall have adequate frontage on and access to an arterial or collector street as defined in Section 21-22 of the Zoning Ordinance.
 2. When establishing a CVD, the entirety of a conforming lot that is zoned as a planned business district, general business district, neighborhood business district or multifamily residential district must be included in any land proposed to be rezoned as a CVD. Any additional lots that are proposed to be included in the CVD may be any other business, industrial or residential district, excluding the Wickford Village Center district and the Post Road District.
 3. For newly proposed CVD districts located in an existing village as identified in the Comprehensive Plan, the minimum total land area of the district shall be two (2) acres. For newly proposed CVD districts that are not located within an existing village area as identified by the Comprehensive Plan, the minimum total land area shall be ten (10) acres. For any newly proposed CVD that is less than ten (10) acres, the Planning Commission shall make a recommendation to the Town Council at the pre-application stage of review as to whether the proposed CVD is located within a village. The final determination for whether a proposed CVD is located within a village shall then be made by the Town Council at a regularly scheduled meeting.
 4. After a CVD has been established, land that abuts an existing CVD district and has a business, industrial, multi-family or Village/VR20 designation may be considered for a CVD zone change where the property will be integrated by design into the existing CVD. Where abutting property may be added to an existing CVD, there shall be no minimum area requirement for the additional property.
- c. *Permit Procedures.* Review of development proposals within an existing or proposed CVD district shall be as follows:
1. Any application for CVD that requires a change to the Zoning Map shall be reviewed as a Major Land Development project.
 2. Where a CVD district is already established on the Zoning Map, but the development proposed as part of the initial Zoning Map change was not constructed per the conditions of the approved master plan within the required timeframe allowed by state law, new proposals or revisions to the master plan ~~that first proposal~~ shall require review as a new Major Land Development project.
 3. Any change to restrictions or conditions per the original Zoning Map amendment including, but not limited to, deed restrictions, covenants, maintenance agreements, ~~design standards~~ and limits on commercial square footage, shall require a change to the master plan and a zone

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- change application. Notification to abutters shall be the same as outlined in Section 21-95(e)6.
4. Where a CVD zoning district is already established and the plans reviewed as part of the initial Zoning Map change are substantially complete, applications for additional development or changes within the district shall be reviewed in accordance with Section 21-133 of the Zoning Ordinance and the requirements of a Major Land Development project in accordance with the North Kingstown Subdivisions and Land Development Regulations.
 5. The applicant must demonstrate that the proposed development would have an adequate water supply.
 6. If the CVD is proposed to be built in phases, phasing requirements shall be determined at the discretion of the Planning Commission.
 7. The Planning Commission shall consider how the proposed percentage of nonresidential and residential development promotes the development of a walkable village as contemplated by the CVD ordinance. In determining the appropriate amount of residential and nonresidential uses or the ratio between the residential and nonresidential uses, the Planning Commission shall consider the following, without limitation:
 - a. The amount and type of nonresidential use on nearby properties.
 - b. The amount of residential use in close proximity to the CVD and the degree to which that residential use is readily connected to the proposed CVD through vehicular, pedestrian or bicycle connections.
 - c. The degree to which the proposal may be compatible with historic or otherwise notable structures in or near the proposed CVD.
 - d. The degree to which the proposed CVD may represent historic development patterns in the area or otherwise model traditional New England village types.
 - e. The capacity for roadways to effectively handle anticipated volumes of traffic.
 - f. The capacity for existing or proposed utilities to effectively provide service to the proposed mix of uses.
 - g. The carrying capacity of the site, the watershed(s) within which the site lies or the underlying groundwater.
 - h. The need for commercial or residential uses in the area.
 - i. The current zoning of the proposed CVD District.
 - j. The current future land use map designation in the Comprehensive Plan.
 - k. The percentage of proposed protected open space or recreation land.
- d. *Allowable uses.* A CVD project must include both a residential use and a nonresidential use. Use allowances within a CVD District shall follow the use allowances specified for the Neighborhood Business District with the exceptions, additions or alterations provided below.

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1. The following residential uses shall be allowed by right:
 - a. Single-family dwellings
 - b. Two-family dwellings
 - c. Multi-family dwellings including townhouses
 - d. Dwelling units above nonresidential use
 - e. Home occupation within a dwelling in accordance with Section 21-320 of the Zoning Ordinance
 - f. Nursing home or convalescent home
 - g. Accessory dwelling units
2. Farm markets shall be allowed by right.
3. The following recreational uses shall be allowed by right:
 - a. Golf courses with associated facilities
 - b. Health and fitness facilities.
4. All additional restrictions on use provided for in the groundwater or other overlay districts shall apply if the parcel is located in said overlay districts.

e. *Dimensional Requirements.* The dimensional regulations for the CVD are provided herein:

Dimension	Minimum
Lot area <u>within the CVD</u>	4,000 square feet
Lot width	40 feet
Lot frontage	40 feet
Building setbacks	
Front	0 feet
Side	0 feet
Corner side	0 feet
Rear	20 feet
Side and rear from adjacent residential district	30 feet
	Maximum
Building stories	3
Building height	40 feet

1. The proposed lot(s) included in any development plan, regardless of use, must contain on average at least 5,000 square feet of lot area per dwelling unit proposed.
2. The average number of bedrooms per dwelling unit for all residential units located within the CVD District shall not exceed two (2).
3. Subject to the limits of the other sections of the ordinance, the footprint of any individual commercial building shall not exceed 10,000 square feet; provided, however, that one 15,000 square foot commercial building shall be allowed for properties containing more than 10 acres of buildable land. TDR may be used to exceed this allowance pursuant and subject to the limitations of Section 21-95(k), inside the Urban Services Boundary. In no instance, shall any building footprint exceed 15,000 square feet.

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- a. Historic structures may be exempt from this subsection with the approval of the Planning Commission provided that the structure supports the historical integrity of the village and exemption will be consistent with or enhance the goals of developing a CVD District. The burden of proof for the determination of a historic structure shall be placed upon the applicant. The applicant may refer to the definition of historic site as defined in Section 21-22 and/or the North Kingstown, Rhode Island Statewide Historical Preservation Report W-NK-1 published by the Rhode Island Historical Preservation Commission November 1979.
4. The side and rear setback and the setback from residential use minimums shall apply only to lots abutting the boundary of the CVD District.
- f. Inclusionary Zoning. All housing which is included in the CVD shall have a minimum of 10 percent of all units deemed affordable as defined in Section 21-22. All of the provisions of Article XXII. Inclusionary Zoning shall apply except for those provisions that grant additional lot density bonuses for affordable housing units. Total lot density in a CVD shall be determined by Sections 21-95(e). and 21-95(j).
- g. *Architectural and Lot Layout Design Specifications.* Section 21-269 Village Character Design Guidelines of this ordinance shall apply as a minimum standard to CVD proposals as a framework for development within the CVD District. Additionally, as part of a Major Land Development review process with the Planning Commission, the following shall be required.
 1. The design guidelines provided in 21-269(3) shall be used by the Planning Commission where applicable. Where design specifications approved by the Planning Commission for an individual CVD District differ from or are stricter than those provided in Section 21-269(3) of the Zoning Ordinance, the specifications that are specific to a CVD proposal as approved by the Planning Commission shall prevail.
 2. Where a CVD District is already established, the design specifications approved as part of the initial Zoning Map change shall apply to any new development or redevelopment proposal within the district. Minor changes or deviations from these specifications require approval by the Planning Commission. Major changes shall be subject to the specification and notice requirements of Section 21-95(c)(3).
 3. The applicant shall submit supplementary illustrated design specifications with any proposal to establish a new CVD District. If approved, the additional design documents shall be incorporated into the recorded legal documents for the development. These specifications shall address the following elements specific to the neighborhood context:
 - a. Identify any building typologies within the neighborhood or the community as a whole that should inform the selection of architectural styles.

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- b. Identify the character of the arterial or collector road that provides access to the CVD District and demonstrate how setbacks, vegetation, screening, signage, new roadside features and pedestrian/bicycle amenities will be used in a manner that is consistent with or enhances that character.
- c. Building envelopes and/or limits of disturbance shall be considered as part of the approval.
- d. Illustrate how the placement of buildings, parking lots and entrance ways will be consistent with or enhance the goal of developing a walkable CVD District. CVD applications must show a clear, contiguous pedestrian and/or non-motorized vehicle circulation network within the development. Elements, approaches or design specifications that may be required by the Planning Commission to ensure a walkable/bikeable environment include, but are not limited to:
 - i. Walkways, sitting areas, bicycle racks, lighting, landscaping and canopy trees along property frontage may be required where public sidewalks are not present or in conjunction with public sidewalks to enhance pedestrian mobility.
 - ii. Raised surfaces and/or durable, decorative alternatives to conventional pavement may be required to connect sidewalks or bike lanes across driveways for automobile access points to any site.
 - iii. Where pedestrian or bike lanes intersect with designated automobile travel lanes, strategically placed decorative bollards, stones, landscaped islands or low fencing may be required to provide a greater visual divide between these areas.
 - iv. Pedestrian connections between buildings shall be provided as safe, broad and easily identifiable ways of walking through areas that may also be occupied by automobiles. These walkways shall be designed to clearly show the space is primarily dedicated to pedestrian traffic through the use of raised or alternative surfaces, signage or raised landscaped islands that may serve as a safe resting area for pedestrians between automobile travel lanes.
 - v. Building placement shall be performed in a manner that balances the circulation needs of motorists and pedestrians. Where possible, building placement shall be close enough to property lines to ensure that property setbacks are entirely dedicated to pedestrian and/or bicycle travel.
- e. Demonstrate to the satisfaction of the Planning Commission that building materials, roof lines, fenestration, façades, entranceways, surface treatments, signs and lighting will be used to meet the goals of the CVD ordinance through the provision of architectural elevations and illustrated examples of these individual features.

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4. The Planning Commission shall have the ability to require additional design specifications, amenities and development requirements that are compatible with or enhance the surrounding neighborhood.
5. Coverage of any lot by nonresidential and residential buildings shall be designed so as to create a walkable village.
6. The overall percentage of nonresidential to residential building coverage shall be set by the Planning Commission at the master plan level of review and approved by the Town Council as a condition of the zoning map amendment to the CVD District for the parcel(s) of land. In addition to the factors set forth in Section 21-95(c)(7), this determination shall take into account the existing traffic patterns, existing zoning and land uses, the Comprehensive Plan, surrounding zoning and land uses, the fiscal impact of the CVD District on the town and the availability of services and utilities including, but not limited to, water and sewer.
7. For CVDs located outside of the Urban Services Boundary the impervious coverage for the entirety of the CVD shall not exceed sixty percent (60%), the application shall take into account the impervious coverage in the watershed, and the application shall indicate the potential impacts to the watershed. In all CVDs, stormwater treatments such as pervious pavement, bioswales and other innovative stormwater mitigation methods shall be utilized to minimize the impacts from increased impervious coverage on the site and in the watershed. Individual lots within a CVD need not comply with the impervious lot coverage requirements provided that those requirements are met in the CVD as a whole and the individual lot complies with the approved land development plan.
- h. *Circulation.* Vehicular, bicycle and pedestrian traffic shall be interconnected within the CVD District, and shall connect to adjacent lots containing land zoned for business purposes. Connections shall be designed without the use of traffic signals to the extent practicable.
- i. *Wastewater Disposal.* All parcels located in the CVD shall be tied into a sanitary sewer system if available. Where a sanitary sewer system is not available applicable nutrient loading standards shall be met as stated in subsection j. below. Community or shared OWTS shall be utilized on site unless not appropriate due to site constraints. In the event the applicant cannot utilize a single community OWTS, the applicant shall use a combination of as few as possible smaller OWTS unless financially and technically unfeasible. In addition, a permanent maintenance agreement for wastewater disposal throughout the entire CVD shall be required as part of the final approval. The burden of proof of these requirements shall be placed upon the applicant. An OWTS leachfield(s) may be allowed in the open space area by the Planning Commission if it furthers the goals and intentions of this ordinance.
- j. *Nutrient loading and density limitations in a CVD.*
 1. Nutrient loading and density limitations associated with a CVD shall vary depending on the location of the CVD relative to both the North

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Kingstown Groundwater Overlay District (zone 1 and zone 2) and the Rhode Island Statewide Planning Urban Services Boundary (USB) in accordance with the table below and the notes and explanatory provisions that follow. Where the provisions associated with Section 21-186(d)(1) are different from those in this subsection, the provisions of this subsection shall govern.

	<u>Inside Groundwater Zone 1</u>	<u>Inside Groundwater Zone 2</u>	<u>Outside the Groundwater Overlay District</u>
<u>Inside the USB</u>	<u>3.25 bedrooms per 2 acres of buildable land.^{1,2}</u>	<u>One housing unit allowed per 5,000 square feet of CVD area.¹</u>	<u>One housing unit allowed per 5,000 square feet of CVD area.</u>
<u>Outside the USB</u>	<u>3.25 bedrooms per 2 acres of buildable land.^{1,2}</u>	<u>3.25 bedrooms per 2 acres of buildable land.^{1,2}</u>	<u>3.25 bedrooms per minimum lot size of buildable land associated with existing zoning.³</u>

Table Notes:

1. This bedroom density shall not be interpreted as removing the need for development proposals within the groundwater overlay zones to meet the nitrate loading standard of five (5) mg/L as set forth in Chapter 8, Article VI, (“Groundwater Reservoirs and Recharge Areas”) of the Revised Ordinances according to the requirements of 21-186(f)(5).

2. Where the pre-existing zoning may require minimum lot sizes greater than two acres, that lot size shall be used to determine bedroom density for that portion of the CVD. For example, if 10 buildable acres of a proposed CVD are located in district that requires five (5) acres for a minimum lot size, that portion of the CVD will yield 6.5 bedrooms.

3. Sample calculation:

For a CVD that contains eight (8) acres of buildable land in RR, six (6) acres of buildable land in VR-20, and two (2) acres of buildable land in NB:

RR: 8 acres / 80,000sf = 4.36

VR-20 : 6 acres / 20,000 = 13.01

NB: No yield as residential not allowed by-right

Total: 17.37 x 3.25 = 56 bedrooms (rounded)

2. Where a CVD proposal may include land split by the boundary of the groundwater protection overlay district and/or the USB, the areas outside and inside those boundaries shall be treated separately with regard to the density limitations as described in Section 21-95(j)(1).
3. None of the provisions of this subsection shall be interpreted as removing any density limitations or nutrient loading limitations that may be required by RIDEM or RICRMC for specific areas.
4. Fractions of bedrooms shall be rounded to the nearest whole number.
5. Provisions for reporting to the town the concentration of Nitrate (NO₃) and Total Nitrogen (TN) concentration in Onsite Wastewater Treatment

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Systems (OWTS) effluent at least once per year every year shall be a condition of all approvals in a CVD District.

6. Where a proposed CVD in a Groundwater Zone 2 overlay district would create average nitrogen concentrations within the district that exceed five (5) mg/L, an applicant may propose to offset the difference between the five (5) mg/L and the predicted concentration by adding dedicated offsite open space into the nutrient loading calculations in accordance with the assumptions for nitrogen loading and natural recharge found in Section 21-186. The following shall apply:

- a. Dedicated off-site open space is only eligible for offsetting nutrient loads from a CVD if the open space and the CVD are located within the same aquifer recharge area.
- b. The dedicated off-site open space can only come from a Groundwater Overlay Zone 1 district.
- c. Off-site nitrogen load offsets may only be used for CVDs located in the state designated Urban Services Boundary.
- d. The open space shall be land that is not restricted or protected from development through any easements or restrictions such as but not limited to: open space or conservation easements.
- e. The open space land shall be considered buildable by the Planning Commission, as defined by Section 21-22, and not encumbered by significant physical or environmental constraints.
- f. The original nutrient loading analysis in the proposed CVD parcels may not show an average concentration of nitrogen that exceeds seven and a half (7.5) mg/L. The nutrient loading analysis including the open space offset shall not exceed five (5) mg/L.

- k. *Transfer or Purchase of Development Rights (TDR).* Except as set forth in section e.3, the transfer or purchase of development rights shall be required for any individual commercial building that will exceed a 10,000 square foot ground floor area, but in no circumstances shall the footprint for any individual commercial building exceed 15,000 square feet. In no instance, shall any building footprint exceed 15,000 square feet except historic structures may be exempt from this subsection with the approval of the Planning Commission provided that it supports the historical integrity of the village and will be consistent with or enhance the goals of developing a CVD District. The burden of proof for the determination of a historic structure shall be placed upon the applicant. The applicant may refer to the definition of historic site and/or the *North Kingstown, Rhode Island Statewide Historical Preservation Report W-NK-1* published by the Rhode Island Historical Preservation Commission November 1979. The following shall also apply:

- 1. The transfer or purchase of development rights for use within a CVD District shall be allowed only from a sending area located within North Kingstown.

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2. The transfer or purchase of development rights for use within a CVD District shall allow nonresidential structures to expand from a maximum of 10,000 square feet ground floor area to 15,000 square feet ground floor area. This shall be the only application of TDR available to nonresidential uses in a CVD District and no other zoning standards (e.g., maximum height, allowable use, minimum open space, etc.) may be exceeded through TDR.
 3. Any CVD District utilizing the transfer or purchase of development rights must be located within the state designated Urban Services Boundary and meet all applicable nitrogen loading standards of this ordinance.
- l. *Fiscal Impact.* The applicant shall submit a fiscal impact analysis demonstrating the potential costs to be incurred by the town for the provision of municipal services to the CVD District and the estimated municipal tax revenue to be generated by the CVD District.
 - m. *Traffic Impact.* An applicant for any Zoning Map change shall submit a traffic analysis that includes impacts to intersections within one-half mile of the CVD District. Where the proposed CVD District would reduce the level of service (LOS), as defined by the Institute of Traffic Engineers (ITE), either by one level or to a level at or below “D”, the applicant shall present an alternatives analysis to illustrate how different traffic control measures within the traffic study area could be used to mitigate impacts and restore LOS to the existing level or to a level “D” or above, as applicable. Use of traffic signals for mitigation is discouraged. Where mitigation measures are not practicable, the Planning Commission shall consider the impacts in its recommendation for a Zoning Map change and for approval of the master plan. The duration of low service levels, the number of intersection approaches negatively affected, and the recurrence interval of unacceptable levels shall be considered by the Planning Commission in its recommendation.
 - n. *Stormwater Management.* All applications shall be required to meet RIDEM’s Stormwater Standards.
 - o. *Property Ownership.* Parcels in separate ownership may be made part of the same CVD project provided that the owners of all parcels document their commitment to compliance with the land development plan to the satisfaction of the town including, but not limited to, through appropriate deed restrictions as part of the application and approval process.
 - p. *Dedicated Open Space.* Where a CVD District of ten (10) acres or more is proposed outside of the Rhode Island Statewide Planning Urban Services Boundary, a minimum of twenty five percent (25%) of the total land area shall be dedicated as open space/recreation area and shall be designed as a system of available spaces throughout the development. Where a CVD is proposed within the Urban Services Boundary, civic spaces, pocket parks or natural areas shall be required and integrated into the CVD in a manner that provides year round accessible open areas, gathering places and/or recreational opportunities.

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SECTION 4. ARTICLE VIII. Overlay Districts. Groundwater Overlay provisions. Amend Section 21-186(d) by adding the following subsections:

- (4) For the purpose of determining nitrogen loading, where separate commercial and residential operations use the same denitrifying OWTS, the portion of the design flow attributed to residential use shall be assigned a nutrient loading coefficient of 19 mg/L in wastewater effluent. The portion of the design flow attributed to commercial use shall be assigned a nutrient loading coefficient of 35 mg/L.

Section 5. Article VIII. Overlay Districts. Groundwater Overlay provisions. Amend section 21-186(g)(5) by modifying the following table:

(5) Nutrient loading calculations performed as part of any permit submittal shall incorporate the following assumptions:

Loading numbers for nitrogen sources

Activity or Discharge	Nitrogen Loading Coefficient
Effluent from standard OWTS	35 mg/L
Effluent from DEM approved innovative system	19 mg/L
Effluent from centralized wastewater facility	10 mg/L (zero if transported off-site)
Turf fertilization	3.0 lbs per 1,000 square feet with 25% leaching rate to groundwater*
Roof runoff	0.5 mg/L per unit area
Pavement runoff	1.5 mg/L per unit area
Atmospheric Deposition	0.05 mg/L

*For the purposes of any residential lots included in nitrogen loading calculations, any land that is not covered by a structure or other permanent surface as part of the development proposal shall be considered "turf" for the purposes of these calculations unless otherwise determined by the town during review. The burden of proof shall be on the applicant to demonstrate that these areas should be considered something other than turf based on unique site conditions. Conditions that should warrant a different designation for these areas may include, but shall not be limited to, the presence of exposed ledge, wetland, easements or other legal agreements that would specifically preclude the establishment of turf. Physical permanent boundary markers shall be installed to indicate the boundaries of turf and natural areas

SECTION 6. ARTICLE XXIII. TRANSFER OF DEVELOPMENT RIGHTS (TDR). Amend Section 21-622. Applicability by adding subsection (2)(b):

Sec. 21-622. Applicability

- (1) Areas that qualify as Sending Areas are delineated by the Sending Area Overlay District pursuant to Section 21-190 of the Zoning Ordinance;

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- (2) Districts that qualify as potential Receiving Districts for development rights include:
 - (a) Post Road District
 - (b) Compact Village Development District as provided for in Section 21-95.