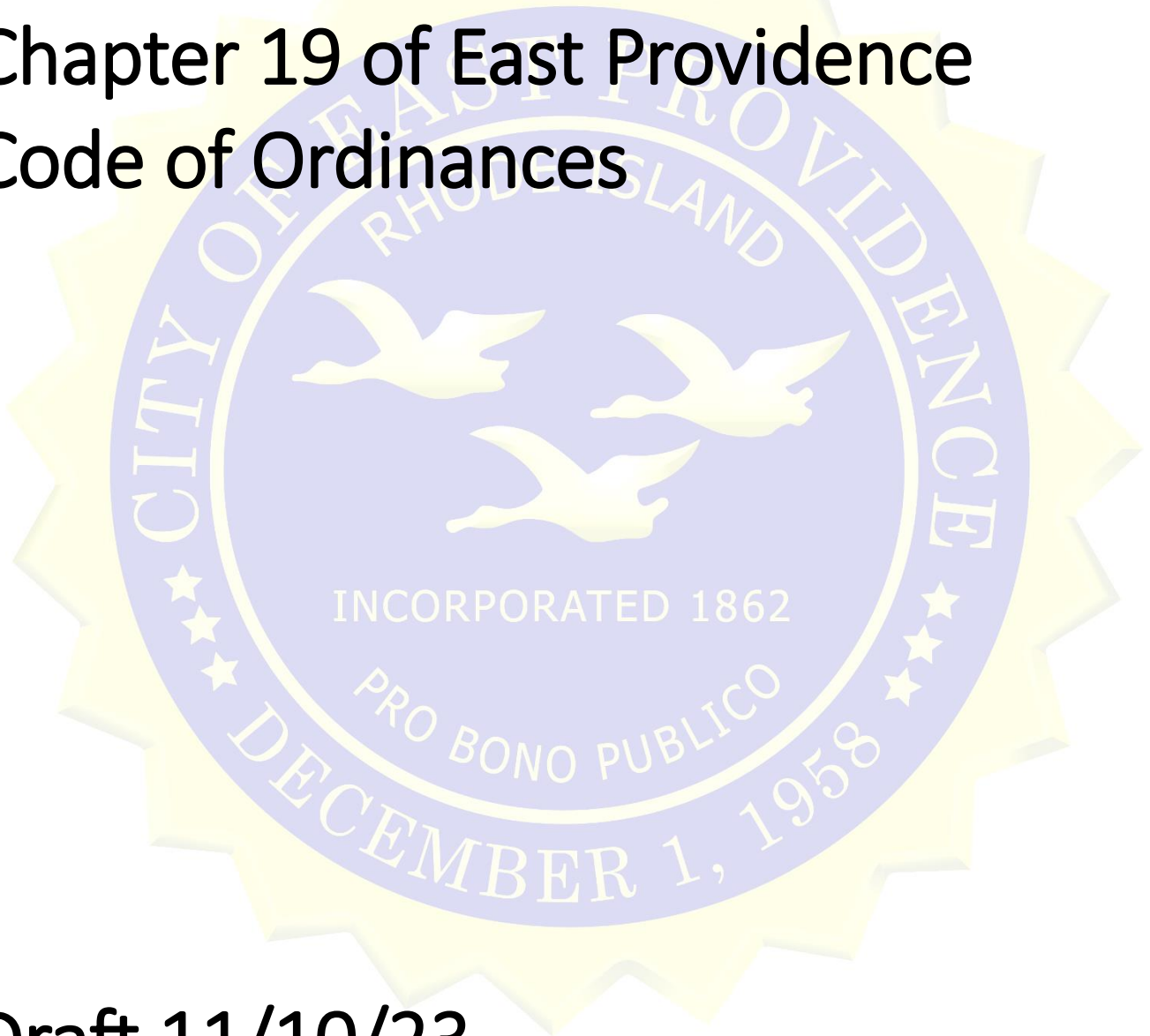


City of East Providence, RI

Zoning Ordinance

Chapter 19 of East Providence
Code of Ordinances



Draft 11/10/23

Chapter 19
ZONING

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Chapter 19 ZONING¹

ARTICLE I. IN GENERAL

Sec. 19-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abutter means one whose property abuts, that is, adjoins at a border, boundary, or point with no intervening land.

Accessory family dwelling unit means an accessory family dwelling unit in an owner-occupied, single-family residence that shall be permitted as a reasonable accommodation only for a family member(s) with disabilities. The appearance of the structure shall maintain the single-family character of the neighborhood and the accessory family dwelling unit shall remain subordinate to the principal use of the living quarters and there shall be an internal means of egress between the principal unit and the accessory family dwelling unit. See section 19-202 for a description, general requirements and standards; and application process.

Accessory structure means a structure located on the same lot as a principal use but separate from the principal building and devoted or intended to be devoted to an accessory use. The accessory structure shall not be located between the public right-of-way and the principal use and said accessory structure shall be no greater than 50 percent of the gross floor area of the principal use.

Accessory use means a use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building, which shall be located on the same lot as the principal use. An accessory use shall not be permitted without the principal use to which it is related. An accessory use shall be subordinate to the principal use served.

Adaptive Reuse means the conversion of an existing structure from the use for which is was constructed to a new use by maintaining elements of the structure and adapting such elements to a new use.

¹Charter reference(s)—Zoning board, § 2-19.

Cross reference(s)—Any zoning map amendment or rezoning ordinance saved from repeal, § 1-12(10); planning board, § 2-166 et seq.; buildings and building regulations, ch. 4; public places, ch. 13; streets and sidewalks, ch. 14; subdivisions, ch. 15.

State law reference(s)—Zoning, G.L. 1956, § 45-24-27 et seq.

Administrative Officer means the municipal official who shall administer the Land Development and Subdivision Review Regulations to review and approve qualified applications and/or coordinate with local boards and commissions, municipal staff and state agencies. The Administrative Officer is the Director of the Department of Planning and Economic Development or his or her designee.

Aggrieved party means:

- (1) Any person or persons or entity or entities who can demonstrate that their property will be injured by a decision of any officer or agency responsible for administering the zoning ordinance of a city or town; or
- (2) Anyone requiring notice pursuant to this chapter.

Agricultural land means land suitable for agriculture by reason of suitability of soil or other natural characteristics or past use for agricultural purposes.

Amusement game center means any structure or portion thereof within which are kept for use as games, entertainment or other public patronage, four or more amusement game machines or devices as defined in this section.

Amusement game machine means a mechanical, electrical, or electronic machine or device which shall be ready for play by the insertion of a coin or by the payment of a fee, and may be operated by the public for use as a game, for entertainment, or for amusement. It shall include, but not be limited to, such devices as pinball machines, game machines, or any device which utilizes a video tube to reproduce symbolic figures and lines intended to be representative of real games or activities.

Amusement park means an activity devoted to entertainment through the medium of rides, games, shows, attractions and other similar activities presented either in the open or within structures and buildings together with public dance in dance halls, refreshments in refreshment stands and dining in dining and shore dinner halls, all of which are an integral part of the park.

Applicant means an owner or authorized agent of the owner submitting an application or appealing an action of any official, board or agency.

Application means the completed form or forms and all accompanying documents, exhibits, and fees required of an applicant by an approving authority for development review, approval, or permitting purposes.

Automotive commercial parking garage means a structure used primarily for the storing or parking of motor vehicles.

Automotive repair shop means a structure sheltering the activities of heavy or major motor vehicle repairs, rebuilding and painting.

Bed and breakfast means a small lodging establishment that offers overnight accommodation and inclusive usually of breakfast only, typically private homes offering accommodation with fewer than ten bedrooms available for commercial use. This is not to be considered as the allowable accessory use for a residential district regarding the rental of a room pursuant to section 19-171, accessory uses.

Billboard means any sign that directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location other than the premises where the sign is located.

Black box theater (or experimental theater) means a simple, typically unadorned performance space, usually a large square room with black walls and a flat floor, usually home to plays or other performances with very basic technical arrangements.

Board means the zoning board of review.

Buffer means land which is maintained in either a natural or landscaped state, and is used to screen and/or mitigate the impacts of development on surrounding areas, properties or rights-of-way.

Build-to-line is a means to define the street frontage and pedestrian areas by mixed use and commercial buildings generally built to property lines at the edge of right-of-way (back of sidewalk) or to other accessible public area, e.g., in a "Main Street" manner.

Building means any structure used or intended for supporting or sheltering any use or occupancy.

Building envelope means the three-dimensional space within which a structure is permitted to be built on a lot and which is defined by regulations governing building setbacks, maximum height, and bulk; by other regulations; and/or any combination thereof.

Building height means the vertical distance from grade to the top of the highest point of the roof or structure, however, the limitation of height of buildings and structures in section 19-145 shall not apply in any district to churches and other places of worship, religious institutions and public or private schools or ornamental features of buildings which are in no way used for living or advertising purposes or to chimneys and ventilators ten feet or less above the peak of the roof. **means for a vacant parcel of land, building height shall be measured from the average, existing-grade elevation where the foundation of the structure is proposed. For an existing structure, building height shall be measured from average grade taken from the outermost four (4) corners of the existing foundation. In all cases, building height shall be measured to the top of the highest point of the existing or proposed roof or structure. This distance shall exclude spires, chimneys, flag poles, and the like. For any property or structure located in a special flood hazard area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMS), or depicted on the Rhode Island coastal resources management council (CRMC) suggested design elevation three foot (3') sea level rise (CRMC SDE 3 SLR) map as being inundated during a one-hundred-year (100) storm, the greater of the following amounts, expressed in feet, shall be excluded from the building height calculation:**

- (1) The base flood elevation on the FEMA FIRM plus up to five feet (5') of any utilized or proposed freeboard, less the average existing grade elevation; or**
- (2) The suggested design elevation as depicted on the CRMC SDE 3 SLR map during a one-hundred-year (100) storm, less the average existing grade elevation. CRMC shall reevaluate the appropriate suggested design elevation map for the exclusion every ten (10) years, or as otherwise necessary.**

The limitation of height of buildings and structures in section 19-145 shall not apply in any district to churches and other places of worship, religious institutions and public or private schools or ornamental features of buildings which are in no way used for living or advertising purposes or to chimneys and ventilators ten feet or less above the peak of the roof.

Building volume means the volume of a building measured from its exterior dimensions including all portions of a structure enclosed by a roof and fixed exterior walls, as measured from the exterior faces of these walls and roof, i.e., meaning building mass, the height, width, and depth of a structure.

Business/technology development means one or more lots, tracts or parcels of land in a business/technology floating zone district totaling no less than three acres which are planned, developed or redeveloped, and operated as an integral facility for a number of separate buildings and supporting ancillary uses with more than 100,000 square feet of gross floor area, with special attention given to circulation, parking, utility needs, aesthetics and use compatibility.

Café means a restaurant serving coffee and other beverages along with baked goods or light meals.

Cemetery means land used for the interment of the dead and dedicated for cemetery purposes including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

Cluster means a site planning technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space, and/or preservation of environmentally sensitive features and/or structures. Under cluster development there is no increase in the number of lots or dwelling units permitted under conventional development except where this chapter provides incentive bonuses for certain types of conditions of development.

Cluster development means a contiguous area or lot with a land area of five acres or more to be developed as an integral residential unit according to a plan containing primarily clusters of residential structures, common open space, and other associated permitted uses primarily for the benefit of the residential development.

Cluster development district means a floating zone district imposed upon the city zoning map which permits a residential cluster development.

Coastal feature means any coastal beach, barrier island or spit, coastal wetland, coastal headland, bluff or cliff, rocky shore, manmade shoreline or dune as outlined and defined by the coastal resources management program, and as may be amended.

Commercial educational institutions means any profit-making institution such as secretarial and business schools, technical institutes, colleges, schools, commercial colleges and other similar educational organizations or institutions.

Common ownership means ownership by one or more individuals or entities in any form of ownership of two or more contiguous lots, or ownership by any association (such ownership may also include the city) of one or more lots under specific development techniques.

Community residence means a home or residential facility where children and/or adults reside in a family setting and may or may not receive supervised care. This shall not include halfway houses or substance abuse treatment facilities. This shall include, but not be limited to the following:

- (1) Whenever six or fewer ~~retarded~~ children or adults **with mental, intellectual, or developmental disabilities** reside in any type of residence in the community, as licensed by the state pursuant to G.L. 1956, § 40.1-24-1 et seq. All requirements pertaining to local zoning are waived for these community residences;
- (2) A group home providing care or supervision, or both, to not more than eight ~~mentally disabled or mentally handicapped or physically handicapped~~ persons **that are disabled or have a mental or physical disability**, and licensed by the state pursuant to G.L. 1956, § 40.1-24-1 et seq.;
- (3) A residence for children providing care or supervision, or both, to not more than eight children including those of the care giver and licensed by the state pursuant to G.L. 1956, § 42-72.1-1 et seq.;
- (4) A community transitional residence providing care or assistance, or both, to no more than six unrelated persons or no more than three families, not to exceed a total of eight persons, requiring temporary financial assistance, and/or to persons who are victims of crimes, abuse, or neglect, and who are expected to reside in that residence not less than 60 days nor more than two years. Residents will have access to and use of all common areas, including eating areas and living rooms, and will receive appropriate social services for the purpose of fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

Comprehensive plan means the comprehensive plan adopted and approved pursuant to state statutes and to which any zoning adopted pursuant to this act shall be in compliance.

Container means a large standard size cargo enclosure into which cargo may be packed for shipment aboard specially configured ocean-going vessels and designed to be easily interchangeable between the three basic modes of transportation: waterborne vessels, truck and rail. For purposes of this definition, railroad cars are not classified as containers.

Container terminal means an area including buildings, loading and unloading facilities and open areas for the storage and handling of containers.

Co-worker space means a shared working environment, often an office, but that houses independent activities, and those co-working are usually not employed by the same organization.

Cultural activity means any nonprofit or for profit museum, library, art gallery, legitimate theater or other similar use, and may include outdoor art as an accessory use, such as a curated mural, provided that said outdoor art does not serve as a sign.

Data processing center means a service business that prepares, services, handles, stores or processes information through the use of special equipment and techniques, such as with computers and/or office business machines.

Days means calendar days.

Day care/day care center means any other day care center which is not a family day care home.

Day care/family day care home means any home other than the individual's home in which day care in lieu of parental care or supervision is offered at the same time to six or fewer individuals who are not relatives of the care giver, but may not contain more than a total of eight individuals receiving day care.

Density, residential or residential density means the number of dwelling units per unit of land.

Design studio means a workplace for designers and artisans engaged in conceiving, designing, and developing new products or objects. Definition does not include large scale manufacturing of products.

Development means the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance; any change in use, or alteration or extension of the use, of land.

Development plan review means the process whereby authorized local officials review the site plans, maps, and other documentation of a development to determine the compliance with the stated purposes and standards of this chapter. **means design or site plan review of a development of a permitted use under limited circumstances to encourage development to comply with design and/or performance standards under specific and objective guidelines, for developments including but not limited to:**

- (1) **Commercial, mixed-use, and residential development in the Main Street Overlay District as per Sec. 19-322 of the Zoning Ordinance.**
- (2) **Proposed developments in the Riverside Square Mixed Use Downtown Overlay District as per Sec. 19-359 of the Zoning Ordinance.**
- (3) **Institutional development design review for educational or hospital facilities.**
- (4) **Construction of parking lots of fifteen (15) or more spaces, or additions of fifteen (15) or more spaces to existing parking lots.**
- (5) **Reserve parking areas for business/technology developments as defined in Section 19-1 of the Zoning Ordinance.**
- (6) **Drive-through facilities.**
- (7) **Signage for developments consisting of one structure with a gross building area of 10,000 square feet or greater, or a multitenant development of gross building area of 10,000 square feet or greater.**
- (8) **Developments in which a split zone is being used for a more intense use as per Sec. 19-97 of the Zoning Ordinance.**

Development plan review applications are Formal or Administrative as detailed in both Article VIII of this chapter and in the Land Development and Subdivision Review Regulations.

Development regulation means zoning, subdivision, land development plan, development plan review, historic district, official map, flood plain regulation, soil erosion control plan or any other governmental regulation of the use and development of land.

Digital sign means a sign that features static images that change over a period of time not to exceed once every ten seconds and are used to advertise to consumers in a public place(s), including to those in private automobiles.

A *digital sign* and an *electronic message center* shall be considered synonymous terms.

Disability means, with respect to an individual:

- (1) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- (2) A record of such impairment; or
- (3) Being regarded as having such an impairment if the individual establishes that he or she has been subjected to an action prohibited under [G.L. 1956,] Chapter 42-87, Civil Rights of People with Disabilities, because of an actual or perceived physical or mental impairment, whether or not the impairment limits or is perceived to limit a major life activity;
- (4) An impairment under this section shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of six months or less.

Drainage system means a system for the removal of water from land by drains, grading or other appropriate means. **These techniques may include runoff controls to minimize erosion and sedimentation during and after construction or development; the means for preserving surface and groundwaters; and the prevention and/or alleviation of flooding.**

Drive-through facility means a commercial facility which provides a service directly to a motor vehicle or where the customer drives a motor vehicle onto the premises and to a window or mechanical device through or by which the customer is served without exiting the vehicle. This shall not include establishments engaging in the retail sale of alcoholic beverages; gasoline filling station which is defined separately nor the necessary functions of a carwash facility such as vacuum cleaning stations.

Dry-bulk cargo means materials such as, but not limited to, cement, ash, salt or other loose or particulate matter which through their handling or storage have the potential to disperse or generate fugitive dust or other emissions.

Dwelling means a building or portion thereof designed exclusively for residential occupancy, but not including hotels, motels, lodginghouses, trailers or structures solely for transient or overnight occupancy.

Dwelling unit means a structure or portion thereof providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, and containing a separate means of ingress and egress which may be located off a shared common space.

Easement means an interest in land created by grant or agreement express or implied, which confers a right upon the owner (grantee) thereof to some profit, benefit, dominion or lawful use out of or over the estate of another.

Electronic vehicle charging station means a public or private parking space(s) that is (are) served by battery changing equipment with the purpose of transferring electric energy to a battery or other energy storage device in an electric vehicle.

Emergency shelter means a structure or portion of a structure or building above or below the ground, so constructed as to provide protection to human life during periods of nuclear fallout or blast overpressure and meeting the requirements and restrictions of the city director of civil defense.

Environmental constraints means natural features, resources, or land characteristics that are sensitive to change and may require conservation measures or the application of special development techniques to prevent degradation of the site, or may require limited development, or in certain instances, may preclude development. See also Physical Constraints to Development.

Extractive industry means the extraction of minerals including: Solids, such as coal and ores; liquids such as crude petroleum; and gases, such as natural gases. The term also includes quarrying; well operation; milling, such as crushing, screening, washing and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity.

Façade means all the wall planes of a structure as seen from one side or view and containing the walls, fascia, windows, doors, and canopy on any building elevation. For example, the front façade of a building would include all such areas that would be shown on the site and building plans for the front elevation.

Family member means a person or persons related by blood, marriage or other legal means, **including, but not limited to, a child, parent, spouse, mother-in-law, father-in-law, grandparents, grandchildren, domestic partner, sibling, care recipient, or member of the household.**

Farming means the raising and keeping of cattle, horses, sheep, goats or poultry, but not hogs or fur animals, and the growing of all agricultural products and eggs, provided that buildings or structures used wholly or in part for the keeping or raising of livestock or poultry shall be located a minimum of 100 feet from the nearest adjoining lot or property line.

Fencing establishment means a business or organization which offers training and/or competition in the sport of fencing.

Floating zone means an unmapped zoning district adopted within this chapter which is established on the zoning map only when an application for development, meeting the zone requirements, is approved.

Flood maps means the official flood insurance rate maps and flood boundary and floodway maps of the city, Nos. 445398 0001 through Nos. 445398 0008 inclusive, revised June 1, 1983, as published by the federal insurance management agency, including any subsequent amendments officially adopted. The areas of special flood hazard, including all A and V zones, and the floodways as shown on the maps shall be considered an overlay district to the city zoning maps and shall be subject to the restrictions of section 19-306 as amended, in addition to any provisions applicable to the existing zoning district.

Floodplains, or flood hazard area means an area **that is subject to a flood from a storm** ~~has~~ **having** a one percent **(1%)** ~~or greater chance of inundation~~ **being equaled or exceeded** in any given year, as ~~delineated~~ **approved** by federal emergency agency pursuant to the National Flood Insurance Act of 1968, as amended (P.L. 90-448), **42 U.S.C. § 4011 et seq.**

Floodproof means to utilize any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings. For the purposes of this chapter, the latest published floodproofing regulations prepared by the U.S. Army Corps of Engineers may be applied at the discretion of the city engineer to determine the floodproofing measures and techniques to be required and employed.

Floor area, gross. See Rhode Island State Building Code.

Freeboard means a factor of safety expressed in feet above the base flood elevation for purposes of floodplain management. Freeboard compensates for the many unknown factors that could contribute to flood heights, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Front lot line. See *Lot line, front.*

Fur animal means any animal usually kept and raised for the use and sale of its skin or fur.

Gallery means a building or space for the exhibition of art, usually visual art. Paintings are the most commonly displayed art objects. However, sculpture, decorative arts, furniture, textiles, costume, drawings,

pastels, watercolors, collages, prints, artists' books, photographs, and installation art are also shown. Gallery space is sometimes used to host other artistic activities, such as performance art, music concerts, or poetry readings.

Gasoline filling station means a building, structure or premises where motor vehicular fuel is stored for sale to the public and where other sales activities and any other repairs which are minor in scope and subordinate to the sale of motor vehicular fuel, oil, and lubricants are carried on. Vehicle body repair, painting, major mechanical repair and motor vehicle sales, leasing or storage of unregistered vehicles are prohibited.

Governing body means the body of the local government, generally the city or town council, having the power to adopt ordinances, accept public dedications, release public improvement guarantees, and collect fees.

Grade means a reference plane representing the average finished ground level at the front of the building. Front of the building may be determined by the street address, and shall be done in consultation with the building inspector. Where the finished ground level slopes away from the front of the building, the reference plane shall be established by the lowest points within the area between the building and the lot line, or when the lot line is more than five feet from the building, between the building and a point five feet from the building.

Groundwater means water found underground which completely fills the open spaces between particles of sand, gravel, clay, silt, and consolidated rock fractures. The zone of materials filled with groundwater is called the zone of saturation.

Hardship means as defined in division 2 board of review, sections 19-36 through 19-55 of this chapter.

Hazardous waste means any waste or combination of wastes of a solid, liquid, contained gaseous or semisolid form which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

- (1) Cause, or insignificantly contribute to an increase in mortality or an increase in serious irreversible illness or incapacitating reversible illness; or
- (2) Pose a substantial present or potential hazard to human health or the environment.

Such wastes include, but are not limited to, those which are toxic, corrosive or flammable, or irritants, strong sensitizers, substances which are assimilated or concentrated in and are detrimental to tissue, or which generate pressure through decomposition or chemical reaction. In addition, such wastes include "industrial waste" as such term is used elsewhere in the state statues, as amended, unless the context shall clearly indicate otherwise. (This definition is incorporated from G.L. 1956, § 23-19.1-1 et seq. of the hazardous waste management act and G.L. 1956, § 23-19.7-1 et seq. of the hazardous waste management facilities act. All amendments to definitions in these state acts are heretofore incorporated in this definition.)

Hazardous waste disposal means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water. (This definition is incorporated from G.L. 1956, § 23-19.1-1 et seq., of the hazardous waste management act and G.L. 1956, § 23-19.7-1 et seq., of the hazardous waste management facilities act. All amendments to definitions in these state acts are incorporated in this definition.)

Hazardous waste management facility means a facility, excluding vehicles, for collection, source separation, storage, processing, treatment, recovery, or disposal of hazardous wastes, or a transfer station for hazardous waste, and may include a facility at which such activities occur and where waste has been generated. (This definition is incorporated from G.L. 1956, § 23-19.1-1 et seq., of the hazardous waste management act and G.L. 1956, § 23-19.7-1 et seq. of the hazardous waste management facilities act. All amendments to definitions in these state acts are incorporated in this definition.)

Heavy manufacturing means the manufacture or compounding of raw materials, and associated fabricating, packaging, distribution, and assembling, which shall be in conformance with sections 19-336 through 19-345.

Helistop means any private landing area used for the landing and taking off of a helicopter engaged in the personal or business operations of the person or company maintaining such helistop for the purposes of picking up and discharging of passengers or cargo, but not including fueling, repair or service facilities. The term helistop shall include, but not be limited to helipad, touchdown area, takeoff area, landing area, peripheral area and helicopter landing facility.

Higher educational institution means any university, college, junior college or similar public or nonprofit private educational organization or institution for post high school training.

Historic district, or historic site means one or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites and has been registered, or is deemed eligible to be included, on the state register of historical places pursuant to state statutes.

Historical or cultural resource means any real property, structure, natural object, place, landmark, landscape, archaeological site or configuration or any portion or group of the preceding which has been listed on the federal or state register of historic places or that is considered by the Rhode Island Historical Preservation & Heritage Commission to meet the eligibility criteria for listing on the state register of historic places pursuant to § 42-45-5 or is located in a historic district established by a municipality in accordance with chapter 24.1 of this title, Historic Area Zoning.

Home occupation means an activity customarily carried out for gain by a resident, and conducted as an accessory use in the resident's dwelling unit, and as further provided for in section 19-171.

Hospital means an institution providing health services primarily for human inpatient medical, surgical, or therapeutic care for the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

Hotel means a building or buildings where temporary lodging is provided and offered to the public for compensation and where additional services such as restaurant, meeting, conference and recreational facilities may be provided for both guest and non-guest use.

Household means one or more persons, living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit. The term "household unit" shall be synonymous with the term "dwelling unit" for determining the number of such units allowed within any structure on any lot in a zoning district. An individual household shall consist of any one of the following:

- (1) A family, which may also include servants and employees living with the family; or
- (2) A person or group of no more than four unrelated persons living together as distinguished from persons occupying a boardinghouse, lodginghouse, club, motel or hotel.

Impact assessment means a concise report which accomplishes the following: Evaluates the positive and negative and direct and indirect impacts of a development or redevelopment project on the natural and manmade environment; and proposes reasonable measures to mitigate the impacts identified.

Improvement means any natural or built item which becomes part of, is placed upon, or is affixed to, real estate.

Improvement guarantee means a security instrument accepted by the City to ensure that all improvements, facilities, or work required by these regulations, or required as a condition of approval, will be completed in compliance with the approved plans and specifications.

Incentive zoning means the process whereby the local authority may grant additional development capacity in exchange for the developer's provision of a public benefit or amenity as specified in local ordinances.

Incubator means a business company that helps new and startup companies to develop by providing services such as management training or office space, including co-working space. Business incubators differ from research and technology parks in their commitment to startup and early-stage companies.

Industrial trade schools means institutions dedicated to the instruction of trades such as, but not limited to, automotive repair, marine repair and heavy equipment repair and operation.

Infrastructure means facilities and services needed to sustain residential, commercial, industrial, institutional and other activities.

Junk materials means materials such as, but not limited to, scrap metal, unbaled scrap or waste paper, slag, sludge, or garbage or other materials which have the potential to present noxious odors.

Kiosk, free standing exterior means a freestanding exterior structure of less than 500 square feet for drive-up or walk-up window services or retail sales.

Land means real property including improvements and fixtures on, above, or below the surface.

Land development project means a project in which one or more lots, tracts, or parcels of land are to be developed or redeveloped as a coordinated site for a complex of uses, units, or structures, including but not limited to, planned development and/or cluster development for residential, commercial, institutional, recreational, open space, and/or mixed uses as may be provided for in this chapter. **means a project in which one or more lots, tracts, or parcels of land or a portion thereof are developed or redeveloped as a coordinated site for one or more uses, units or structures, including but not limited to, planned development or cluster development for residential, commercial, institutional, recreational, open space, or mixed uses, as provided for in this chapter and in the City of East Providence's Land Development and Subdivision Review Regulations. Land development projects are categorized as Major or Minor land development projects as detailed in both Article V of these regulations and in the Land Development and Subdivision Review Regulations.**

Land use regulation means any governmental agency authorized by this chapter to exercise the power granted by this chapter.

Large-scale ground-mounted solar photovoltaic facility means a solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum rated nameplate capacity per panel of 250 kW DC or more.

Limited manufacturing means the manufacturing, compounding, assembly, packaging, or fabrication of materials and products, with no outdoor storage, and in conformance with sections 19-336 through 19-345. Included in this category are: the manufacturing of advertising display, models and patterns; apparel and other finished products made from fabrics and similar materials; business machines; camera and photographic equipment; caskets; ceramic products; cosmetics and toiletries; electrical appliances; electronic equipment; emblems and badges; fasteners; food; games and toys; laboratory, scientific and engineering instruments; precious metal and costume jewelry; musical instruments; medical appliances and instruments; packaging products; paper products (but not the manufacture of paper from pulpwood), plastic products (but not the processing of raw materials); pharmaceuticals or optical goods; printing, publishing, engraving; sporting and athletic goods (including bicycles); tools or hardware; watches and clocks; writing instruments; and other similar products. A machine shop is included in this category.

Limited metal reclamation means the salvaging and reclamation of used metals of all types when carried on in a completely enclosed building without outside storage of any kind.

Liquid-bulk cargo means materials such as, but not limited to, petroleum products, liquefied natural gas or liquid chemical products, which, through their handling or storage, have the potential to cause environmental damage through spillage, dispersal, or leaching into the ground, groundwater or air, or damage due to explosion or fire.

Live entertainment means any activity performed live or any activity having amplified recorded sound or amplified electronic musical instruments including, but not limited to, musical bands, musical instruments, musical soloists, comedians and disc jockeys. For purpose of this definition, juke boxes and screen television entertainment are not regulated as live entertainment.

Live/work space means a building or spaces within a building used for commercial activities and areas for residential/living purposes where two-thirds or 67 percent of the unit is dedicated for residential purposes. Examples of acceptable live/work space are live-work units of insurance and financial offices, artists, boutiques, small antique shops, dance studios, personal trainers, and consultants of various type. Said business shall be of no or low impact to neighbors, and the unit shall be to be required to be occupied by the business owner.

Living space means the total floor areas of rooms used or intended to be used for living, sleeping, cooking or eating, excluding bathrooms, lavettes, laundries, pantries, foyers, communicating corridors, stairways, closets, storage spaces and any area with less than five feet of clear headroom under sloping ceilings, garages, breezeways, courts, porches, basements and cellars.

Lot means the basic unit for determination of lot area, depth, and other dimensional regulations; or a parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or recorded map and which is recognized as a separate legal entity for purposes of title transfer. Substandard lots of record shall be subject to the lot merger provisions of this chapter as defined in sections 19-131 through 19-133.

Lot area means the total area within the boundaries of a lot, excluding any street right-of-way, usually reported in acres or square feet, subject to the usable lot area provisions of this chapter as defined in this section.

Lot building coverage means that portion of the lot that is or may be covered by buildings and accessory buildings. This shall be expressed as a percent and shall express the proportion of the usable lot area that is or may be covered by the total maximum horizontal cross section of any building. For the purposes of this chapter, swimming pools shall not be considered in the measurement of lot building coverage as an accessory use in a residential district.

Lot, corner or corner lot mean lots which abut on and at the intersection of two or more streets and/or road rights-of-way.

Lot depth means the distance measured from the front lot line to the rear lot line; the distance shall be the shortest distance. For lots where the front and rear lot lines are not parallel the lot depth is an average of the depth. Average shall be measured from the midpoint of the front lot line to the midpoint of the rear lot line. Lot depth for corner and through lots shall be as determined under section 19-141.

Lot frontage means that portion of a lot abutting a street. Where all lot frontage is not contiguous, then only the largest single frontage will be considered with regard to minimum frontage requirements; in cases of equivalent noncontiguous frontage, minimum frontage will be determined by the zoning officer.

Lot line means a line of record, bounding a lot which divides one lot from another lot or from a public or private street or any other public or private space and shall include:

- (1) *Lot line, front or front lot line* mean the lot line separating a lot from a street right-of-way. Corner and through lots are subject to the provisions of section 19-141.
- (2) *Lot line, rear or rear lot line* mean the lot line opposite and most distant from the front lot line, or in the case of triangular or otherwise irregularly shaped lots an assumed line at least ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. Irregularly shaped lots are those which the zoning officer determines do not have a readily apparent rear lot line, which meets the intent of this chapter. In the event that the front property line of an irregularly shaped lot line is a curved line then the rear property line shall be assumed to be a line not less than ten feet long, lying entirely within the lot and parallel to a line tangent to the front lot line at its midpoint. The rear lot line for corner and through lots shall be as determined under section 19-141.
- (3) *Lot line, side or side lot line* mean any lot line other than a front or rear lot line. Side lot lines for corner and through lots shall be as determined under section 19-141.

Lot, through or through lot mean a lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

Lot width means the horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum front setback line. For lots where the front and rear lot lines are not parallel or the front lot line is curved, width shall be measured as the distance between lot lines along a line at right angles to the depth which intersects the depth at the minimum front setback line. Width for corner and through lots shall be as determined under section 19-141.

Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. A major life activity also includes the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Marina means a complex of boating facilities designed as a unit, including such facilities as permanent slips, launching ramps, boat rentals, ships' stores, minor repairs and accommodations for eating and sleeping and excluding major overhaul and repair, winter storage, ~~and~~ boat sales **and yacht clubs**.

Massage therapist means a person engaged in the practice of massage who has completed a program in or is certified by a school or institution of learning that is approved by the Commission on Massage Therapy Accreditation (COMTA) or an equivalent academic and training program meeting the requirements of the Rhode Island Department of Health as stated in their rules and regulations for licensing massage therapists as approved by the director, other than a correspondence course which school or institution has for its purpose the teaching of the theory, practice, method, profession, or work of massage, including at least anatomy, physiology, hygiene and professional ethics, pursuant to the statutory provisions. Proof of a current license issued by the department of health shall be posted on the premises in a location visible to customers.

Massage therapy means the practice of massage by a licensed massage therapist using a scientific system of activity to the muscular structure of the human body by means of stroking, kneading, tapping and vibrating with the hands or vibrators for the purpose of improving muscle tone and circulation.

Massage therapy establishment means an establishment approved and otherwise regulated by the licensing agency, which is the State of Rhode Island Department of Health, operating in conformance with all pertinent rules and regulations of the State of Rhode Island and all city ordinances and license requirements. Proof of a current license issued by the department of health shall be posted on the premises in a location visible to customers.

~~*Mere inconvenience* means as defined in section 19-45.~~

Mixed use means a mixture of land uses within a single development, building, or tract.

Modification means permission granted and administered by the zoning enforcement officer of the city or town, and pursuant to the provisions of this chapter to grant a dimensional variance other than lot area requirements from the zoning ordinance to a limited degree as determined by the zoning ordinance of the city or town, but not to exceed twenty-five percent (25%) of each of the applicable dimensional requirements.

Motel means a building intended and designed for transient or overnight occupancy, divided into separate units within the same building and with or without public dining room facilities.

Multifamily dwelling means a building intended and designed to be occupied by three or more households living independently in separate dwelling units and/or townhouses, row houses, and/or apartments.

Neighborhood center means a development consisting of a building or buildings used for mixed land use, that has a community or civic space that is open to the public, that provides linkages to nearby neighborhoods, civic and/or open space/park properties, while also providing a buffered edge between the center and abutting residentially used or zoned land. A neighborhood center shall provide a location for consumers to arrive and depart by public transit, such as by the provision of a bus shelter. A neighborhood center may only be developed on lots of no less than 50,000 square feet. The inclusion of a feature such as a gazebo, garden, art, etc. to provide consumers with an attractive amenity is encouraged.

Nonconformance means a building, structure, or parcel of land, or use thereof, lawfully existing at the time of the adoption or amendment of this chapter and not in conformity with the provisions of this chapter or amendment thereof. Nonconformance shall be of only two types:

- (1) *Nonconformance by use* means a lawfully established use of land, building or structure which is not a permitted use in that zoning district. A building or structure containing more dwelling units than are permitted by the use regulations of a zoning ordinance shall be nonconforming by use.

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- (2) *Nonconforming by dimension* means a building, structure, or parcel of land not in compliance with the dimensional regulations of this chapter. Dimensional regulations include all regulations of this chapter other than those pertaining to the permitted uses. A building or structure containing more dwelling units than are permitted by the use regulations of this chapter shall be nonconforming by use, a building or structure containing a permitted number of dwelling units by the use regulations of this chapter, but not meeting the lot area per dwelling unit regulations, shall be nonconforming by dimension.

One-family dwelling means a building used exclusively for occupancy by one household.

Open space means lands primarily undeveloped, including public and semi-public open lands and private development of similar low building intensity. The purposes of this land are to provide park, recreational, historic and scenic areas and the conservation of land and other natural resources. The following uses are considered to be in character with the concepts of this definition: Farming; conservation districts; historic areas; hunting preserves; state and local parks; parkways; playfields and playgrounds; reforestation areas and wood lots, reservations; watershed and water supply lands; wildlife refuges and nature centers; day and overnight camps for children; golf and country clubs; institutional uses; seminaries, monasteries and convents; public and private schools; sportsmen's clubs; and a large scale ground-mounted solar photovoltaic facility. **any parcel or area of land or water set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring the open space; provided that the area may be improved with only those buildings, structures, streets, and off-street parking, and other improvements that are designed to be incidental to the natural openness of the land.**

Open storage means the storage outside of a completely enclosed structure, of any commodity, equipment, supplies, material, or substance related to a business or industrial use.

Outdoor retail—accessory means retail activity that takes place in an open lot, tent, trailer, motor vehicle, enclosure or structure that is not permanently affixed to the land.

Overlay district means a district established by this chapter that is superimposed on one or more districts or parts of districts and that imposes specified requirements in addition to, but not less than, those otherwise applicable for the underlying zone.

Owner means the owner of record as recorded in the records of land evidence in the city.

Parcel means a lot or contiguous group of lots in single ownership or under single control, and usually considered a unit for purposes of development. Also referred to as a tract.

Parcel distribution center means a building devoted to the receiving, sorting, overnight storage and delivery of small parcels not exceeding 50 pounds in weight.

Parking area means an automotive parking lot to accommodate the required number of automotive parking spaces required for various uses by this chapter **all that portion of a development that is used by vehicles, the total area used for vehicular access, circulation, parking, loading and unloading.**

Performance standards means a set of criteria or limits relating to elements which a particular use or process either must or may not exceed.

Permitted use means a use by right which is specifically authorized in a particular zoning district.

Permitting authority means the local agency of government, meaning any board, commission or administrative officer specifically empowered by state enabling law and local regulation or ordinance to hear and decide on specific matters pertaining to local land use.

Personal convenience service means any activity such as a barber or beauty shop, clothes cleaning pick up or pressing establishment, dressmaking or tailoring service, self-service laundry or dry cleaning, shoe repair, home appliance repair or any similar activity.

Persons with disabilities or member or members with disabilities means a person or persons having a physical or mental impairment which substantially limits one or more major life activities as defined in G.L. 1956, § 34-37-3. Disability does not include current illegal use of or addiction to a controlled substance.

Phased development means development where construction of public and/or private improvements proceeds by section(s) subsequent to approval of a master plan for the entire site.

Physical constraints to development means characteristics of a site or area, either natural or man-made, which present significant difficulties to construction of the uses permitted on that site, or would require extraordinary construction methods. See also environmental constraints.

Place of public assembly means any type of auditorium, theater, stadium, assembly hall, exhibition or convention hall, publicly supported and maintained sports arena, gymnasium, swimming pool and other similar place of assembly.

Planned development means a land development project as defined in this section and developed according to a plan as a single entity and containing one or more structures and/or uses with appurtenant common areas.

Portable storage container means any self-storage container larger than 350 cubic feet designed for temporary storage of household goods, personal property and other items which is typically rented to owners or occupants of real property for their temporary storage use and which is delivered and/or removed by truck trailer, and which shall be no larger than 20 feet in length, eight feet in width and eight and one-half feet in height.

Preapplication conference means a **an initial** review meeting of a proposed development held between applicant **developers** and reviewing agencies, as permitted by state statutes and as required by this chapter, before the formal submission of an application for a permit or for development approval. **municipal representatives which affords developers the opportunity to present their proposals informally and to receive comments and directions from municipal officials and others**

Premises means a lot or contiguous group of lots or parcel of land, together with all buildings, structures and uses thereon.

Property owners' association means the designated, private, nonprofit corporation of tenants-in-common set up by a developer with local government approval. Its purpose shall be to own, operate, and maintain various common properties that may exist as part of a land development project, or other common property ownership covenants. Title to common property is held by the corporation. Membership runs with the land, which means that a homeowner is automatically a member of the association.

Public improvement means any street or other roadway, sidewalk, pedestrian way, tree, lawn, off-street parking area, drainage feature, or other facility for which the City or other governmental entity either is presently responsible, or will ultimately assume the responsibility for maintenance and operation upon acceptance by the City.

Public utility means a public service corporation, either private or governmental, supplying or transmitting gas, electricity, transportation, water or communications to any or all members of the public and subject to federal, state or city regulations by virtue of its natural or legal monopoly.

Rated nameplate capacity means the maximum rated output of electric power production of the photovoltaic system in direct current (DC).

Rear lot line. See *Lot line rear*.

Religious institution means any church or other place of worship, and any convent, monastery, seminary or similar religious institution.

Reserve parking area for business/technology development means a portion of a business/technology development as defined in this section, and more particularly described in section 19-370, up to a maximum of 15 percent of the total number of off-street parking spaces as required by this chapter, being held in reserve as a landscaped area under a binding covenant running with the land between the city and the property

owner/developer until such time as the zoning officer and/or the property owner, in consultation with the director of planning, deems that construction of the reserve parking spaces is required.

Restaurant means a building or premises where food and beverages are served to persons inside a building, sitting down at tables or a counter with no service window or facilities for service outside the building.

Seat means space for one person to sit on.

Setback line or lines means a line or lines parallel to a lot line at the minimum distance of the required setback for the zoning district in which the lot is located that establishes the area within which the principal structure must be erected or placed.

Short-term rental means the offering of or occupancy or use of, all or portions of a dwelling unit by anyone other than the owner for a fee for a period of fewer than 28 consecutive calendar days.

Side lot line. See *Lot line, side.*

Sign means any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixture or placement of a structure on any land or on any other structure or produced by painting, posting or placing any printed, pictured, figured or colored material on any building, structure or surface; provided however that signs placed or erected by the city or state for municipal or governmental purposes shall not be included in this definition.

Single ownership means an undivided ownership by one person, a corporation or by several persons, whether the tenancy be joint, in common or by entirety.

Site plan means the development plan for one or more lots on which is shown the existing and/or proposed conditions of the lot.

Slope of land means the grade, pitch, rise or incline of the topographic landform or surface of the ground.

Solar energy device means the equipment and requisite hardware that provide and are used for collecting, transferring, converting, storing, or using incident solar energy for water heating, space heating, cooling, generating electricity, and off-loading said electricity to the grid, or other applications that would otherwise require the use of a conventional source of energy such as petroleum products, natural gas, manufactured gas, or electricity produced for a nonrenewable resource. Such shall include photovoltaic arrays and installations that utilize ground-mounted systems.

Solid waste means garbage, refuse, and other discarded solid materials generated by residential, institutional, commercial, industrial, and agricultural services but does not include hazardous waste as defined in the Hazardous Waste Management Act, chapter 19.1 of title 23 of the General Laws of the State of Rhode Island. For purposes of this chapter, solid waste shall also include asphalt, concrete, Portland cement, and waste and scrap tires.

Solid waste management facility means any plant, structure, equipment, and/or real or personal property operated for the receipt, storage, treatment, utilization, processing, or disposal of solid waste.

Special use means a regulated use which is permitted pursuant to a special use permit issued by the zoning board of review pursuant to state statutes, and which was formerly referred to as a special exception.

Sportsmen's club means a club whose primary purposes are conservation, hunting or fishing, and may include an indoor and/or outdoor gun range.

Stacking lane means an area of stacking spaces and driving lane provided for vehicles waiting for drive-through service, that is physically separated from other traffic and pedestrian circulation on the site.

Storm water detention means a provision for storage of storm water runoff and the controlled release of such runoff during and after a flood or storm.

Storm water retention means a provision for storage of stormwater runoff.

Story means that portion of a building between the upper surface of any floor and the upper surface of any floor next above having more than one-half of its height above the average elevation of the finished lot grade adjoining the building, and any portion of a building used for human occupancy between the topmost floor and the roof. In any building not divided into customary stories, each ten feet of building height shall be counted as one story.

Street means a public way established by or maintained under public authority, a private way open for public uses and a private way plotted or laid out for ultimate public use, whether or not constructed. **a public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles. Streets are further classified by the functions they perform. See Street classification.**

Street, access to means an adequate and permanent way of entering a lot. All lots of record shall have access to a public street for all vehicles normally associated with the uses permitted for that lot.

Street, alley means a public or private thoroughfare primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Street, cul-de-sac means the terminus of a local street that has only one outlet and having an appropriate vehicular turnaround, either temporary or permanent, at the closed end.

Street, limited access highway means a freeway or expressway providing for through traffic. Owners or occupants of abutting property on lands and other persons have no legal right to access, except at such points and in such manner as may be determined by the public authority having jurisdiction over the highway.

Street, private means a thoroughfare established as a separate tract for the benefit of multiple adjacent properties and meeting specific City improvement standards. This definition shall not apply to driveways.

Street, public means all public property reserved or dedicated for street traffic under these regulations.

Street, right-of-way means the entire area to be dedicated for street use, including the pavement or travel surface, and the areas on both sides of the pavement or travel surface that may be reserved for installation of sidewalks, utilities, drainage improvements or other purposes.

Street, stub means a portion of a street reserved to provide access to future development, which may provide for utility connections.

Street classification means a method of roadway organization which identifies a street hierarchy according to function within a road system, that is, types of vehicles served and anticipated volumes, for the purposes of promoting safety, efficient land use and the design character of neighborhoods and districts. The major classifications are as follows:

- (1) Arterial. A major street that serves as an avenue for the circulation of traffic into, out of, or around the municipality and carries high volume of traffic.**
- (2) Collector. A street whose principal function is to carry traffic between local streets and arterial streets, but that may also provide direct access to abutting properties.**
- (3) Local. Street whose primary function is to provide access to abutting properties, including minor and marginal access streets.**

Structure means a combination of materials to form a construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water. For the purpose of this chapter, such objects as bulkheads, stairs, fences, flagpoles, retaining walls, fireplaces or similar objects shall not be considered to be structures.

Subdivision means the division of a lot, tract or parcel of land into two or more lots, tracts, or parcels or any adjustment to existing lot lines shall be considered a subdivision. The approval of a subdivision is administered in accordance with the City of East Providence Land Development and Subdivision.

Substandard lot of record means any lot lawfully existing at the time of adoption or amendment of this chapter and not in conformance with the dimensional and/or area provisions of this chapter.

Temporary use permit means a temporary use permit that confers a temporary privilege to operate beyond the defined permissible uses in any zoning district.

Three-family dwelling means a building intended and designed to be occupied by three households living independently in separate dwelling units.

Tourist home or lodginghouse means a building occupied by a resident family thereon with not less than three but not more than seven guest rooms where lodging with or without meals is provided for compensation.

Trailer, house trailer or mobile home mean a vehicle or similar portable structure without motive power to be drawn by a motor vehicle, used for living or sleeping purposes and provided with any or all of the following mechanical systems and equipment: Plumbing; heating; electrical; cooking; and refrigeration.

Trailer court, trailer park or mobile home court or park mean a parcel of land which has been planned for the placement of two or more trailers.

Trailer lot means a designated site within a trailer court for the exclusive use of the occupants of a single trailer.

Transit shelter means an independent structure, having a roof supported by columns, resting on a foundation and designed for the shelter of public transportation patrons.

Two-family dwelling means a building used exclusively for occupancy by two households living independently of each other.

Unified development review means the process by which multiple applications are reviewed and decided upon concurrently in accordance with G.L. 45-23-50.1 and 45-24-46.4 and relevant sections of these regulations and the east providence land development and subdivision regulations.

Usable lot area means, for the purpose of calculating the lot building coverage on a lot pursuant to section 19-145 and for the purpose of determining multifamily area requirements pursuant to sections 19-217 and 19-218, the calculation of the usable lot area for a single-family residential lot shall include the entire lot without exclusions, and for all other uses, shall exclude the following:

- (1) Lands under water measured by city datum.
- (2) Wetlands, not including setbacks, as defined by G.L. 1956, §§ 2-1-14 and 2-1-20 and G.L. 1956, § 46-23-6(B)(3)(c).
- (3) All streets or rights-of-way public or private, which serve or are intended to serve more than one principal building or use. Public access areas, exclusive of those located in wetlands, which shall be conveyed by easement to the city, state or other governmental entity solely or scenic or waterfront access may be included in lot area calculations.
- (4) Lands possessing physical constraints such as, but not limited to, areas with slopes in excess of 20 percent, ledge outcrops, cemeteries, etc., which, by their nature or severity, would preclude conventional development.
- (5) With the exception of lands located within a portion overlay district, lands located within special flood hazard areas, as defined by the Federal Emergency Management Agency's flood insurance rate map and flood boundary and flood way map, as may be amended.

Use means the purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.

Variance means permission to depart from the literal requirements of this chapter. An authorization for the construction or maintenance of a building, structure, or for the establishment or maintenance of a use of land, which is prohibited by this chapter. There shall be only two categories of variance, a use variance or a dimensional

variance. The fact that a use may be more profitable, or that a structure may be more valuable, after the relief is granted shall not be grounds for relief.

- (1) *Use variance* means permission to depart from the use requirements of this chapter where the applicant for the requested variance has shown by evidence upon the record that the subject land or structure cannot yield any beneficial use if it is to conform to the provisions of this chapter.
- (2) *Dimensional variance* means permission to depart from the dimensional requirements of this chapter ~~where the applicant for the requested relief has shown by evidence upon the record that there is no other reasonable alternative way to enjoy a legally permitted beneficial use of the subject property unless granted the requested relief from the dimensional regulations.~~ **under the applicable standards set forth in G.L. § 45-24-41.**

Waters means the same as defined in G.L. 1956, § 46-12-1 et seq., including any subsequent amendments officially adopted.

Wetland, coastal or coastal wetland means as defined in G.L. 1956, § 2-1-14 et seq., including any subsequent amendments officially adopted.

Wetland, freshwater or freshwater wetland means as defined in G.L. 1956, § 2-1-20 et seq., including any subsequent amendments officially adopted.

Yacht club means a building and lot used as the meeting place for an association of persons united by a common interest in boating and shall include provisions for the land and water storage of marine crafts.

Yard means an open space on the same lot with a principal building or structure located between the lot lines and the minimum setback lines which is unobstructed by buildings or structures from the ground to the sky, except as otherwise provided in this chapter.

Yard, front or front yard mean a required yard extending along the entire lot street frontage.

Yard, rear or rear yard mean a required yard extending along the entire rear lot line or lines.

Yard, side or side yard mean a required yard extended along the side lot line between the required front yard and the required rear yard.

Zoning means the reservation of certain specified areas within a community or city for building and structures, or use of land, for certain purposes with other limitations as height, lot coverage, and other stipulated requirements.

Zoning certificate means a document signed by the zoning enforcement officer, as required by this chapter, which acknowledges that a use, structure, building or lot either complies with or is legally nonconforming to the provisions of this chapter or is an authorized variance or modification therefrom.

Zoning map means the map or maps which are a part of this chapter and which delineate the boundaries of all mapped zoning districts within the physical boundary of the city.

Zoning ordinance means an ordinance enacted by the legislative body of the city pursuant to state statutes and in the manner providing for the adoption of ordinances in the city's Charter, which sets forth regulations and standards relating to the nature and extent of uses of land and structures, which is consistent with the comprehensive plan of the city as defined in G.L. 1956, § 45-22.2-1 et seq., which includes a zoning map, and which complies with the provisions of state statutes.

Zoning use district means the basic unit in zoning, either mapped or unmapped, to which a uniform set of regulations applies, or a uniform set of regulations for a specified use. The districts include, but are not limited to: Agricultural, commercial, industrial, open space and residential. Each district may include subdistricts. Districts may be combined.

(Rev. Ords. 1987, § 19-1; Ch. 457, § I, 10-7-97; Ch. 53, §§ I, II, 2-3-99; Ch. 146, §§ I—III, 10-23-00; Ch. 154, § I, 1-16-01; Ch. 453, § I, 7-15-08; Ch. 470A, § I, 10-7-08; Ch. 489A, § I, 10-6-09; Ch. 506, §§ I, II, 7-20-10; Ch. 533, § II, 9-6-11; Ch. 642, § I, 3-15-16; Ch. 721, § I, 8-21-18; Ch. 765, § I, 5-5-20; Ch. 823, § I, 11-16-21)

Cross reference(s)—Definitions generally, § 1-2.

State law reference(s)—Similar definitions, G.L. 1956, [§45-22.4-4, 45-23-32, and](#) 45-24-31.

Sec. 19-2. Purpose.

In accordance with state statutes, the following purposes have guided the adoption of this chapter. These purposes are recognized to have equal priority and are numbered for reference only:

- (1) Promote the public health, safety, and general welfare.
 - (2) Provide for a range of uses and intensities of use appropriate to the character of the city and reflecting current and expected future needs.
 - (3) Provide for orderly growth and development which recognizes:
 - a. The goals and patterns of land use contained in the comprehensive plan of the city adopted and amended thereafter pursuant to G.L. 1956, § 45-22.1-1 et seq.;
 - b. The natural characteristics of the land including its suitability for use based on soils characteristics, topography, and susceptibility to surface water or groundwater pollution;
 - c. The values and dynamic nature of coastal and freshwater ponds, the shoreline, and freshwater and coastal wetlands;
 - d. The values of unique or valuable natural resources and features;
 - e. The availability and capacity of existing and planned public and/or private services and facilities;
 - f. The need to shape and balance urban and rural development; and
 - g. The use of innovative development regulations and techniques.
 - (4) Provide for the control, protection, and/or abatement of air, water, groundwater, and noise pollution, and soil erosion and sedimentation.
 - (5) Provide for the protection of the natural, historic, cultural, and scenic character of the city or town or areas therein.
 - (6) Provide for the preservation and promotion of agricultural production, forest, silviculture, aquaculture, timber resources and open space.
 - (7) Provide for the protection of public investment in transportation, water, stormwater management systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space, and other public requirements.
 - (8) Promote a balance of housing choices, for all income levels and groups, to assure the health, safety and welfare of all citizens and their rights to affordable, accessible, safe and sanitary housing. Provide opportunities for the establishment of low and moderate income housing.
 - (9) **Provide opportunities for the establishment of low and moderate income housing.**
 - ~~(9~~ **10**) Promote safety from fire, flood, and other natural or manmade disasters.
 - ~~(10~~ **11**) Promote a high level of quality in design in the development of private and public facilities.
 - ~~(11~~ **12**) Promote implementation of the city comprehensive plan adopted pursuant to G.L. 1956, § 45-22.2-1 et seq.
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- (~~12~~-13) Provide for coordination of land uses with contiguous municipalities, other municipalities, the state and other agencies, as appropriate, especially with regard to resources and facilities that extend beyond municipal boundaries or have a direct impact on that municipality.
 - (~~13~~-14) Provide for efficient review of development proposals, to clarify and expedite the zoning approval process.
 - (~~14~~-15) Provide for procedures for the administration of the zoning ordinance, including, but not limited to, variances, special use permits and development plan review.
 - (~~15~~-16) Provide for the creation of land development projects with a review procedure outlined in the land development and subdivision review regulations.
 - (~~16~~-17) Providing opportunities for reasonable accommodations in order to comply with the state Fair Housing Practices Act (chapter 37 of title 34), the US Fair Housing Amendments of 1988 (FHAA), the state Civil Rights of Individuals with Handicaps Act (chapter 87 of title 42), and the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. section 12101 et seq.).

(Rev. Ords. 1987, § 19-2; Ch. 198, § I, 2-19-02)

Sec. 19-3. Consistency with the comprehensive plan.

The city council shall have the power to adopt, amend or repeal and to provide for the administration, interpretation and enforcement of this zoning ordinance. The districts and regulations contained in this chapter are made in accordance with the city comprehensive plan as adopted and amended, in accordance with the state statutes. These regulations are adopted in order to implement the goals of the city comprehensive plan with regard to general land use throughout the city and suitable development. In instances of uncertainty in the construction or application of any section of this chapter, the ordinance shall be construed in a manner that will further the implementation of and not be contrary to, the goals and policies and applicable elements of such comprehensive plan.

(Rev. Ords. 1987, § 19-3)

Sec. 19-4. Compliance with this chapter.

All buildings or structures hereafter erected, reconstructed, altered, enlarged or moved and all uses of premises or land in the city shall be in conformity with the provisions of this chapter, and no building, structure, premises or land shall be used for any purpose or in any manner other than what is permitted in the district in which such building, structure, premises, use or land is located except as hereinafter provided. Any use not specifically listed or otherwise permitted in a district hereinafter established by this chapter shall be deemed prohibited.

(Rev. Ords. 1987, § 19-4)

ARTICLE II. ADMINISTRATION²

DIVISION 1. GENERALLY

Sec. 19-5. Zoning officer responsibilities.

- (a) The provisions of this chapter shall be enforced by the zoning officer, unless otherwise specified, who shall be appointed by the city manager. No application, building or zoning permit, plan, specification or intended use which is not in accordance with the provisions of this chapter shall be approved by the zoning officer.
- (b) The zoning officer shall:
- (1) Issue zoning certificates and zoning permits;
 - (2) Review and approve for zoning compliance, building permits and certificates of occupancy;
 - (3) Collect required fees for variances, modifications (which shall be the same filing fee as variance petitions), special use permits, and appeal applications;
 - (4) Receive and review for proper form, all applications for variances, special use permits, and appeals, and, **as per section 19-45(c)**, shall have authority to administratively approve modifications from the dimensional standards of section 19-145 for structures, except for ~~maximum height of building (story and feet)~~, **the moving of lot lines**, provided the deviation is not more ~~ten~~ **twenty-five** percent, and further provided that the zoning officer receives no written objections to the requested variance within 30 calendar days from the date of notification. Should written objection be received by the zoning officer or if the zoning officer cannot make the required determinations of section 19-45(c), the application shall be considered a variance request, which may only be granted by the zoning board of review **or planning board under unified development review** through the standard procedures for variances in Chapter 19, Zoning;
 - (5) Transmit all applications to the zoning board of review, department of planning and urban development, and planning board as specified in this chapter;
 - (6) Prepare the calendar of the zoning board of review in compliance with the board's adopted rules of procedure, and include notice of any modifications granted on the agendas of the zoning board of review;
 - (7) Keep records on compliance of uses of land;
 - (8) Inspect suspected violations and issue violation notices in cooperation with the law department.
 - (9) ~~The zoning officer shall~~ Require that declarations and restrictions of approved accessory family dwelling units for a family member or members of an owner-occupied one-family dwelling shall be:
 - a. Recorded in the land evidence records at the cost of the applicant; and
 - b. Be filed with the zoning enforcement officer and the building official.

²Cross reference(s)—Administration, ch. 2.

State law reference(s)—Administration and enforcement of zoning ordinances, G.L. 1956, § 45-24-54 et seq.

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- (c) Upon written request the zoning officer shall, in order to provide guidance or clarification, issue a zoning certificate or provide information to a requesting party as to the determination by the zoning officer on issues of compliance, applicability and interpretation of this chapter. This response must be issued within 15 days of receipt of the written request. In the event that no written response is provided within such time, the requesting party shall have the right to appeal to the zoning board of review for such determination.
 - (d) When in the opinion of the zoning officer it is necessary or when required by this chapter, the zoning officer shall seek technical assistance or approval from other city officials in the administration of this chapter. Such technical assistance or approval, unless otherwise specified, may serve in whole or in part as the basis for the approval or disapproval of a zoning permit. Any permit or license issued in conflict with the provisions of this chapter shall be deemed null and void.
 - (e) Actions and decisions of the zoning officer may be appealed to the zoning board of review in accordance with section 19-51.
 - (f) Minimum qualifications for the zoning officer shall include: Graduation from a recognized college or university with a bachelor's degree in planning or closely related field and three years of experience in a position requiring office administration, review of site plans, and interpretation of zoning regulations; or a masters degree in city or regional planning or a closely related field, and one year of the specified experience; or eight years of a combination of planning experience and training which provides the abilities, knowledge and skills specified.

(Rev. Ords. 1987, § 19-5; Ch. 470A, § II, 10-7-08; Ch. 506, § III, 7-20-10)

Sec. 19-6. Publication and availability of the zoning ordinance and zoning map.

- (a) Printed copies of this chapter and zoning map of the city shall be available to the general public and shall be revised to include all amendments as set out in sections 19-71 through 19-77. A reasonable charge shall be made for copies to reflect printing and distribution costs. The city clerk shall be responsible for providing these copies and collecting fees.
- (b) Upon publication of a zoning ordinance and zoning map and any amendments thereto, the city clerk shall send a copy, without charge, to the associate director of the division of planning of the department of administration of the state, and the state law library.

(Rev. Ords. 1987, § 19-6)

Sec. 19-7. Maintenance of the zoning ordinance and zoning map.

- (a) The city clerk shall be the custodian of the zoning ordinance and zoning map created thereunder. In addition the city clerk shall be responsible for maintaining and updating the text and zoning map comprising the zoning ordinance. Changes which impact the zoning map shall be depicted on the map within 90 days of such authorized changes and changes to the text shall be included in the zoning ordinance within 30 days of such authorized changes.
- (b) In the case of a conditional zone change, the limitations, restrictions and conditions shall not be included on the zoning map until the zone change has become effective.
- (c) It shall be the responsibility of the city clerk to receive, in proper form, petitions for amendments or repeals to the zoning ordinance and/or amendments to the zoning map as outlined in section 19-72. The city clerk shall collect the required fees for such petitions as set by the city council.
- (d) Minimum qualifications of the city clerk shall be as set out in section 2-16 of the Charter.

(Rev. Ords. 1987, § 19-7)

Sec. 19-8. Conflict.

- (a) This chapter shall not repeal, annul or impair any existing provisions of law, this chapter, other ordinances or any rules or regulations previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings or premises. However, wherever the terms of this chapter require a greater width or size of yards or other open spaces, a lower height of building or less number of stories or a greater percentage of lots to be left unoccupied or impose other greater standards than are required in any other statute, ordinance or regulation, the provisions of this chapter shall govern. Wherever the provisions of any other statute, ordinance or regulation require a greater width or size of yards, courts or other open spaces, a lower height of building or less number of stories or a greater percentage of lots to be left unoccupied or impose other higher standards than are required in this chapter, the provisions of such statute, ordinance or regulation shall govern.
- (b) All variances and exceptions heretofore granted by the zoning board of review, and approvals by other zoning enforcement bodies, shall remain in full force and effect, and all terms, conditions and obligations imposed by the board or other zoning enforcement agency shall remain in effect and be binding to the same extent as if this chapter had not been enacted. All violations of previous provisions shall be punishable as if they had not been repealed and shall remain in effect insofar as required for the initiation of any proceedings against such violations and for the prosecution of any violations heretofore commenced.

(Rev. Ords. 1987, § 19-8(a), (b))

Sec. 19-9. Annual review.

The provisions of this chapter shall be reviewed annually after public notice by the planning board for the purpose of considering proposed amendments deemed appropriate in the light of changing conditions or policies. After such annual review the planning board shall make a written report to the city council advising the council of its review and transmitting recommendations the planning board may have, if any, regarding the provisions of this chapter. In addition whenever the city comprehensive plan is amended, the planning board shall identify any changes necessary to the zoning ordinance, to ensure consistency and forward these changes to the city council.

(Rev. Ords. 1987, § 19-9)

Sec. 19-10. Penalty for violations.

- (a) Any person, whether as principal, agent, employee or otherwise, who violates any of the provisions of this chapter, any of the conditions under which a permit is issued or any decision rendered by the zoning board of review, city council, zoning officer, or technical review committee shall be fined not exceeding \$500.00 for each offense, such fine to inure to the city, and each day that such violation shall continue shall be deemed to constitute a separate offense. The penalty shall be reasonably related to the seriousness of the offense.
- (b) The erection, construction, reconstruction, alteration, enlargement or moving of any building or structure and the use of any land, premises, building or structure which is continued, operated or maintained contrary to the provisions of this chapter is hereby declared to be a violation of this chapter and unlawful. The city solicitor shall institute appropriate legal action to redress such violations.
- (c) The city may also cause suit to be brought in the supreme court or superior court, or any municipal court including a municipal housing court having jurisdiction in the name of the city, to restrain the violation of, or to compel compliance with, the provisions of this chapter. The city may consolidate an action for injunctive relief and/or fines under this chapter in the superior court of the county.

(Rev. Ords. 1987, § 19-10)

Sec. 19-11. Participation in a zoning hearing.

Participation in a zoning hearing or other proceeding by a party shall not be a cause for civil action or liability except for acts not in good faith, intentional misconduct, knowing violation of law, transactions where there is an improper personal benefit, or malicious, wanton, or willful misconduct.

(Rev. Ords. 1987, § 19-11)

Sec. 19-12. Extension of deadlines by consent.

The provisions of this chapter pertaining to decision deadlines, shall not be construed to apply to any extension for good cause, consented to by an applicant.

(Rev. Ords. 1987, § 19-12)

Sec. 19-13. Special conditions.

In making any determination upon which it is required to pass after public hearing under this chapter, the zoning board of review or other zoning enforcement agency may apply such special conditions that may in the opinion of the board or agency, be required to promote the intent and purposes of the city comprehensive plan and this chapter. Failure to abide by any special conditions attached to a grant shall constitute a zoning violation. Such special conditions shall be based on competent credible evidence on the record, be incorporated into the decision, and may include but are not limited to provisions for:

- (1) Minimizing adverse impact of the development upon other land, including the type, intensity, design, and performance of activities;
- (2) Controlling the sequence of development, including when it must be commenced and completed;
- (3) Controlling the duration of use or development and the time within which any temporary structure must be removed;
- (4) Assuring satisfactory installation and maintenance of required public improvements;
- (5) Designating the exact location and nature of development; and
- (6) Establishing detailed records by submission of drawings, maps, plats, or specifications.

(Rev. Ords. 1987, § 19-13)

Sec. 19-14. Setting fees.

The city council shall set a fee schedule for the applications contained within this chapter to cover the costs associated with the review, hearing, notice and recording fees. These fees shall be reviewed at a minimum on an annual basis and not more than a quarterly basis. It shall be the responsibility of the city clerk to ensure fees are reviewed in accordance with this schedule.

Fees as set by the city council are contained in appendix A, land use and development fees, on file in the office of the city clerk.

(Rev. Ords. 1987, § 19-14; Ch. 198, § II, 2-19-02)

Sec. 19-15. Coordination with contiguous communities.

It is the intention of this chapter to facilitate coordination with contiguous municipalities and state agencies with regard to land use decisions which may affect shared resources and facilities, abutting property, and the greater public good. This coordination shall be carried out by assuring this chapter is consistent with the city comprehensive plan and any amendments thereto, which is reviewed by other municipalities and state agencies, and notifying, in accordance with state statutes, property owners, water resource boards, and/or city or town governing bodies of pending variance and special use applications or zoning map amendment petitions, and associated public hearings. Notices of proposals in neighboring communities or by state agencies, shall be forwarded to the department of planning and urban development for their review and when concerns exist with regard to consistency with the objectives of the city comprehensive plan, comments shall be prepared and forwarded to the agency submitting notice.

(Rev. Ords. 1987, § 19-15)

Sec. 19-16. Vested rights.

- (a) Any application for development under this chapter, including an application for a special use permit, variance, or development plan review, shall be considered vested when the submitted application is deemed to be substantially complete by the proper administration and/or official designated to receive such applications. An application shall include all required forms, plans, supporting documentation, and required fees. Any application considered by the city under the provisions of this section shall be reviewed according to the regulations applicable in the zoning ordinance in force at the time the application was deemed substantially complete.
- (b) If an application for development under the provisions of this section is approved, the applicant shall initiate and substantially complete development of the property within the time limit established for each of these actions in the appropriate section of the zoning ordinance.
- (c) Failure to initiate development of the property prior to the time limit established at approval, shall render the approval null and void. Any development of the property proposed after the lapse of the time limit established at approval, shall require a resubmission of development plans by the applicant subject to the regulations in the appropriate sections of the zoning ordinance.

(Rev. Ords. 1987, § 19-16)

Secs. 19-17—19-35. Reserved.

DIVISION 2. ZONING BOARD OF REVIEW AND UNIFIED DEVELOPMENT REVIEW³

Sec. 19-36. Zoning Board of Review Membership.

- (a) There shall be a zoning board of review which shall consist of five members, **who shall be qualified electors of the City**, each to hold office for a term of five years. ~~The four members of the city council who are elected by ward shall each appoint one qualified elector of the city from their ward to the zoning board of review subject to approval by a majority of the council; the remaining at large member of the council shall appoint one qualified elector from the city to the zoning board of review subject to approval by a majority of the council. Immediately after any selection of a member of the board, the city council shall designate a member of the board to be chair.~~ **Members shall be appointed by the Mayor, subject to City Council approval, with at least one standing member to be a resident of each ward in the City.**

~~The initial appointments for the members of the zoning board of review shall be made in the following order on the following dates: Ward 2—June 1, 1993; Ward 3—June 1, 1994; Ward 1—June 1, 1995; Ward 4—June 1, 1996; at large member—June 1, 1997. Each member shall continue in office until his successor has been duly appointed and qualified. In case any vacancy shall occur in the board for any cause, the vacancy shall be filled in the manner provided above, and the appointee shall serve for and during the unexpired term of his predecessor.~~

- (b) Any member of the board may be removed by the city council for due cause including malfeasance, misfeasance, or nonfeasance generally and in particular:
- (1) Failure to maintain reasonable familiarity with state statutes and local ordinances and rules affecting the board;
 - (2) Failure to disclose conflict of interest for purposes of disqualification when a member has personal or monetary interest in the matter involved or will be affected by a decision of the board.
- (c) In addition to the five standing members, the mayor shall appoint two alternates to be designated as the first and second alternate members. Alternates shall not reside in the same ward. The first alternate shall serve for a term of five years and the second alternate for a term of four years. These alternate members shall sit and may actively participate in hearings. The first alternate shall vote if a member of the board is unable to serve at a hearing and the second shall vote if two members of the board are unable to serve at a hearing. In the absence of the first alternate member, the second alternate member shall serve in the position of the first alternate. ~~The initial appointment of the first and second alternate members to the zoning board of review by the mayor shall be made on June 1, 1994.~~ The alternate members shall exercise the same duties and functions of a regular member when serving on the board and may be removed from office by the city council in the same manner as a regular member.

(Rev. Ords. 1987, § 19-36)

³Cross reference(s)—Boards, committees and commissions, § 2-36 et seq.

State law reference(s)—Zoning board of review, G.L. 1956, § 45-24-56 et seq.

Sec. 19-37. Organization.

- (a) Once each year the zoning board of review shall organize by electing from its membership a vice-chair, and secretary. The zoning officer may serve as clerk of the board and shall perform such duties as are provided by this chapter. Meetings of the board shall be held at the call of the chair or as may be fixed by the board. The chair, or in his absence the vice-chair, may administer oaths and compel the attendance of witnesses by the issuance of subpoena.
- (b) The zoning board of review shall adopt written rules of procedure within six months of the adoption of this chapter.
- (c) All hearings and meetings of the board shall be open to the public. All decisions shall be made and voted upon at a public hearing. ~~A quorum of five active members is required to conduct a hearing. Only five active members shall be entitled to vote on any issue.~~
- (d) No member or alternate may vote on any matter before the board unless they have attended all hearings concerning such matter.
- (e) ~~The concurring vote of three members shall be necessary to reverse any order, requirement, decision or determination of the zoning officer or other enforcement body established in this chapter.~~
Four active members, which may include alternates, are necessary to conduct a hearing. As soon as a conflict occurs for a member, that member shall recuse himself or herself, shall not sit as an active member, and shall take no part in the conduct of the hearing. A maximum of five members, which may include alternates, are entitled to vote on any issue.
- (f) ~~The concurring vote of four members shall be required to decide in favor of an applicant on any matter concerning a special use permit or variance upon which the zoning board of review is required to pass under this chapter.~~
The concurring vote of a majority of members of the zoning board of review sitting at a hearing are necessary to reverse any order, requirement, decision, or determination of any zoning administrative officer from whom an appeal was taken; and the concurring vote of a majority of members of the zoning board of review sitting at a hearing is required to decide in favor of an applicant on any matter within the discretion of the board upon which it is required to pass under the ordinance, including variances and special use permits.
- (g) No member of the board shall pass on any matter in which he has a business, professional or personal interest. As soon as a conflict occurs for a member, that member shall recuse himself and shall not sit as an active member and shall take no part in the conduct of the hearing.
- (h) For any proceeding in which the right of appeal lies to the superior court or supreme court, the zoning board of review shall have the minutes taken either by a competent stenographer or recorded by a sound-recording device.
- (i) The board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the board of review and shall be a public record.
- (j) Any decision by the zoning board of review, including any special conditions attached thereto shall be mailed to the applicant, ~~and to the associate director of the division of planning of the state department of administration.~~ In addition a copy of the decision shall be sent to the office of the zoning officer.
- (k) All decisions of the zoning board of review shall be posted in a location visible to the public in the city hall for a period of 20 days following the recording of the decision.

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- (l) Members of the zoning board of review shall receive remuneration for their service on the board, as established by the city council.

(Rev. Ords. 1987, § 19-37)

Sec. 19-38. Powers.

- (a) The zoning board of review shall have the following powers and duties:

- (1) To hear and decide appeals in a timely fashion where it is alleged there is error in any order, requirement, decision, or determination made by an administrative officer ~~or agency~~ in the enforcement or interpretation of this chapter, or of any ordinance adopted pursuant to this chapter, **as per G.L. 2023 § 45-23-67.**
- (2) To hear and decide appeals from any decision or determination made by ~~the~~ **an** administrative officer ~~or planning board~~ in accordance with ~~G.L. 1956, § 45-23-1 et seq.~~ **G.L. 2023 § 45-23-67.** ~~and the development and subdivision review regulations adopted by the city planning board.~~
- (3) To authorize upon application, in specific cases of hardship, variances in the application of the terms of the zoning ordinance, pursuant to the state statutes and section 19-40, **with the exception of variances issued by the planning board through the unified development review process.**
- (4) To authorize upon application, in specific cases special use permits, pursuant to the general laws of state and section 19-39, **with the exception of special use permits issued by the planning board through the unified development review process.**
- (5) To refer matters to the planning board or to other boards or agencies of the city as the zoning board of review may deem appropriate, for findings and recommendations.
- (6) To provide for issuance of conditional zoning approvals where a proposed application would otherwise be approved except that one or more state or federal agency approvals which are necessary are pending. A conditional zoning approval shall be revoked in the instance where any necessary state or federal agency approvals are not received within a specified time period.
- (7) To hear and decide such other matters, according to the terms of this article or other statutes, and upon which such board may be authorized to pass under this chapter or other statutes.

- (b) Appeals of zoning board of review decisions shall be as follows:

- (1) An aggrieved party may appeal a decision of the zoning board of review to the superior court for the county by filing a complaint setting forth the reasons of appeal within 20 days after such decision has been recorded and posted in the office of the city clerk. The decision shall be posted in a location visible to the public in the city hall for a period of 20 days following the recording of the decision. The zoning board of review shall file the original documents acted upon by it and constituting the record of the case appealed from, or certified copies thereof, together with such other facts as may be pertinent, with the clerk of the court within 30 days after being served with a copy of the complaint. When the complaint is filed by someone other than the original applicant or appellant such original applicant or appellant and the members of the zoning board shall be made parties to such proceedings. The appeal shall not stay proceedings upon the decision appealed from, but the court may, in its discretion, grant a stay on appropriate terms and make such other orders as it deems necessary for an equitable disposition of the appeal.
- (2) When an appeal results in a decision by a court of competent jurisdiction, which overturns a decision of the zoning board of review recorded in the city land evidence records, the city solicitor's office shall record notice of the court's decision in the city land evidence records.

(Rev. Ords. 1987, § 19-38)

State law reference(s)—Powers and duties of zoning board of review, G.L. 1956, § 45-24-57 et seq.

Sec. 19-39. Special use permit—Findings required.

- (a) In granting a special use permit, the zoning board of review, or planning board under the unified development review process, shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings. The special use permit shall conform to the specific criteria established in this ordinance for each type of use category, which criteria shall be in conformance with the purposes and intent of the comprehensive plan and this ordinance.
- (1) ~~Be compatible with neighboring land uses;~~
 - (2) ~~Not create a nuisance in the neighborhood;~~
 - (3) ~~Not hinder the future development of the city;~~
 - (4) ~~Conform to all applicable sections of this chapter; and~~
 - (5) ~~Be in conformance with the purposes and intent of the city comprehensive plan and applicable standards of this chapter.~~
- (b) In granting a special use permit, the zoning board of review, or planning board under the unified development review process, may apply such special conditions as provided for in section 19-13.
- (c) An applicant may apply for, and be issued, a dimensional variance in conjunction with a special-use permit. If the special use could not exist without the dimensional variance the zoning board of review, or planning board under the unified development review process, shall consider the special-use permit and the dimensional variance together to determine if granting the special use is appropriate based on both the special use criteria and the dimensional variance evidentiary standard.

(Rev. Ords. 1987, § 19-39; Ch. 867, § I, 12-20-22)

Sec. 19-40. ~~Same~~ Special use permits—Intent and eligibility.

- (a) Within the city generally and in particular some zoning districts, certain uses are specified in the schedule of use, section 19-98 as allowed by special use permit only. These uses are of a nature requiring review, in accordance with the state statutes, to determine whether they should be permitted in specific locations; if they meet special conditions and safeguards; and what additional conditions may be required if permission is granted.
- (b) To the extent a proposed land use is not specifically listed in Sec. 19-98, the property owner may submit a written request to the zoning officer for an evaluation and determination of whether the proposed use is of a similar type, character, and intensity as a listed use requiring a special use permit. The zoning officer will have 30 days to provide a written evaluation to the property owner. Upon such a positive determination, the proposed use may be considered to be a use requiring a special use permit. The applicant shall include the zoning officer's written determination as part of their special use permit application submission. The zoning board, or planning board, as part of the unified review process, may either concur with zoning officer's determination or state on the record its reasons for disagreement with the zoning officer's determination. Disagreement with the zoning officer's determination shall be grounds for denial of an application.

(Rev. Ords. 1987, § 19-40)

Sec. 19-41. Same Special use permits —Application process.

Applications for special use permits shall be filed with the zoning officer acting in his capacity as clerk for the zoning board of review or in accordance with the land development and subdivision regulations if filing under unified development review. Fifteen complete copies of the application must be submitted. The application shall include:

- (1) A completed special use permit form indicating the special use permit sought, the grounds for the permit, and information on the scale and size of the proposed use as applicable.
- (2) Names and addresses of all owners of property within a 200-foot radius as measured from the perimeter of the subject property, and as shown on the current real estate tax assessment records of the city or town in which the property is located.
- (3) A Class 1 surveyed site plan prepared by a land surveyor registered and licensed to practice in the State of Rhode Island. The site plan shall be drawn at a scale of one inch equals 20 feet (or as appropriate one inch equals 40 feet or one inch equals 80 feet) showing the following for the subject property:
 - a. The shape, dimension and area of the subject property;
 - b. The location size and use of all existing and proposed structures;
 - c. The zoning use district boundaries;
 - d. The street number and assessor's lot numbers;
 - e. Title block in the lower righthand corner showing the names of the property owners; map, block, parcel of the subject property; date of plan; north arrow; and a blank signature space for the chair ~~of the zoning board of review~~; and
 - f. Such other information as may be necessary for the execution and enforcement of this chapter.
- (4) Elevations for all buildings sides and floor plans shall be prepared by those permitted to do so by the Rhode Island General Laws.
- (5) An accurate radius map drawn at a scale of one inch equals 100 feet (or as appropriate one inch equals 50 feet or one inch equals 40 feet) which includes:
 - a. A title block in the lower righthand corner showing the names of the property owners; map, block, parcel of the subject property; date of plan; and north arrow;
 - b. For all property within a 200-foot radius as measured from the perimeter of the subject property:
 1. The shape, dimension and area of property;
 2. The location of all zoning use district boundary lines; and
 3. The street numbers and assessor's lot numbers;
 4. The general location, shape and use of all existing buildings and structures; and
 5. Such other information as may be necessary for the execution and enforcement of this chapter.
- (6) The application fee as set by the city council to cover the costs associated with review, hearing, notice and recording fees.

Applications for special use permits to the planning board through the unified development review process shall follow relevant application requirements of the city's land development and subdivision regulations.

(Rev. Ords. 1987, § 19-41; Ch. 642, § II, 3-15-16)

Sec. 19-42. Same Special use permits —Review process.

- (a) Upon receipt of a special use permit application, in proper form, the zoning officer shall refer a copy to the department of planning and urban development in its capacity as staff to the planning board, for an advisory opinion. This department shall review the application and make a written report on its findings and recommendations as to whether or not the request is consistent with the purposes and intent of the city comprehensive plan and this chapter within 30 days of receipt of the application.
- (b) The zoning officer may refer a copy of the application to any other city departments, such as the public works department or fire department, for findings and recommendations on matters related to public safety, health and welfare.
- (c) The board shall fix a reasonable time not to exceed 30 days for a public hearing on a special use permit application. Notification including the date, time, place, purpose of the hearing, and street address of the subject property shall be:
 - (1) Published at least 14 days prior to the date of such hearing in a newspaper of general local circulation in the city;
 - (2) Sent by first class mail to the applicant;
 - (3) Sent registered or certified mail to all owners of real property whose property is located at or within a 200-foot radius of the perimeter of the subject area, as measured from the corners of the subject area; such notice shall be sent to the last known address of such owners as shown on the current real estate tax assessment records of the city or town in which the property is located;
 - (4) Sent by first class mail to the city or town council of any city or town which is located at or within 200 feet of the boundary of the subject area;
 - (5) Sent first class mail to the city or town council of any city or town where there is a public or quasi-public water source or private water source that is used or is suitable for use as a public water source, at or within 2,000 feet of the subject property, regardless of the municipal boundaries;
 - (6) Sent to the governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water resource and/or surface watershed that is used or is suitable for use as a public water source and that is at or within 2,000 feet of the subject property, provided however, that the governing body of any state or municipal water department or agency, special water district or private water company has filed with the building inspector in the city a map survey which shall be kept as a public record, showing areas of surface water resources and/or watersheds and parcels of land at or within 2,000 feet thereof.

(Rev. Ords. 1987, § 19-42)

Sec. 19-43. Same Special use permits —Determination.

- (a) Any party may appear at the hearing in person, or by agent or by attorney. The hearing held by the zoning board of review or planning board under unified development review is a public meeting and all decisions reached by the board shall be made and voted upon at a public meeting. The board shall hear all evidence on the special use permit request; and consider the written reports of city staff when reaching a decision on the findings required by section 19-39.
- (b) Decisions shall be recorded and filed in the office of the zoning board of review within 30 working days from the date when the decision was rendered, and shall be a public record.

(Rev. Ords. 1987, § 19-43)

Sec. 19-44. Same Special use permits —General conditions.

- (a) The zoning officer, acting in his capacity as clerk for the zoning board of review, shall be responsible for the recording with the city clerk in the land evidence records of the city, decisions on special use permits. The decision shall also be posted in a location visible to the public in the city hall for a period of 20 days following the recording of the decision.
- (b) Any special use permit granted by the zoning board of review or planning board under unified development review shall expire within six months from the date of its issuance, unless the applicant shall within that period exercise the right granted by the decision. The board may upon application within the six-month period and for good cause shown, extend the limitation for one additional six-month period. The application for an extension need not be advertised.
- (c) No application for a special use permit involving the same parcel and same request, which was denied or withdrawn with prejudice, may be resubmitted for a special use permit for a period of 18 months, unless the zoning board of review determines there is a substantial change of circumstances, which justifies a special use permit application.
- (d) If the board allows an amendment to an original application which changes the terms under which the application was advertised or which alters the basic facts upon which the application was presented, the amended application shall be readvertised and referred to the department of planning and urban development.
- (e) Any aggrieved party may appeal decisions of the zoning board of review or planning board under unified development review to the superior court for the county in accordance with subsection 19-38(b).
- (f) All work approved by the issuance of a special use permit shall be carried out only in conformity with the application and any conditions, modifications and restrictions set by the zoning board of review or planning board under unified development review. Minor changes must be approved by the zoning officer in consultation with the building inspector. Changes deemed to be major by the zoning officer or building inspector shall be resubmitted to the zoning board of review in the form of a new application. Any work carried out in violation of this provision shall be ordered halted and fully removed.

(Rev. Ords. 1987, § 19-44)

Sec. 19-45. Variances—Findings required.

- (a) In granting a variance, the zoning board of review, or the planning board under the unified development review process, shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings that:
 - (1) The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in Rhode Island General Laws 45-24-30(16). ~~(personal hardship shall not be considered grounds for a variance, since the variance will continue to affect the character of the neighborhood after title to the property has passed);~~
 - (2) Such hardship is not the result of any prior action of the applicant ~~and does not result primarily from the desire of the applicant to realize greater financial gain;~~ and
 - (3) The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city comprehensive plan upon which this chapter is based; ~~and.~~
 - ~~(4) The relief to be granted is the least relief necessary.~~

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- (b) The zoning board of review, **or the planning board under the unified development review process**, shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:
- (1) In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of this chapter. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance; and
 - (2) In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience, ~~which shall mean that there is no other reasonable alternative to enjoy a legally permitted beneficial use of one's property~~ **meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted**. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief. **The zoning board of review, or the planning board under the unified development review process, has the power to grant dimensional variances where the use is permitted by special use permit.**
- (c) *Modifications permitted by zoning officer.* The zoning officer shall have authority to administratively approve modifications from the literal dimensional requirements of section 19-145 in the instance of the construction, alteration, or structural modification of a structure, except for ~~maximum height of building (story and feet),~~ **the moving of lot lines**, provided the deviation is no more ~~than ten~~ **twenty-five** percent. Within ten days of the receipt of a request for a modification, the zoning officer shall make a decision as to the suitability of the requested modification based on the following determinations:
- (1) The modification requested is reasonably necessary for the full enjoyment of the permitted use;
 - (2) If the modification is granted, neighboring property will neither be substantially injured nor its appropriate use substantially impaired;
 - (3) The modification requested is ~~in harmony with the purposes and intent of the comprehensive plan and zoning ordinance~~ **does not require a variance of a flood hazard requirement, unless the building is built in accordance with applicable regulations;** and
 - (4) The modification does ~~not require a variance of a flood hazard requirement~~ **violate any rules or regulations with respect to freshwater or coastal wetlands.**
- Upon an affirmative determination, **in the case of a modification of 5% or less, the zoning officer shall have the authority to issue a permit approving the modification, without any public notice requirements. In the case of a modification of greater than 5%,** the zoning officer shall notify, by registered or certified **first class** mail, all property owners abutting the property which is the subject of the modification request and shall indicate the street address of the subject property in the notice, and shall publish in a newspaper of general **local** circulation within the city or town that the modification will be granted unless written objection is received within ~~30~~ **14** days of the public notice. If written objection is received within ~~30~~ **14** days, the request for a modification shall be denied and shall be considered a variance request, which may only be granted by the zoning board of review through the standard procedures for variances in Chapter 19, Zoning. **scheduled for the next available hearing before the zoning board of review on application for a dimensional variance, following standard procedures for such variances, including notice requirements provided for under this chapter. If no written objections are received within 14 days, the zoning officer shall grant the modification. The zoning officer may apply any special conditions to the permit as may, in the opinion of the office, be requested to conform to the intent and purposes of the zoning ordinance.** The zoning officer shall keep public records of all requests for modifications, and of findings, determinations, and any objections received. Costs of any notice required under this subsection shall be borne by the applicant requesting the modification.
- (d) In granting a variance the zoning board of review may apply special conditions as provided for in section 19-13.

(Rev. Ords. 1987, § 19-45; Ch. 216, § I, 6-18-02; Ch. 470A, § III, 10-7-08)

Sec. 19-46. Same Variations—Intent and eligibility.

Any person, group, agency or corporation may apply for relief from the literal requirements of this chapter, which is not contrary to the public interest, in instances where owing to special conditions of the parcel, a strict application of this chapter results in unnecessary and undue hardship. Two types of variations are allowed: Dimensional variation and use variation. Both variation applications follow the same procedure, while the standards of findings differ as noted in section 19-45.

(Rev. Ords. 1987, § 19-46)

Sec. 19-47. Same Variations —Application process.

Applications for variations **that are not part of the unified development review process** shall be filed with the zoning officer acting in his capacity as clerk for the zoning board of review. **When a request for a variation is submitted through the unified development review process, as part of a subdivision or land development project application, it shall be submitted to the administrative officer of the planning board.** Fifteen complete copies of the application must be submitted. The application shall include:

- (1) A completed variation form indicating the variation sought and the grounds for the variation;
- (2) Names and addresses of all owners of property within a 200-foot radius as measured from the perimeter of the subject property and as shown on the current real estate tax assessment records of the city or town in which the property is located;
- (3) A Class 1 surveyed site plan prepared by a land surveyor registered and licensed to practice in the State of Rhode Island. The site plan shall be drawn at a scale of one inch equals 20 feet (or as appropriate one inch equals 40 feet or one inch equals 80 feet) showing the following for the subject property:
 - a. The shape, dimension and area of the subject property;
 - b. The location, size and use of all existing and proposed structures;
 - c. The zoning use district boundaries;
 - d. The street number and assessor's lot numbers;
 - e. Title block in the lower righthand corner showing the names of the property owners; map, block, parcel of the subject property; date of plan; north arrow; and a blank signature space for the chair ~~of the zoning board of review~~; and
 - f. Such other information as may be necessary for the execution and enforcement of this chapter.
- (4) Elevations for all buildings sides and floor plans shall be prepared by those permitted to do so by the Rhode Island General Laws.
- (5) An accurate radius map drawn at a scale of one inch equals 100 feet (or as appropriate one inch equals 50 feet or one inch equals 40 feet) which includes:
 - a. A title block in the lower righthand corner showing names of the property owners; map, block, parcel of the subject property; date of plan and north arrow;
 - b. For all property within a 200-foot radius as measured from the perimeter of the subject property:
 1. The shape, dimension and area of the property;
 2. The location of all zoning use district boundary lines; and
 3. The street numbers and assessor's lot numbers.

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- c. In the case of a dimensional variance, the general location, shape and use of all existing buildings and structures within a 100-foot radius of the subject property;
 - d. In the case of a use variance, the general location, shape and use of all existing buildings and structures within a 200-foot radius of the subject property; and
 - e. Such other information as may be necessary for the execution and enforcement of this chapter.
- (6) The application fee as set by the city council, to cover the costs associated with review, hearing, notice and recording fees.

Applications for variances to the planning board through the unified development review process shall follow relevant application requirements of the city's land development and subdivision regulations.

(Rev. Ords. 1987, § 19-47; Ch. 642, § III, 3-15-16)

Sec. 19-48. Same Variances —Review process.

- (a) Upon receipt of a variance application, in proper form, the zoning officer shall refer a copy to the zoning board of review and the department of planning and urban development acting in its capacity as staff to the planning board. This department shall review the application and make a written report on its findings and recommendations as to whether or not the request is consistent with the purposes and intent of the city comprehensive plan and this chapter **within 30 days of receipt of the application.**
- (b) The zoning officer, **or administrative officer for the planning board through the unified development review process,** may refer a copy of the application to any other city departments, such as the public works department or fire department, for findings and recommendations on matters related to public health, safety and welfare.
- (c) The **zoning** board shall fix a reasonable time not to exceed 30 days for a public hearing on a variance application. Notification including the date, time, place, purpose of the hearing, and street address of the subject property shall be:
 - (1) Published at least 14 days prior to the date of such hearing in a newspaper of ~~general~~ **local** circulation in the city;
 - (2) Sent by first class mail to the applicant;
 - (3) Sent ~~registered or certified~~ **first class** mail to all owners of real property whose property is located at or within a 200-foot radius of the perimeter of the subject area, as measured from the corners of the subject area; such notice shall be sent to the last known address of such owners as shown on the current real estate tax assessment records of the city or town in which the property is located;
 - (4) Sent by first class mail to the city or town council of any city or town which is located at or within 200 feet of the perimeter of the subject area;
 - (5) Sent by first class mail to the city or town council of any city or town where there is a public or quasi-public water source or private water source that is used or is suitable for use as a public water source, at or within 2,000 feet of the subject property, regardless of the municipal boundaries;
 - (6) Sent to the governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water resource and/or surface watershed that is used or is suitable for use as a public water source and that is at or within 2,000 feet of the subject property, provided however, that the governing body of any state or municipal water department or agency, special water district or private water company has filed with the building inspector in the city a map survey which shall be kept as a public record, showing areas of surface water resources and/or watersheds and parcels of land at or within 2,000 feet thereof;

(7) Posted in the City Clerk's office and one other City building at least 14 days prior to the hearing;

(8) The City shall make the notice accessible on the home page of the City's website at least 14 days prior to the hearing;

(9) For notices sent by first class mail, the sender of the notice shall submit a notarized affidavit to attest to such mailing.

(d) The cost of newspaper and mailing notification shall be borne by the applicant.

(Rev. Ords. 1987, § 19-48)

Sec. 19-49. Same Variances — Determination.

(a) Any party may appear at the hearing in person, or by agent or by attorney. ~~The~~ **A** hearing held by the zoning board of review or planning board is a public meeting and all decisions reached by the zoning board of review or planning board shall be made and voted upon at a public meeting. The board shall hear all evidence on the variance request, and consider the written reports of city staff when reaching a decision on the findings required by section 19-45.

(b) Decisions shall be recorded and filed in the office of the zoning board of review within 30 working days from the date when the decision was rendered, and shall be a public record.

(Rev. Ords. 1987, § 19-49)

Sec. 19-50. Same Variances — General conditions.

(a) The zoning officer, acting in his capacity as clerk for the zoning board of review, shall be responsible for the recording with the city clerk, in the land evidence records of the city, all decisions on variance applications. The decision shall also be posted in a location visible to the public in the city hall for a period of 20 days following the recording of the decision.

(b) Any variance granted by the zoning board of review or planning board under unified development review shall expire within six months from the date of the issuance, unless the applicant shall within that period exercise the right granted by the decision. The board may upon application within the six-month period and for good cause shown, extend the limitation for one additional six-month period. The application for an extension need not be advertised.

(c) No application for a variance involving the same parcel and same request, which was denied or withdrawn may be resubmitted for a variance for a period of 18 months, unless the zoning board of review determines there is a substantial change of circumstances, which justifies a variance application.

(d) If the board allows an amendment to an original application which changes the terms under which the application was advertised or which alters the basic facts upon which the application was presented, the amended application shall be readvertised and referred to the department of planning and urban development.

(e) Any aggrieved party may appeal decisions of the zoning board of review or planning board under unified development review to the superior court for the county in accordance with subsection 19-38(b).

(f) All work approved by the issuance of a variance shall be carried out only in conformity with the application and any conditions, modifications and restrictions set by the zoning board of review or planning board under unified development review. Minor changes must be approved by the zoning officer in consultation with the building inspector. Changes deemed to be major by the zoning officer or building inspector shall be

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resubmitted to the zoning board of review in the form of a new application. Any work carried out in violation of this provision shall be ordered halted and fully removed.

- (g) Granting of a variance does not eliminate the requirement to obtain a building permit. The applicant is responsible for obtaining a building permit through the Department of Public Works, Building Inspection Division.

(Rev. Ords. 1987, § 19-50; Ch. 53, § III, 2-3-99)

Sec. 19-51. Appeal to zoning board of review—Intent and eligibility.

An appeal to the zoning board of review from a decision of any other zoning enforcement agency or officer, **except a permitting authority, which is appealed in accordance with §19-55**, may be taken by an aggrieved party. Such appeal shall be taken within 30 days of the recording of the decision by the zoning officer or agency.

(Rev. Ords. 1987, § 19-51)

Sec. 19-52. Same—Appeal application process.

- (a) Application for an appeal from a decision of the zoning officer or any other zoning enforcement agency, shall be filed with the zoning officer acting in his capacity as clerk for the zoning board of review. The application shall include:
- (1) A completed appeal form indicating the grounds for the appeal.
 - (2) An accurate radius map drawn at a scale of one inch equals 100 feet (or as appropriate one inch equals 50 feet or one inch equals 40 feet) which includes the map, block, and parcel of all property within a 200-foot radius of the subject property as measured from the perimeter of the subject property;
 - (3) The names and addresses of all owners of property within a 200-foot radius as measured from the perimeter of the subject property and as shown on the current real estate tax assessment records of the city or town in which the property is located; and
 - (4) The fee as set by the city council to cover costs associated with the review, hearing and notice to be paid by the applicant.
- (b) The officer or agency from whom the appeal is taken shall forthwith transmit to the zoning board of review all the papers constituting the record upon which the action appealed from was taken. Notice of the appeal shall also be transmitted to the planning board.

(Rev. Ords. 1987, § 19-52)

Sec. 19-53. Same **Appeals—Stay of proceedings.**

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning officer or agency from whom the appeal is taken certifies to the zoning board of review, after an appeal shall have been duly filed, that by reason of facts stated in the certificate a stay would in the officer's or agency's opinion cause imminent peril to life or property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by a court of competent jurisdiction on application thereof and upon notice to the officer or agency from whom the appeal is taken on due cause shown.

(Rev. Ords. 1987, § 19-53)

Sec. 19-54. Same Appeals —Review and determination.

- (a) The zoning board of review shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties of interest. Notification including the date, time, place, purpose of the hearing, and street address of the subject property shall be sent by registered or certified mail to all owners of real property whose property is located at or within a 200-foot radius of the perimeter of the subject area, as measured from the corners of the subject area. Such notice shall be sent to the last known address of such owners as shown on the current real estate tax assessment records of the city or town in which the property is located.
- (b) The zoning board of review shall make a decision within ~~a reasonable time~~ **sixty-five (65) days of the date the appeal was filed**. Upon the hearing, any party may appear in person or by agent or by attorney.
- (c) In exercising its powers, the zoning board of review may, in conformity with the provisions of this chapter, reverse or affirm wholly or partly and may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the officer or agency from whom the appeal was taken; and may apply special conditions as provided for in section 19-13 of this chapter.
- (d) The zoning board of review shall include in its decision all findings of fact and conditions showing the vote of each member participating thereon, and the absence of a member or his failure to vote. Decisions shall be recorded and filed in the office of the zoning board of review within 30 days from the date the decision was rendered, and shall be a public record. The decision shall also be posted in a location visible to the public in the city hall for a period of 20 days following the recording of the decision.
- (e) When an appeal results in a decision by the zoning board of review which overturns a decision of another zoning enforcement agency or the zoning officer, recorded in the city land evidence records, the zoning officer as clerk for the board shall record notice of the board's decision in the city land evidence records.

(Rev. Ords. 1987, § 19-54)

Sec. 19-55. Same Appeals —General conditions.

- (a) An appeal from a decision of the ~~zoning board of review~~ **permitting authority** may be taken by an aggrieved party to the superior court for the county, in accordance with subsection 19-38(b).
- (b) Participation in a zoning hearing or other proceeding by a party shall not be a cause for civil action or liability except for acts not in good faith, intentional misconduct, knowing violation of law, transactions where there is an improper personal benefit, or malicious, wanton, or willful misconduct.

(Rev. Ords. 1987, § 19-55)

Sec. 19-55.1. Unified Development Review.

- a. **Unified development review established. There shall be unified development review for the issuance of variances and special use permits for properties undergoing review by land development project and/or subdivision review.**
- b. **Public hearing. All land development project and/or subdivision applications, that include requests for variances and/or special-use permits submitted pursuant to this section, shall require a public hearing that meets the requirements of Sec. 19-48.**

PART II - REVISED ORDINANCES
Chapter 19 - ZONING
ARTICLE II. - ADMINISTRATION
DIVISION 3. PERMITS

- c. In granting requests for dimensional and use variances, the planning board shall be bound to the requirements of Sec. 19-45 relative to entering evidence into the record in satisfaction of the applicable standards.
- d. In reviewing requests for special use permits, the planning board shall be bound to the conditions and procedures under which a special use permit may be issued, the criteria for the issuance of such permits, and shall be required to provide for the recording of findings of fact and written decisions pursuant to this division of the zoning ordinance.
- e. Appeals. An appeal from any decision made pursuant to this section may be take pursuant to § 19-55 of this division.

DIVISION 3. PERMITS

Sec. 19-56. Zoning permit.

- (a) No building or structure shall be erected, extended, altered, enlarged or moved, and no use of any land or premises shall be begun or changed without a zoning permit having been issued by the zoning officer. Whenever a permit or license is issued by any other department of the city, such permit or license shall be in conformity with the provisions of this chapter. Any application for such a permit shall be accompanied by a site plan, accurately drawn, showing the actual shape and dimensions of the lot or premises to be built upon; the exact location and size of all buildings or structures to be erected, constructed, reconstructed, altered or enlarged together with the lines within which all buildings or structures are to be erected, constructed, reconstructed, altered or enlarged; the existing or intended use of such building or structure; the location of all zoning district boundary lines as they may affect the lot or premises; the location and size of off-street parking and loading facilities where required, the location and design of trash storage areas and enclosures, including dumpsters, in conformance with the provisions of section 19-261; and such other information as may be necessary to provide the execution and enforcement of this chapter. The zoning permit shall be issued on the basis of the application and accompanying plans, where required, and shall authorize only the use, arrangement and construction set forth in approved plans and applications. Any use, arrangement or construction at variance with that authorized under this chapter shall be deemed in violation of this chapter.
- (b) No site plan shall be required with an application for such a permit involving only alterations of an existing building where the use and exterior surfaces of such buildings are not changed or enlarged in any manner and the use is not affected by any other section of this chapter.
- (c) A record of all applications, plans and permits shall be kept on file in the office of the zoning officer and shall be available for public inspection during regular office hours.
- (d) In addition, the zoning officer may require the submission of plans of any proposed machinery, operations and products and specifications for the mechanisms and techniques to be used for the purpose of restricting the emission of dangerous and objectionable elements referred to in section 19-336. An affidavit may be required from the applicant acknowledging his understanding of the applicable performance standards in section 19-336 and his agreement to conform with such standards at all times. No applicant will be required to divulge confidential processes, and all information submitted will be treated confidentially if requested.
- (e) In areas of special flood hazard as delineated on the flood maps defined in section 19-1, a zoning permit shall be required for any land preparation, excavation, grading, filling or removal of earth for any purpose.
- (f) The zoning officer shall require that declarations and restrictions of approved accessory family dwelling units for a family member or members of an owner-occupied one-family dwelling shall be:

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- (1) Recorded in the land evidence records at the cost of the applicant; and
 - (2) Be filed with the zoning enforcement officer and the building official.

(Rev. Ords. 1987, § 19-56; Ch. 506, § IV, 7-20-10)

Cross reference(s)—Accessory family dwelling units, § 19-202.

Sec. 19-57. Occupancy permit.

- (a) An occupancy permit shall be required for any of the following:
 - (1) Occupancy and use of a building or structure hereafter erected, extended, altered, enlarged or moved;
 - (2) Change in use of an existing building, structure or premises to a use of a different classification;
 - (3) Occupancy and use of vacant land except for farming;
 - (4) Change in use of land to a use of a different classification other than farming;
 - (5) Any change in use of a nonconforming use.
 - (6)
 - a. No occupancy of the accessory family dwelling unit shall take place without an occupancy permit that has been reviewed and approved by the zoning officer in advance of its issuance. No occupancy permit shall be granted for an accessory family dwelling unit until it is a permitted accessory use and a declaration of the accessory family dwelling unit for the family member or members and its restrictions shall be recorded in the city's land evidence records at the cost of the applicant and filed with the zoning officer and the building official.
 - b. Occupancy permits shall not be transferable upon change in ownership or change in occupancy. In such event, the new owner of the single-family dwelling shall submit an affidavit to the zoning officer attesting to the fact that the circumstances under which the occupancy permit were granted will continue to exist. The owner of record of the subject real property is responsible for initiating each application to the zoning officer. Appropriate fees as established and posted shall be assessed for each such renewal.
- (b) No such occupancy, use or change of use shall take place without the issuance of an occupancy permit approved by the zoning officer. The permit shall not be issued until the building, structure, premises or land, its uses and the uses incidental thereto have been inspected and approved by the zoning officer and, if required, a business registration certificate has been secured from the city clerk's office. A record of all occupancy permits shall be kept on file in the office of the building inspector and shall be available for public inspection during regular office hours.

(Rev. Ords. 1987, § 19-57; Ch. 506, § V, 7-20-10)

Cross reference(s)—Accessory family dwelling units, § 19-202.

Secs. 19-58—19-70. Reserved.

DIVISION 4. ADOPTION, AMENDMENT OR REPEAL

Sec. 19-71. Consent and eligibility.

- (a) To be effective, this chapter must be amendable. Such changes may include deleting requirements which are obsolete, adjusting requirements which are inadequate or adding requirements based on advances in knowledge. Petitions for amendment or repeal of this chapter may come from the city council on its own motion or the planning board or on petition to the city council, filed in the office of the city clerk, by any person or group of persons desiring such amendment. Action may include the adoption of a new zoning ordinance.
- (b) Amendments/repeals may be to ordinance language alone, the zoning map alone or a combination of the language and map.

(Rev. Ords. 1987, § 19-71)

Sec. 19-72. Petition requirements.

- (a) Petition forms for ordinance amendments/repeals shall be filed with the city clerk and include:
 - (1) The section/or subject area that is the subject of the petition;
 - (2) The intention of the proposed amendment/repeal;
 - (3) The relation of the proposed action to the city comprehensive plan; and
 - (4) Filing fee as set by the city council to cover the costs associated with review, hearing, notice and recording fees.
- (b) In addition, if the amendment/repeal seeks a change in the zoning map, the petition shall be accompanied by:
 - (1) Eleven copies of an accurately drawn radius map drawn at a scale of one inch equals 100 feet (or as appropriate one inch equals 50 feet or one inch equals 40 feet) which includes:
 - a. A title block in the lower righthand corner showing names of the property owners; map, block, parcel of the subject property; date of plan and north arrow;
 - b. For all property within a 200-foot radius as measured from the perimeter of the subject property:
 - 1. The shape, dimension and area of property;
 - 2. The location of all zoning use district boundary lines;
 - 3. The street numbers and assessor's lot numbers;
 - 4. The general location, shape and use of all existing buildings and structures; and
 - c. Such other information as may be necessary for the execution and enforcement of this chapter.

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- (2) A listing of names and addresses of all owners of real property located at or within a 200-foot radius of the perimeter of the property, as measured from the corners of the property, and as shown on the current real estate tax assessment record of the city or town in which the property is located.

(Rev. Ords. 1987, § 19-72)

Sec. 19-73. Review process.

- (a) Upon receipt of a petition to amend/repeal this chapter, or adopt a new zoning ordinance, the city clerk shall transmit a copy of such petition to the city council and to the planning board for study and recommendation. The planning board shall in turn notify and seek the advice of the department of planning and ~~urban~~ **economic** development. The department of planning and ~~urban~~ **economic** development shall review and make a written recommendation which outlines the petition's affect upon the city comprehensive plan or any portion thereof and indicates whether or not a comprehensive plan amendment would be necessary in order to grant the petition. The planning board shall consider the department of planning and ~~urban~~ **economic** development's recommendation and prepare a written report to the city council within 45 days of receipt of the proposal. This report shall include:
- (1) A statement on the general consistency of the proposal with the city comprehensive plan, including the goals and policies statement, the implementation program and all other applicable elements of the city comprehensive plan;
 - (2) A demonstration of recognition and consideration of each of the applicable purposes of zoning as listed in section 19-2; and
 - (3) A statement indicating whether or not a comprehensive plan amendment would be necessary in order to grant the petition.
- (b) Where a proposal for adoption, amendment or repeal of a zoning ordinance or zoning map is initiated by the planning board, the requirement for study by such board may be waived provided the proposal by the planning board includes a report which includes the findings and recommendations as required above.

(Rev. Ords. 1987, § 19-73)

Sec. 19-74. Notification.

The city council shall hold a public hearing within 65 days of receipt of the petition. Opportunity shall be given to all persons interested to be heard upon the matter of the proposed amendment/repeal. Notification for this public hearing shall include:

- (1) Publication of notice in a newspaper of ~~general~~ **local** circulation within the city at least once each week for three successive weeks prior to the date of such hearing, (which may include the week in which the hearing is to be held). Such newspaper notice shall be published as a display advertisement, using a type size at least as large as the normal type size used by the newspaper in its news articles, and shall:
 - a. Specify the place of such hearing and the date and time of its commencement;
 - b. Indicate that adoption, amendment or repeal of a zoning ordinance is under consideration;
 - c. Contain a statement of the proposed amendments to the ordinance that may be printed once in its entirety, or summarize or describe the matter under consideration;
 - d. Advise those interested where and when a copy of the matter under consideration may be obtained or examined and copied;

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- e. State that the proposals shown thereon may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing and that any such alteration or amendment must be presented for comment in the course of such hearing; and
 - f. In the case of a proposed amendment which includes a specific change in a zoning district map, but does not affect districts generally, the newspaper notice shall include a map showing the existing and proposed boundaries; zoning district boundaries; labeled existing streets and roads; and city and town boundaries where appropriate.
- ~~(2) Written notice which may be a copy of such newspaper notice (but at a minimum contains all the same information) shall be mailed at least two weeks prior to the hearing, to the associate director of the division of planning of the state department of administration.~~
- ~~(3-2) Written notice which may be a copy of such newspaper notice (but at a minimum contains all the same information) shall be mailed at least two weeks prior to the hearing to any of the following which is applicable:~~
- a. Where a proposed amendment to an existing ordinance includes a specific change in a zoning district map but does not affect districts generally, notice shall be sent to all owners of real property whose property is located at or within 200 feet of the perimeter of the area proposed for change, whether within the city or within an adjacent city or town. **Notice shall also be sent to any individual or entity holding a recorded conservation or preservation restriction on the property that is the subject of the amendment.** Such notice shall be sent by ~~registered or certified~~ **first class** mail to the last known address of such owners as shown on the current real estate tax assessment records of the city or town in which the property is located, **provided that for any notice sent by first class mail, the sender of the notice shall submit a notarized affidavit to attest to such mailing.** This notice shall include a map showing the existing and proposed boundaries; zoning district boundaries; labeled existing streets and roads; and city town boundaries where appropriate.
 - b. To the city or town council of any city or town which is located at or within 200 feet of the perimeter of the area proposed for change.
 - c. To the city or town council of any city or town where there is a public or quasi-public water source, or private water source that is used or is suitable for use as a public water source, at or within 2,000 feet of any real property that is the subject of a proposed zoning change, regardless of municipal boundaries.
 - d. To the governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water resource and/or surface watershed that is used or is suitable for use as a public water source and that is at or within 2,000 feet of any real property which is the subject of a proposed zoning change, provided, however, that the governing body of any state or municipal water department or agency, special water district or private water company has filed with the building inspector in the city a map survey which shall be kept as a public record, showing areas of surface water resources and/or watersheds and parcels of land at or within 2,000 feet thereof.
 - e. **Where a proposed text amendment to an existing zoning ordinance would cause a conforming lot of record to become nonconforming by lot area or frontage, written notice shall be given to all owners of the real property as shown on the current real estate tax assessment records of the city. The notice shall be given by first class mail at least 2 weeks prior to the hearing at which the text amendment is to be considered, with the content required by section (1). Notice shall include reference to the merger clause to which the nonconforming lots would be subject, the notice shall include reference to the merger clause and the impacts of common ownership on non-conforming lots.**

(4 ~~3~~) The city clerk shall also give notice by first class mail to the petitioners of the date of the second reading and hearing for final passage of the ordinance.

(4) The City shall post the notice in the City Clerk's office and in one other City building at least 14 days prior to the hearing;

(5) The City shall make the notice accessible on the home page of the City's website at least 14 days prior to the hearing;

(6) For notices sent by first class mail, the sender of the notice shall submit a notarized affidavit to attest to such mailing.

(7) The cost of newspaper and mailing notification shall be borne by the applicant.

(Rev. Ords. 1987, § 19-74)

Sec. 19-75. Determination.

The city council shall consider the recommendation of the planning board, the city comprehensive plan, the concerns expressed at the public hearing, and the public interest, in making a determination on the petition. Any alteration or amendment to the petition, which will be voted on prior to the close of the public hearing, must be presented for comment in the course of such hearing.

(Rev. Ords. 1987, § 19-75)

Sec. 19-76. General conditions.

- (a) *Defect.* No defect in the form of any notice under this section shall render any ordinance or amendment invalid, unless such defect is found to be intentional or misleading.
- (b) *Repetitive petitions.* No petition involving the same lot or parcel of land or any part thereof including a request for different zoning classification than requested in initial petition for an amendment to this chapter or zoning map, shall be accepted by the city clerk, if a petition requesting an amendment, for the same lot or parcel of land or any part thereof has been denied or the petitioner withdrew such petition within the preceding 18 months. However, such a petition may be accepted at any time with the consent of the city council if in the opinion of the council it sets forth facts indicating a substantial change of circumstances justifying a hearing on the petition.
- (c) *Limitations, conditions and restrictions.* In granting an amendment to the zoning map the city council may limit the change to one of the permitted uses in the zone to which the subject land is rezoned, and impose such limitations, conditions and restrictions, including without limitation:
 - (1) Requiring the petitioner to obtain a permit or approval from any and all state or local governmental agencies or instrumentalities having jurisdiction over the land and use which are the subject of the zoning change;
 - (2) Relating to the effectiveness or continued effectiveness of the zoning change; and/or
 - (3) Relating to the use of the land as it deems necessary.

The city clerk shall cause the limitations and conditions so imposed to be clearly noted on the zoning map and recorded in the land evidence records, provided, however, in the case of a conditional zone change, the limitations, restrictions, and conditions shall not be noted on the zoning map until the zone change has become effective. If the permitted use for which the land has been rezoned is abandoned or if the land is not used for the requested purpose for a period of two years or more after the zone change becomes effective, the city council may, after a public hearing as set forth in this division, change the land to its original zoning use before such

petition was filed. If any limitation, condition, or restriction in an ordinance is held to be invalid by a court in any action, that holding shall not cause the remainder of the ordinance to be invalid.

- (d) *Comprehensive plan amendment.* Where a proposed change requires an amendment to the comprehensive plan, the city council shall approve such amendment to the comprehensive plan prior to granting the petition following the requirements of the state statutes. A condition of the approval of the petition, however, shall be that the comprehensive plan amendment receive approval from the state director of administration in accordance with the state statutes.
- (e) *Copies of amendment to be sent to state.* Upon adoption of a zoning ordinance, and zoning map, and any amendments thereto, the city clerk shall send a copy, without charge, to ~~the associate director of the division of planning of the department of administration of the state, and~~ the state law library.

(Rev. Ords. 1987, § 19-76)

Sec. 19-77. Appeals.

- (a) An appeal of an amendment to this chapter may be taken to the superior court for the county by filing a complaint as set forth in this division within 30 days after such enactment, or amendment has become effective. Such appeal may be taken by an aggrieved party or by any legal resident or landowner of the municipality or by any association of residents or landowners of the municipality. The appeal shall not stay the enforcement of this chapter, as enacted or amended, but the court may, in its discretion, grant a stay on appropriate terms, which may include the filing of a bond, and make such other orders as it deems necessary for an equitable disposition of the appeal.
- (b) The complaint shall set forth with specificity the area or areas in which the enactment or amendment does not conform with the comprehensive plan and/or the manner in which it constitutes a taking of private property without just compensation.
- (c) When an appeal results in a decision by a court of competent jurisdiction, which overturns a decision recorded in the city land evidence records, the city solicitor's office shall record notice of the court's decision in the city land evidence records.

(Rev. Ords. 1987, § 19-77)

Secs. 19-78—19-94. Reserved.

ARTICLE III. DISTRICT REGULATIONS

Sec. 19-95. Districts designated.

- (a) *Districts generally.* For the purposes of this chapter, the city is divided into districts as shown on the zoning map entitled "Zoning Map of the City of East Providence," dated the effective date of this chapter, filed with the city clerk and hereby declared to be a part of this chapter. The districts, their abbreviations and common names are designated as follows:

Abbreviation	District
R-1	Residential 1 One-family.
R-2	Residential 2 One-family.
R-3	Residential 3 One-family.
R-4	Residential 4 One-family and two-family.
R-5	Residential 5 Multifamily.
R-6	Residential 6 One-family, two-family and three-family.
O-1	Open Space 1 Open space.
C-1	Commercial 1 Office business.
C-2	Commercial 2 Neighborhood business.
MS/NC (see section 19-322)	Main Street and Neighborhood Center Overlay
C-3	Commercial 3 General retail business.
C-4	Commercial 4 Highway business.
C-5	Commercial 5 Heavy business.
CMU	Commercial mixed use
I-1	Industrial 1 Limited manufacturing.
I-2	Industrial 2 General manufacturing.
I-3	Industrial 3 Heavy manufacturing.
BT	Business/Technology (floating, district).
RSD	Riverside Square Mixed Use/Downtown (Overlay)

- (b) *Mixed use floating zone district.* The mixed use floating zone district permits planned development of mixed residential/commercial uses; see further definition in section 19-364.
- (c) *Cluster floating zone district.* The cluster floating zone district may amend any residential zone which permits clustering of residential units, with the goal of preserving open space; see further definition in section 19-364.
- (d) *Business technology floating zone district.* The business/technology floating zone district may amend the C-1, C-4, I-1, I-2 and I-3 zoning districts only with the goal of permitting business/technology developments; see further definition in section 19-364.
- (e) *C-2 neighborhood business district.* The C-2 neighborhood business district is intended to permit small-scale retail, service and office uses designed to serve adjacent residential neighborhoods and structures shall be no larger than 5,000 square feet in gross floor area.
- (f) *Main Street and Neighborhood Center Overlay.* The Main Street and Neighborhood Center Overlay District as included in section 19-322 of chapter 19, zoning is supplemental to any C-1, C-2, C-3, and TA (Taunton

Avenue Waterfront) uses allowed by right or special use permit in section 19-98, schedule of use regulations of chapter 19, zoning, or generally by chapter 19, zoning, and as shown on the Zoning Overlay Map for the district. For all the existing uses on parcels within this district, the uses may continue and any new development or redevelopment may occur as is currently allowed within the zoning district in which a parcel(s) is located or under the provisions of section 19-322, Main Street and Neighborhood Center Overlay District.

(Rev. Ords. 1987, § 19-96; Ch. 457, § II, 10-7-97; Ch. 146, § IV, 10-23-00; Ch. 453, § II, 7-15-08; Ch. 470A, § IV, 10-7-08; Ch. 506, § VI, 7-20-10; Ch. 642, § IV, 3-15-16; Ch. 721, § II, 8-21-18)

Editor's note(s)—Ch. 146, § IV, adopted Oct. 23, 2000, renumbered § 19-96 as new § 19-95.

Sec. 19-96. Prohibited uses.

The following are prohibited uses and activities, whether principal or accessory uses, in all zoning districts: the disposal, processing or recycling of solid waste* in any manner within the city, except for the segregation of solid waste and recyclable materials for curbside collection and the composting of vegetative materials used for noncommercial use, not to exceed three cubic yards; underground storage of solid waste; solid waste management facilities*; the storage of waste or scrap tires for the purpose of recycling and/or processing, and the recycling and processing of waste or scrap tires and/or reclaimed rubber, including shredding, grinding and any other process that results in shredded, pulverized, granulated, crumbed, or powered rubber; carpet and textile recycling, processing, and recovery; computer and electronic equipment and appliance recycling in the form of shredding; motor vehicle shredding and recycling; and solid waste processing including: incinerators, materials recovery facilities including processing; recycling facilities, resource recovery facilities, intermediate processing facilities, and transfer stations; bulk ammonia storage; bulk liquefied natural gas (LNG) storage and bulk liquefied propane gas (LPG storage; bulk storage of chemicals except as accessory to a use permitted by section 19-98; concrete manufacturing plants; paper or pulp mill; hazardous waste disposal; hazardous waste management facilities; petroleum refining; sand or gravel pit; sawmill; and asphalt manufacturing plants. The specific prohibited uses enumerated herein are in addition to any and all other uses which are prohibited in accordance with sections 19-4 and 19-98.

[* Definitions and further regulations relative to the uses that are denoted by an asterisk (*) may be found in section 19-1.]

(Ch. 146, § V, 10-23-00; Ch. 198, § III, 2-19-02)

Sec. 19-97. Determination of boundaries.

Unless otherwise indicated on the zoning map, the boundaries between districts shall be determined according to the following criteria:

- (1) Where a boundary is shown as following a street, railroad, or utility right-of-way, the boundary shall be the centerline thereon, unless otherwise indicated.
- (2) Where a boundary is shown outside of a street, railroad, or utility right-of-way and approximately parallel thereto, the boundary shall be deemed parallel to the nearest line thereof and the figure placed on the zoning map shall be the distance in feet between them as measured at a right angle from such line, unless otherwise indicated.
- (3) Where the boundary of a district follows a river, stream, pond or other watercourse, the boundary line shall be deemed to be the limit of the jurisdiction of the city unless otherwise indicated. Unzoned lands and waters bordering upon or within the city shall be deemed to bear the zoning classification of the nearest adjacent zoned land and shall be subject to the same regulations of this chapter therewith.

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- (4) Where the location of a district boundary line is otherwise uncertain, the zoning officer shall determine its position in accordance with the distance in feet from other lines as given or as measured from the scale of the map.
 - (5) For those lots of record which are divided by a zoning district boundary, the regulations for either district shall apply, except that no zoning district shall in effect be extended for a distance greater than 100 feet.
 - (6) For those lots for which a split zone is created by an administrative subdivision, the zoning district being extended shall be used for accessory use only and not principal use.
 - (7) Whenever a split zone is being used for a more intense use, the activity shall follow the process and standards identified in article VIII, Development Plan Review, of the city zoning ordinance.

(Rev. Ords. 1987, § 19-97; Ch. 867, § II, 12-20-22)

Sec. 19-98. Schedule of use regulations.

- (a) Any use not specifically listed or otherwise permitted in a district hereinafter established by this chapter shall be deemed prohibited, with the exception of evaluations and determinations of proposed uses not specifically listed as per Sec. 19-40.
- (b) The following is a schedule of use regulations:
- (c) All properties located within the Riverside Square Mixed Use/Downtown Overlay district shall be subject to the Commercial-2 Zoning District with respect to section 19-98 "Use", except that the following uses shall be prohibited within this district: funeral home or mortuary; fast food restaurant; drive-through facilities; and medical or dental offices.
- (d) All properties located within the Riverside Square Mixed Use/Downtown Overlay shall be subject to the supplementary district regulations contained in section 19-359 et seq.
- (e) The C-2 Neighborhood Business District is intended to permit small-scale retail, service and office uses designed to serve adjacent residential neighborhoods and structures shall be no larger than 5,000 square feet in gross floor area.

Y = Yes, permitted use

N = No, prohibited use

S = Special use permit

A = Permitted as an accessory use subordinate to the principal use

USE SCHEDULE	ZONING DISTRICTS															
	R1	R2	R3	R4	R5	R6	O1	C1	C2	C3	C4	C5	I1	I2	I3	BT
Mixed-Use	N	N	N	N	N	N	N	Y	Y	S-Y	S-Y	S-Y	N	N	N	N
AGRICULTURAL																
Farming*	Y	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	N
Conservation area, wildlife refuge, reforestation area or wood lot	Y	Y	Y	N	N	N	Y	N	N	N	N	N	N	N	N	N
Nursery	Y	Y	N	N	N	N	Y	Y	N	N	Y	Y	N	N	N	N
RESIDENTIAL AND RELATED USES																
One-family dwelling*	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N	N	N
Two-family dwelling* if located on a lot having an area of at least 50 percent greater than required for a one-family dwelling	N	N	N	N	Y 11,250 s.f minimum	Y 7,500 s.f. minimum	N	N	N	N	N	N	N	N	N	N
Two-family dwelling*	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Two-family dwelling* if located on a lot having an area of at least 75 percent	N	N	N	Y 8,750	Y with at least 50%	Y with at least 50%	N	N	N	N	N	N	N	N	N	N

greater than required for a one-family dwelling				s.f. min.	greater area	greater area											
Three-family dwelling* and multi-family dwelling* in conformance with section 19-216 et seq. Construction of 20 units or greater requires land development project approval; see article V of this chapter	N	N	N	N	S Y	N	N	Y	Y	N	N	N	N	N	N	N	N
Tourist home or lodginghouse*	N	N	N	N	Y	Y	N	Y	N	Y	Y	N	N	N	N	N	N
Motel*	N	N	N	N	N	N	N	Y	N	Y	Y	N	Y	N	N	N	N
Hotel*	N	N	N	N	N	N	N	S Y	N Y	N Y	N Y	N Y	S Y	N	N	N	Y
Community residences*	Y	Y	Y	Y	Y	Y	N	Y	N	N	N	N	N	N	N	N	N
Family day care homes	Y	Y	Y	Y	Y	Y	N	Y	N	N	N	N	N	N	N	N	N
Bed and Breakfast <u>Short term rental* per Sec. 19-103(b)</u>	S Y	S Y	S Y	S Y	S Y	S Y	N	Y	Y	N	N	N	N	N	N	N	N
Live/Work Space*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	S Y	S Y	Y	Y	Y	Y	Y
PUBLIC AND SEMI-PUBLIC																	
Municipal facility	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Watershed protection or supply	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Park, playground or playfield	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N	N	N	N	N	N
Public or private elementary, junior high or high school or higher education institution	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	N	N	N	N	N	N
Dormitory for institution of higher education	N	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	N	N
Church, other place of worship or religious institution	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	N	N	N	N	N	N
Cultural activity*	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N
Sportsmen's club	S	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	N	N
Yacht club	N	N	S	S	S	S	Y	N	N	N	N	N	N	N	N	N	N
Nonprofit club; civic, social or fraternal	N	N	N	N	S	S	S	Y	Y	Y	Y	Y	N	N	N	N	N
Nursery school	N	N	N	N	Y	Y	N	Y	Y	Y	N	N	N	N	N	N	N
Hospital*	N	N	N	N	N	N	Y	N	N	Y	N	N	Y	N	N	N	N
Clinic, excluding animal clinic	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Nursing home, rest home or home for the aged requiring attendants	N	N	N	N	S	S	N	Y	Y	Y	Y	N	N	N	N	N
Funeral home or mortuary	N	N	N	N	N	N	N	Y	Y	Y	Y	N	N	N	N	N
Cemetery*	N	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	N
Day or overnight camp for children	N	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	N
Golf course or country club	N	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	N
Public utility	S-Y	S-Y	S-Y	S-Y	S-Y	S-Y	S-Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
RETAIL BUSINESS																
Retail sale of products fabricated, assembled or packaged in a building on the premises provided such fabrication, assembling or packaging operations do not occupy more than 50 percent of the floor area of the building; provided, further that not more than: (1) Five persons are regularly employed therein (2) Ten persons are regularly employed therein	N	N	N	N	N	N	N	N	Y	Y	Y	Y	N	N	N	N
Retail sale of food, drugs, clothing, jewelry, stationery or similar personal or specialty items	N	N	N	N	N	N	N	N	Y	Y	Y	Y	N	N	N	N
Retail sale or rental of general merchandise, furniture, household goods, supplies, and appliances, sporting goods, automotive accessories, or other similar retail products	N	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	N	N
Salesroom for display of motor vehicles, trailers, building supplies, boats, or machinery: (1) Without storage and repair facilities (2) With storage and repair facilities	N	N	N	N	N	N	N	N	N	Y	Y	Y	N	Y	Y	N
	N	N	N	N	N	N	N	N	N	N	Y	Y	N	Y	Y	N

New or used motor vehicle sales lot	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	N	N
Retail services for employees as detailed in section 19-364, business/technology development	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y
Café*	N	N	N	N	N	N	A	Y	Y	Y	N	N	A	A	A	Y
Cigar Lounge	N	N	N	N	N	N	N	N	Y	Y	Y	N	S-Y	N	N	Y
Microbrewery/distillery	N	N	N	N	N	N	N	N	Y	Y	N	Y	Y	Y	Y	Y
WHOLESALE BUSINESS AND STORAGE																
Sale of business and/or industrial equipment and supplies	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	N
Wholesale showroom: (1) With storage limited to floor samples only	N	N	N	N	N	N	N	Y	N	Y	Y	Y	Y	Y	Y	Y
(2) With storage and repair facilities	N	N	N	N	N	N	N	N	N	N	N	Y	N	Y	Y	Y
Wholesale distribution or warehouse and Self storage, mini-storage, excluding truck terminal facility	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	N
Bulk petroleum storage	N	N	N	N	N	N	N	N	N	N	N	N	N	S	S	N
SERVICE BUSINESS																
Check Cashing Business	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y
Personal convenience service*	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N	N	N	N
Commercial educational institution*	N	N	N	N	N	N	N	Y	N	Y	Y	N	Y	N	N	Y
Restaurant* without live entertainment	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	N
Restaurant* including live entertainment	N	N	N	N	N	N	N	N	S-Y	Y	Y	N	N	N	N	N
Fast food restaurant	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	N	N	N
Automatic parking garage or lot*	N	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	N	Y
Printing or publishing establishment provided that the work and storage area shall not exceed 5,000 square feet	N	N	N	N	N	N	N	N	N	Y	N	Y	N	N	N	Y
Automotive repair shop*	N	N	N	N	N	N	N	N	N	N	Y	Y	N	Y	Y	N

Animal or veterinary hospital or kennel	N	N	N	N	N	N	N	N	N	N	Y	Y	N	Y	Y	N
Marina* / Yacht Club	N	N	N	N	N	N	SY	N	N	N	N	Y	N	Y	Y	N
Commercial dock or boatyard or boat repair facility	N	N	N	N	N	N	N	N	N	N	N	Y	N	Y	Y	N
Auto body, soldering or welding shop	N	N	N	N	N	N	N	N	N	N	N	Y	N	Y	Y	N
Dry Cleaning or Laundering Plant	N	N	N	N	N	N	N	N	N	Y	N	Y	Y	Y	Y	N
Dry Cleaning Drop-Off and Pick-Up Location with Dry Cleaning/Laundering Done on Premises (with cleaning equipment and storage area limited to no more than 50 percent of the total square footage of the building)	N	N	N	N	N	N	N	SN	SN	Y	Y	Y	Y	Y	Y	Y
Dry Cleaning Drop-Off and Pick-Up Location (with no cleaning done on premises)	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
Passenger vehicle car wash	N	N	N	N	N	N	N	N	N	N	Y	Y	N	Y	Y	N
Business or industrial services: (1) With storage and repair limited to 50 percent or less of gross floor area (2) With storage and repair facilities	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y
	N	N	N	N	N	N	N	N	N	N	Y	N	Y	Y	N	Y
Child day care centers	N	N	N	N	S	S	N	Y	Y	N	N	N	Y	N	N	N
Data processing facilities	N	N	N	N	N	N	N	SN	N	N	N	N	Y	Y	Y	Y
Massage therapy establishment*	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	N	N	N
SPECIAL USES																
Signs* as regulated by sections 19-441 through 19-443	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Billboards* as regulated by section 19-444	N	N	N	N	N	N	N	N	N	N	SN	SN	N	SN	SN	N
Off-street parking as regulated by sections 19-276 through 19-284	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Off-street loading and unloading as regulated by	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Sections 19-285 through 19-290																	
Removal of earth products as regulated by section 19-116	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N
Trailer courts* as regulated by section 19-321	N	N	N	N	S N	N	N	Y N	N	N	N	Y	N	N	N	N	
Gasoline filling stations* as regulated by section 19-186 et seq.	N	N	N	N	N	N	N	N	S	S	Y S	Y S	N	Y N	Y N	N	
Accessory uses* as regulated by section 19-171	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Transit shelters* as regulated by section 19-174	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Amusement game centers**	N	N	N	N	N	N	N	N	N	S Y	Y	Y	N	N	N	N	
Development of new Drive-through* associated with a permitted use on a parcel of at least 20,000 square feet and as regulated by [sic] Article VIII	N	N	N	N	N	N	N	Y S	Y S	Y S	Y S	Y S	Y S	Y S	Y S	N	
Tattoo Parlor	N	N	N	N	N	N	N	N	S Y	Y	Y	Y	Y	Y	Y	Y	
OFFICE USES																	
Any business or professional office, studio, or agency, bank or other financial institution	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Medical research, engineering or testing laboratory	N	N	N	N	N	N	N	Y	N	Y	Y	Y	Y	Y	Y	Y	
COMMERCIAL RECREATION																	
Amusement park*	N	N	N	N	N	N	S N	N	N	N	N	N	N	N	N	N	
Boat, kayak, canoe rental	N	N	N	N	N	N	S Y	N	Y	Y	Y	Y	Y	Y	Y	Y	
Bowling alley	N	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	N	N	
Dance hall	N	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	N	N	
Driving range or miniature golf facility	N	N	N	N	N	N	S Y	N	N	N	Y	Y	N	N	N	N	
Fencing establishment*	N	N	N	N	N	N	N	N	Y	Y	Y	N	S Y	S Y	S Y	N	
Health, fitness and wellness facility	N	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	N	N	
Indoor movie theatre	N	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	N	N	

Indoor Recreation/Athletic Facility	N	N	N	N	N	N	N	N	Y	Y	Y	N	SY	SY	SY	N
Skating rink	N	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	N	N
Swimming or tennis facility	N	N	N	N	N	N	Y	N	N	Y	Y	Y	Y	N	SY	Y
Yoga or Pilates Studio (not full gym)	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
ART & ENTERTAINMENT																
Black Box Theatre*	N	N	N	N	N	N	N	Y	Y	Y	N	Y	SY	SY	SY	N
Design Studio*	N	N	N	N	N	N	N	Y	Y	Y	N	Y	Y	SY	SY	N
Film Studio	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y
Gallery*	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Photography Studio	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
Recording Studio	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y
Live Theatre	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y
TRANSPORTATION																
Helistop per section 19-173	N	N	N	N	N	N	S	N	N	N	N	N	S	S	S	S
Freight or trucking terminal	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	N
Parcel distribution center	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	N
UTILITIES																
Radio, television or wireless telecommunication towers and antennas as per Division 17***	N	N	N	N	N	N	S	N	N	N	N	S	S	S	Y	N
Communication services and broadcasting offices	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	N	SY
Public utilities not otherwise mentioned	N	N	N	N	N	N	N	S	S	S	S	S	S	S	S	S
INDUSTRIAL																
Limited manufacturing*, with no outdoor storage, and in conformance with Sections 19-336 through 19-345	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y
Small shop for fabricating, packaging or assembling activities in conformance with sections 19-336 through 19-345	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y
Heavy manufacturing* in conformance with sections 19-336 through 19-345	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N
Limited metal reclamation*	N	N	N	N	N	N	N	N	N	N	N	Y	N	Y	Y	N

Open storage* as regulated by subsection 19-175(a) and subject to Article VIII	N	N	N	N	N	N	N	N	N	N	N	S	S	S	S	N
Industrial or manufacturing related office	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y
Industrial trade schools*	N	N	N	N	N	N	N	N	N	N	Y	Y	N	Y	Y	N
Bulk storage of chemicals accessory to a use permitted by section 19-98	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	N
PORT RELATED USES																
Port*	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Wharves, piers and bulkheads, commercial dock or boatyard or boat repair facility	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Accessory port facility																
Trucking, shipping or railroad terminal primarily handling commodities shipped by waterborne transportation, including equipment necessary for the loading, unloading or transfer of commodities and cargoes	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Accessory storage—Port district* including open storage as regulated by subsection 19-175 (b)	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Container terminal	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Manufacturing, storing, processing, fabricating, packaging or assembling activities requiring direct access to waterborne shipping in conformance with article IV, division 14 of this chapter	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Packaging, assembling, mixing or other activities to prepare cargoes or commodities for loading, off-loading or distribution, primarily relating to rail, truck and waterborne commerce, in conformance	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N

with article IV, division 14 of this chapter																	
Foreign trade zone	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N

Definitions and further regulations relative to the uses that are denoted by an () may be found in section 19-1.

Amusement game centers shall be allowed as a special use permit in a C-3 district and as a permitted use in **the C-3, C-4 and C-5 districts in conformance with the requirements of section 19-231 of this chapter.

***Radio, television or wireless telecommunications towers shall be permitted in any district on property owned, leased or otherwise controlled by the city, in conformance with the requirements of section 19-351 of this chapter, and by administrative approval in any I-3 district, in conformance with the requirements of section 19-352 of this chapter.

****Radio, television or wireless telecommunications antennas shall be permitted in any district on property owned, leased or otherwise controlled by the city, in conformance with the requirements of section 19-351 of this chapter, and by administrative approval in any district, in conformance with the requirements of section 19-352 of this chapter.

(Rev. Ords. 1987, § 19-98; Ch. 457, § III, 10-7-97; Ch. 463, § III, 12-16-97; Ch. 53, §§ IV, V, 2-3-99; Ch. 146, § VI, 10-23-00; Ch. 154, § VI, 1-16-01; Ch. 194, § IV, 12-18-01; Ch. 198, § IV, 2-19-02; Ch. 216, § IV, 6-18-02; Ch. 453, § III, 7-15-08; Ch. 470A, § V, 10-7-08; Ch. 489A, § II, 10-6-09; Ch. 642, § V, 3-15-16; Ch. 867, §§ III, IV, 12-20-22)

Sec. 19-99. Floating zone districts; purpose and objectives.

- (a) *Purpose.* This section establishes the mechanism for the review and creation of four types of floating zone districts, which upon approval by the city council shall amend the existing zoning map. The purpose of floating zone districts is to permit high intensity or mixed use character development and to promote flexible design upon parcels deemed appropriate for such development. Floating zone districts are unmapped zoning districts which are established on the zoning map only when an application for development meeting the requirements is approved. A petitioner must establish that the site proposed is appropriate for the floating zone district, and petition, in accordance with article II, division 4, to amend the city zoning map. Except where otherwise provided for in this chapter, the floating zone district regulations are derived from the regulations of the underlying zoning district. Floating zone districts may impose supplementary requirements but do not in any manner supersede or replace any requirements of the underlying district, except where specifically provided for in this article or otherwise in this chapter. In all cases, floating zone district map amendments are conditional upon site plan approval through land development project review as provided for in article V of this chapter.
- (b) *Objectives.* Decisions to approve a floating zone district shall be consistent with the following objectives where applicable:
- (1) To promote diverse land uses which are consistent with the goals of the city comprehensive plan;
 - (2) To allow for mixed use developments where the site provides adequate safeguards to adjacent districts;
 - (3) To promote greater flexibility and consequently more creative and imaginative design for the development of residential and mixed use areas than generally is possible under conventional zoning regulations; and
 - (4) *[Reserved.]*

(Rev. Ords. 1987, § 19-99; Ch. 457, § IV, 10-7-97; Ch. 453, § IV, 7-15-08)

Sec. 19-100. Types of floating zone districts.

The following floating zone districts may by action of the city council amend the city zoning map for sites determined to be appropriate.

- (1) *Mixed use floating zone district.* A mixed use floating zone district permits planned development of mixed residential/commercial uses; see further definition in section 19-~~364~~ **365**.
- (2) *Cluster floating zone district.* A cluster floating zone district may amend any residential zone and permits clustering of residential units with the goal of preserving open space; see further definition in section 19-364.
- (3) *Business/technology floating zone district.* The business/technology floating zone district permits business/technology uses; see further definition in section 19-~~364~~ **365**.

(Rev. Ords. 1987, § 19-100; Ch. 457, § V, 10-7-97; Ch. 453, § V, 7-15-08)

Sec. 19-101. Application process and unified review.

- (a) A petition for a floating zone district shall be filed with the city clerk in accordance with the requirements and procedures of article II, division 4, to amend the zoning map, including those for fees, notification and application requirements.

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- (b) The city council may consider a petition for a floating zone district map amendment simultaneously with rezoning to the underlying district, as one rezoning petition.
 - (c) All projects requiring floating zone district amendments must also be reviewed according to the land development project process of article V of this chapter. The applicant shall first obtain an advisory recommendation on the zoning change from the planning board, as well as, conditional planning board approval for the first approval stage for the proposed project, which may be simultaneous, then obtain a conditional zoning change from the council and then return to the planning board for subsequent required approval.
 - (d) The petition for a floating zone district amendment shall be filed concurrently with the application requirements of article V of this chapter for land development project review. The key map of the land development project application may be used as the map required under section 19-72. Notification requirements shall be in accordance with the requirements of each action as specified in section 19-74 and article V of this chapter.
 - (e) All floating zone district map amendments shall be approved as conditional upon land development project approval of a site plan. The floating zone district map amendment shall not become finalized until final land development project approval is received.
 - (f) Conditional approval of a floating zoning district map amendment shall not bind the planning board to approving a land development project.
 - (g) The filing of a floating zone district map amendment petition does not imply its acceptance in whole or part by the city council. The approval of a floating zone district map amendment including any modifications, conditions or restrictions thereto, represents a legally binding commitment by an applicant to carry out the development as approved.

(Rev. Ords. 1987, § 19-101)

Sec. 19-102. Phased development or expanded development.

- (a) If the proposed land development project for which the floating zone map amendment is proposed is to be phased, the floating zone district map amendment petition shall include the area of all proposed phases.
- (b) Amendments to increase the size of a floating zone district as it appears on the zoning map, shall be treated as a new application and shall follow all of the procedures of this article.

(Rev. Ords. 1987, § 19-102)

Sec. 19-103. Temporary use permit.

- (a) A temporary use permit that confers a temporary privilege to operate beyond the defined permissible uses in any zoning district. Temporary use permits are subject to the following provisions:
 - (1) Temporary use permits shall automatically expire on January 1 of each year.
 - (2) The fee for a temporary use permit shall be set by the zoning officer.
 - (3) A temporary use permit may be revoked at any time by the zoning officer.
 - (4) Applications for temporary use permits shall be submitted to the zoning officer. Temporary use permits shall only issue if:
 - a. Unless expressly allowed by this section, the temporary use or structure complies with the yard and bulk requirements of the district in which it is located.

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- b. The temporary use does not cause, or threaten to cause, an on-site or off-site threat to the public health, safety, and welfare.
 - c. The temporary use is operated in accordance with such restrictions and conditions as the police and fire department may require. If required as a condition of approval, the operator of the temporary use shall employ appropriate security personnel.
 - d. The temporary use does not conflict with another previously authorized temporary use.
 - e. The Applicant shows proof of ownership in the relevant property.
 - f. If the relevant property contains public property, the applicant shall acquire written permission from the director of the department of public works for use of said property, subject to any conditions set by the city.
- (b) *Short-term rental.* The offering of or occupancy or use of, all or portions of a dwelling unit by anyone other than the owner for a fee for a period of fewer than 28 consecutive calendar days.
- (1) A dwelling unit in a single-family, two-family, three-family, semi-detached, or multi-family dwelling may be used as a short-term rental, subject to the following standards:
- a. Properties used as short-term rentals in residential districts must:
 - 1. *Local representative.* Identify a local representative or property management company authorized to receive any process, notice or demand required or permitted to be served upon the owner of the premises. Said local representative shall:
 - i. Provide contact information that is monitored 24 hours a day.
 - ii. In the case of a complaint regarding use of the temporary use permit for short-term rentals, immediately respond to city officials, including, but not limited to, the police department, but in no case shall such response take more than 12 hours.
 - iii. Respond to, and be physically present at, the short-term rental within 12 hours upon request of the East Providence Police Department.
 - 2. *Nuisances.* At no time shall the short-term rental be used in such a manner that it creates a nuisance, especially any pattern of nuisance that is otherwise uncommon in residential districts.
 - 3. *Events or Parties.* At no time shall the short-term rental be used to host events or parties except as may be expressly approved by the city by way of a one-day entertainment license pursuant to chapter 8, article I, section 8-6 of the East Providence Code of Ordinances.
 - b. The owner must supply all of the following within the dwelling unit:
 - 1. Visible printed materials with diagrams of all points of egress, written in English, Spanish, and Portuguese.
 - 2. Clearly marked visible fire extinguisher(s).
 - 3. A copy of the nuisance requirements set forth herein.
 - 4. A copy of any and all conditions placed on the temporary use permit.
 - 5. Instructions for the disposal of rubbish and recyclables in a manner consistent with City ordinances and regulations.
 - c. *Advertisement of the rental.* Any advertisement of a short-term rental within the city shall include:

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1. A statement that the short-term rental has been approved by the city.
 2. A recitation of any conditions placed on the temporary use permit.
 3. A notice that no party or event may occur unless authorized by the property owner and expressly approved by the city by way of a one-day entertainment license pursuant to chapter 8, article I, section 8-6 of the East Providence Code of Ordinances.
- d. *Authorized information disclosure.* Any party advertising a short-term rental, or any party who accepts a short-term rental temporary use permit, in doing so, agrees to provide the city with a full copy of all rental data and information including, but not limited to, nights rented and gross revenues generated, excluding only the personal information of any renter, within 48 hours of a request for such information by the city solicitor. A \$500.00 per day fine may be imposed for each day any party fails to comply with this section.
- e. *Enforcement.* the zoning officer shall have the power to impose conditions on any short-term rental temporary use permit with or without cause whenever the zoning officer deems those conditions to be reasonably necessary to maintain the residential character of abutting properties.
1. *Advertisement of a residential short-term rental without a temporary use permit.* The zoning officer may impose a \$500.00 per day fine for each date of advertisement in violation of this section. Such fines may be recorded as liens against the subject property. The zoning officer may abate such fines if the property owner applies for a residential short-term rental temporary use permit within seven calendar days of any written notice provided by the city.
 2. *Citation by the East Providence Police Department.* If the East Providence Police Department responds to a property and finds that the property is not being managed or maintained in a manner comparable and complimentary to the abutting properties, or otherwise has generated an unreasonable nuisance, any report to that effect shall be sufficient cause for the zoning officer to impose conditions on the short-term rental temporary use permit.
 3. *Violation of law or regulation.* Any finding by any officer or agent of the city or any other governing authority with concurrent jurisdiction that the property is in violation of any standard regarding property maintenance or use of the property or is otherwise found to be used in an illegal manner shall be sufficient cause for the zoning officer to impose conditions on the short-term rental temporary use permit.
 4. *Pattern of improper use.* The zoning officer may revoke a temporary use permit for a residential short-term rental if the record is indicative of a pattern of improper use. Examples of a pattern of improper use include multiple instances of cause sufficient for the imposition of conditions on the temporary use permit and/or violations of conditions imposed on a temporary use permit.

In lieu of revocation, the zoning officer shall impose a minimum fine of seven days of maximum potential revenue of the listing and may impose a maximum fine of up to, \$500.00 for each day a violation of Chapter 19, Section 103 occurred at the property in question.

- a. If a full year passes without any instance of a cause sufficient to impose conditions, any past instance of cause sufficient to impose conditions or violations of any such conditions shall be removed from the record.

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- b. Properties with a clean record may petition the Zoning Officer to remove any conditions on the temporary use permit.
 - f. Any decision of the zoning officer or any other city official regarding a temporary use permit is subject to appeal pursuant to chapter 19, article II, Administration, division 2, Board of Review.

(Ch. 765, § II, 5-5-20; Ch. 811, § I, 7-20-21)

Secs. 19-104—19-115. Reserved.

ARTICLE IV. SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 19-116. Removal of earth products.

- (a) The removal from any premises of more than three cubic yards of sod, clay, loam, sand, gravel or rock in any one year is prohibited, except when incidental to and in connection with the construction of a building, structure, street or highway, public utility, state or municipal facility, subdivision or other activity authorized by this chapter. However, a use of premises for the excavation or removal of sand and gravel existing on the effective date of the ordinance from which this chapter was derived may be continued if the operation has been in continuous use for three years or more on the effective date of the ordinance from which this chapter was derived, notwithstanding any of the provisions contained in article VI of this chapter.
- (b) Upon the completion of any earth removal from premises existing prior to the effective date of the ordinance from which this chapter was derived or authorized by this chapter or the zoning board of review, such premises shall be graded with topsoil and seeded in such a manner so as to prevent erosion, the blowing of soil or other harmful or detrimental conditions. Removal of soil or other earth products other than specifically permitted in this chapter shall be classified as stripping and is prohibited.

(Rev. Ords. 1987, § 19-116; Ch. 453, § VI, 7-15-08)

Secs. 19-117—19-130. Reserved.

DIVISION 2. LOT, AREA, SETBACK AND YARD REGULATIONS

Sec. 19-131. General requirements.

The requirements and regulations in this division are intended only as minimal standards for the protection of the public health, safety and welfare and should be exceeded wherever practical or desirable.

(Rev. Ords. 1987, § 19-131)

Sec. 19-132. Substandard lots of record.

Except as required in section 19-133, a lot or group of contiguous lots having dimensions and/or area of lesser amounts than required in section 19-145 for the district in which such lot is located may be considered as

coming within **conforming to** the minimum lot requirements of section 19-145, provided that such lot or group of contiguous lots was shown on a recorded plat or on a recorded deed on the effective date of the ordinance from which this chapter was derived (November 29, 1966). These are also referred to as prior recorded lots.

Notwithstanding the failure of a single substandard lot of record or contiguous lots of record at the effective date of adoption or amendment of the zoning ordinance (November 29, 1966) to meet the dimensional and/or quantitative requirements, and/or road frontage or other access requirements, applicable in the district, a substandard lot of record shall not be required to seek any zoning relief based solely on the failure to meet minimum lot size requirements of the district in which such lot is located. The setback, frontage, and/or lot width requirements for a structure under this section shall be reduced and the maximum building coverage requirements shall be increased by the same proportion as the lot area of the substandard lot is to the minimum lot area requirement of the zoning district in which the lot is located. All proposals exceeding such reduced requirement shall proceed with a modification request under Section 19-5 or a dimensional variance request under Section 19-45, whichever is applicable.

(Rev. Ords. 1987, § 19-132)

Sec. 19-133. Contiguous lots under common ownership.

It is the intent of this chapter to require merger of contiguous unimproved or improved substandard lots of record in the same ownership in order to create dimensionally conforming lots or to reduce the extent of dimensional conformance.

If two or more contiguous lots are under common ownership at any time after the effective date of the ordinance from which this chapter was derived and one or more of these lots fails to meet the requirements of section 19-145 with regard to minimum lot area or minimum lot width, or lot building coverage, or minimum setbacks as required by sections 19-144 and 19-145 of this chapter, or the off-street parking requirements of section 19-284 of this chapter, such lots shall be considered to be an individual lot of land for the purpose of this chapter. Contiguous lots or parcels shall share common and abutting boundary lines and not be separated by a street or other property. Contiguous parcels under separate ownership shall be considered to make up a single lot if joint application for a building permit is made by all owners of such parcels. No single lot shall be used in violation of the requirements of section 19-145 with regard to minimum lot area or minimum lot width, except as provided in this chapter.

The merger of lots shall not be required when the substandard lot of record has an area equal to or greater than the area of 50% of the lots within 200 feet of the subject lot, as confirmed by the zoning enforcement officer.

(Rev. Ords. 1987, § 19-133; Ch. 184, § I, 11-6-01; Ch. 194, § I, 12-18-01)

Sec. 19-134. Dimensional regulations generally.

- (a) Except as hereinafter provided, a dwelling, building or structure hereafter erected in any district shall not be located on a lot or parcel of land having less than the minimum dimensional and setback requirements of this chapter and shall not exceed the maximum height and percentage of lot building coverage.
- (b) No lot, parcel or tract of land shall be reduced in dimension or area such as to be in violation of section 19-145, except as hereinafter provided. A lot created after the effective date of the ordinance from which this chapter was derived shall meet at least the minimum requirements established by this chapter for the district in which such lot is located, except as provided in section 19-133.

(Rev. Ords. 1987, § 19-134)

Sec. 19-135. Use of required yards.

Yard regulations shall apply to that open area on the same lot with a principal building or structure and accessory structure located between the lot lines and the minimum setback lines which shall be unobstructed by buildings or structures from the ground to the sky, except as hereinafter provided.

- (1) In any district, the front yard as established in section 19-145 and hereinafter provided shall be unoccupied and unobstructed by buildings or structures other than signs, poles, ornamental and similar structures and shall not be used to fulfill the off-street parking, loading or unloading requirements of this chapter or for outdoor storage or display, except that a driveway and walkways may be located in any required front yard. Parking in the front yard setback shall not exceed one-third of the overall lot width for one and two-family dwellings only. For residential structures only, a handicapped access ramp may be located within the required front yard. No fence or similar screen of solid appearance in a residential district shall exceed four feet in height where located in the required front yard or along property boundaries contiguous to the required front yard.
- (2) In any district, the side and rear yards as established by the minimum required setback in section 19-145 and hereinafter provided shall be unoccupied and unobstructed by buildings or structures except as hereinafter provided. For residential structures only, a handicapped access ramp may be located within the required side and rear yard setback. (See section 19-144 for regulations pertaining to accessory uses and structures.
- (3) Off-street parking, loading or unloading area in conformance with sections 19-276 through 19-284 or 19-285 through 19-290 and accessory to a permitted use located on the premises may be located within the required side or rear yard, except where such yard is located in a commercial or industrial district and abuts a residential or open space district, only if necessary to meet the minimum requirements of such sections as determined and approved by the zoning officer and city traffic engineer.
- (4) In any district, any portion of a required yard not developed for a use expressly permitted under the terms of this chapter shall be landscaped and maintained to enhance the premises and to be attractive and acceptable to the neighborhood.
- (5) No fence or similar screen of solid appearance in a residential district shall exceed six feet in height where located in the required rear yard or side yard or along property boundaries contiguous to the required rear yard or side yard when said boundary abuts another residential use. For a boundary between a residential and commercial or industrial use no fence or similar screen of solid appearance shall be less than six feet nor more than ten feet in height. These restrictions shall not apply to plantings such as arborvitae or other similar trees or shrubs. Said height shall be measured from the existing grade at the rear and side lot lines.

(Rev. Ords. 1987, § 19-135; Ch. 82, § I, 8-10-99; Ch. 146, § VII, 10-23-00; Ch. 198, § V, 2-19-02; Ch. 642, § VI, 3-15-16)

Sec. 19-136. Minimum setback measurements.

- (a) The minimum front setback requirements of section 19-145 shall be measured along a line parallel to the lot line at the minimum distance of the required setback. If 75 percent or more of the block frontage of the same street is improved with buildings, the front setback shall extend to the average alignment of such buildings.

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- (b) The minimum side and rear setback measurement of section 19-145 shall be measured parallel to the lot line at the minimum distance of the required setback. Where no minimum side setback is required by section 19-145 but where a side setback is actually provided, such side setback shall not be less than five feet.
 - (c) Notwithstanding other provisions of this chapter, for any building or structure, the minimum front, side and rear setback as required in section 19-145 shall be increased by three feet for each full floor level over the first two floor levels.

(Rev. Ords. 1987, § 19-136; Ch. 194, § II, 12-18-01)

Sec. 19-137. Front, side and rear yards on abutting lots in adjacent districts.

- (a) Notwithstanding other provisions of this division wherever a lot or parcel of land in a commercial or industrial district abuts a lot or parcel of land in a residential district fronting on the same street, the lot or parcel of land in the commercial or industrial district shall have at least one-half of the front setback as required in the adjoining residential district but not less than that required in the commercial or industrial district.
- (b) Notwithstanding other provisions of this chapter wherever a lot or parcel of land in an R-5 district, any commercial district or an I-1 district abuts a lot or parcel of land in a residential district, the side and rear yard setback on the lot or parcel in the R-5, commercial, or I-1 districts shall be measured at least 30 feet from the property line along that portion of the lot or parcel that abuts the residential district.
- (c) Wherever a lot or parcel of land in an I-2 general manufacturing or an I-3 heavy manufacturing district abuts a residential district, the principal building or structure on the lot or parcel in the I-2 or I-3 district shall be set back at least 50 feet from the property line along that portion of the lot or parcel that abuts the residential district.

(Rev. Ords. 1987, § 19-137)

Sec. 19-138. Side yards.

- (a) *Side lot line.* Notwithstanding any other provisions of this chapter, no side lot line shall be less than 80 feet. In the case of corner lots, which meet all other dimensional requirements and have a side lot line serving in accordance with subsection (b) of this section and section 19-141(c) as a rear lot line, this side lot line may be less than 80 feet but not less than 50 feet.
- (b) *Use of side yard as rear yard.* Where under the definition a rear yard is not possible as in the case of a corner lot, one side yard shall be designated as a rear yard and shall conform to all regulations of this chapter pertaining to rear yards.

(Rev. Ords. 1987, § 19-138)

Sec. 19-139. Number of structures.

Not more than one structure used for residential purposes shall be built upon any single lot in any R-1, R-2, R-3, R-4, R-5 or R-6 district.

(Rev. Ords. 1987, § 19-139; Ch. 184, § II, 11-6-01)

Sec. 19-140. Measurements.

- (a) *Lot frontage.* Lot frontage shall be measured along the street right-of-way line between the side lot lines and shall be not less than 40 feet. Where all frontage is not contiguous, then only the largest single frontage will be considered with regard to minimum frontage requirements; in cases of equivalent noncontiguous frontage, minimum frontage will be determined by the zoning officer.
- (b) *Lot depth.* Lot depth shall be measured from the front lot line to the rear lot line; this distance shall be the shortest distance. For lots where the front and rear lot lines are not parallel the lot depth is an average of the depth. Average shall be measured from the midpoint of the front lot line to the midpoint of the rear lot line. Lot depth for corner and through lots shall be as determined under section 19-141.
- (c) *Lot width.* Lot width shall be measured as the horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum front setback line. For lots where the front and rear lot lines are not parallel or the front lot line is curved, width shall be measured as the distance between lot lines along a line at right angles to the depth which intersects the depth at the minimum front setback line. Width for corner and through lots shall be as determined under section 19-141.

(Rev. Ords. 1987, § 19-140)

Sec. 19-141. Corner lots and through lots.

- (a) *Corner lots—Setbacks.* For corner lots, those lots which abut on and at the intersection of two or more streets and/or road rights-of-way, lot frontage shall be considered for the purposes of determining setbacks to be two or more front lot lines which shall all meet the minimum front setback requirements of section 19-145.
- (b) *Corner lots—Lot depth and width.* Lot depth for corner lots may be measured from any front lot line measuring as indicated in lot depth, to a side lot line considered under this measurement to be a rear lot line. Lot width for corner lots shall be measured as indicated under lot width.
- (c) *Use of side yard as rear yard.* Where in the case of a corner lot there is no apparent rear lot line, one side lot line shall be designated as a rear lot line and shall conform to all regulations of this chapter pertaining to rear yard setbacks.
- (d) *Through lots—Setbacks.* For through lots, those lots which front upon two parallel streets or which front upon two streets which do not intersect at the boundaries of the lot, the lot shall be considered for the purposes of determining setbacks to have two front lot lines which shall both meet the minimum front setback requirements of section 19-145.
- (e) *Through lots—Depth.* For through lots, those lots which front upon two parallel streets or which front upon two streets which do not intersect at the boundaries of the lot, depth shall be measured for lots with parallel front lot lines, as the distance measured from the front lot line to front lot line, the distance shall be the shortest distance. For lots where the front lot lines are not parallel, the lot depth is an average which shall be measured from midpoint to midpoint of the front lot lines.
- (f) *Through lots—Width.* Width shall be measured as indicated under lot width at the minimum front setback from either front lot line.

(Rev. Ords. 1987, § 19-141)

Sec. 19-142. Determination of uncertain locations.

Where the location of a lot width or lot depth line or a front, side or rear lot line is otherwise uncertain, the zoning officer shall determine their position in a manner complying as closely as possible with the requirements of this chapter.

(Rev. Ords. 1987, § 19-142)

Sec. 19-143. Obstructing vision at corner lots.

On a corner lot in any district, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of 2½ and ten feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along the street lines 30 feet from the point of the intersection.

(Rev. Ords. 1987, § 19-143)

Sec. 19-144. Accessory buildings and structures.

- (a) All residentially used or zoned lots shall contain no more than three accessory sheds and one accessory garage. No accessory building or structure shall be located nearer than five feet from a principal building unless such accessory building or structure is attached to the principal building.
- (b) An accessory building, structure or use conforming to section 19-171 may be located within the required side yard setback and rear yard setback, provided it shall not be nearer than five feet from any lot line. A garden or tool shed used only for the storage of garden implements and light home maintenance tools and swimming pools including pertinent structures such as dressing and shower rooms and equipment houses as regulated by this chapter and other city ordinances are permitted when such uses are accessory to a nonconforming residential use. In-ground and above-ground swimming pools, however, shall not be located nearer than six feet from a lot line per section 421.4 (locations) of the BOCA Code.
- (c) An accessory building, structure or use conforming to section 19-171 shall be limited to no more than 20 feet in height, except as provided as follows:

An accessory structure which is attached to a principal structure may be treated as a principal structure in terms of height requirements provided the setback requirements applicable to a principal structure are met.

(Rev. Ords. 1987, § 19-144; Ch. 52, § I, 2-3-99; Ch. 216, § II, 6-18-02; Ch. 642, § VII, 3-15-16)

Sec. 19-145. Schedule.

The following is the schedule of area requirements:

District	Minimum Lot Requirements			Minimum Front, Side and Rear Yard Requirements			Maximum Height of Building		Maximum Percent of Coverage*
	Area in Square Feet	Width in Feet	Depth in Feet	Front in Feet	Each Side in Feet	Rear in Feet	Story	Feet	Percent+
Residential 1	18,750	125	150	30	25	30	2	35	20
Residential 2	10,000	100	100	25	20	25	2	35	25
Residential 3	7,500	75	100	20	15	25	2	35	25
Residential 4	5,000	50	100	15	8	20	2	35	25
Residential 5	7,500	75	100	20	15	25	3	40	25
Residential 6	5,000	50	100	15	8	20	3	40	25
Open Space 1	100,000	250	300	50	50	50	2	35	10**
Commercial 1	10,000	100	100	15	10	20	3	40	35
Commercial 2	5,000	50	100	5	—	20	3	40	60
Commercial 3	10,000	100	100	5	—	20	3	40	60
Commercial 4	15,000	100	100	15	15	20	2	30	50
Commercial 5	10,000	100	100	10	10	15	2	30	50
Industrial 1	30,000	150	150	25	20	25	3	40	40
Industrial 2	40,000	175	200	30	20	20	4	60	60
Industrial 3	60,000	200	250	30	20	20	4	60	60

* Including accessory building.

****Maximum Percent of Coverage in the OS1 District shall be 20 for educational institutions.**

+ In addition to lot building coverage, every parcel shall also be subject to a maximum percentage of impermeable surface coverage. The maximum amount of the site that may be covered by an impermeable surface shall be determined by adding 20 percent of the site area to the maximum percent of lot building coverage as established by section 19-145. For the purposes of calculating the amount of impermeable surface coverage, impermeable surfaces shall include all roads, driveways, parking areas, buildings, loading areas, decking, pools, and other impermeable construction covering the natural landscape.

(Rev. Ords. 1987, § 19-145; Ch. 52, § II, 2-3-99; Ch. 194, § III, 12-18-01; Ch. 867, § V, 12-20-22)

Sec. 19-146. Reserved.

Editor's note(s)—Ch. 453, § VII, adopted July 15, 2008, repealed § 19-146, which pertained to area requirements for port district and derived from Rev. Ords. 1987 § 19-146. See also the Code Comparative Table.

Secs. 19-147—19-155. Reserved.

DIVISION 3. FLOOR AREA REQUIREMENTS

Sec. 19-156. Minimum residential floor area.

- (a) No single-family dwelling shall be erected or shall be reconstructed, or shall have alterations in size, which result in less than 620 net square feet on one level. For the purposes of this section, net square feet shall be all of the floor area within the walls separating the dwelling unit from the exterior of the building or mechanical space or other dwelling units or common areas, exclusive of garages and porches.
- (b) No dwelling units in two-family or three-family structures, shall be erected or shall be reconstructed or shall have alterations in size, which result in less than 620 net square feet per dwelling unit. For the purposes of this section, net square feet shall be all of the floor area within the walls separating the dwelling unit from the exterior of the building or mechanical space or other dwelling units or common areas, exclusive of garages and porches.

(Rev. Ords. 1987, § 19-156)

Secs. 19-157—19-170. Reserved.

DIVISION 4. ACCESSORY USES

Sec. 19-171. Accessory uses.

The following accessory uses shall be allowed, provided that they shall conform to all other provisions of this chapter and that they shall not be detrimental to or impair adjacent properties or the neighborhood.

- (1) Residential district:
 - a. The raising or growing of horticultural products for home use by a resident family thereon.
 - b. A hen house, barn, stable, kennel or dairy incidental to a permitted farming use.
 - c. A garden or tool shed used only for the storage of garden implements and light home maintenance tools.
 - d. A greenhouse not exceeding 1,500 cubic feet and not used for commercial purposes.
 - e. Swimming pools, including appurtenant structures such as dressing and shower rooms and equipment houses as regulated by this chapter and other city ordinances.
 - f. A private garage or parking area as required in sections 19-276 through 19-284 in connection with a dwelling for:
 - 1. Not more than three motor vehicles, which shall not include more than one vehicle owned by a nonresident of the premises in an R-1 or R-2 district.
 - 2. Not more than four motor vehicles, which shall not include more than two vehicles owned by a nonresident of the premises in an R-3 or R-4 district.

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3. Not more than two motor vehicles per dwelling unit, which shall not include more than one vehicle owned by a nonresident of the premises for each two dwelling units in an R-5 or R-6 district.

In any case, not more than one commercial vehicle weighing not more than 2½ tons gross weight shall be permitted to park overnight on a residential premises in a residential district, except in the case of a farm operated on a full-time basis by a resident thereon.

- g. A professional home office or studio located within the principal building of the premises of a resident architect, artist, author, attorney, clergyman, dentist, engineer, physician or other member of a recognized profession; provided that not more than 25 percent of the total floor area, not to exceed 250 square feet is regularly devoted to such use and that no more than one other person is regularly employed therein in connection with such in an R-1, R-2, R-3 or R-4 district, and not more than two other persons are regularly employed therein in connection with such use in an R-5 or R-6 district.
- h. Any home occupation use such as dressmaking, millinery, home cooking and preservation and similar domestic crafts, excluding barbershops, beauty parlors, hair dressers, dance studios, schools and repair services of any kind, customarily conducted within the principal building by a resident of the premises, provided that there is no exterior storage of material or equipment, that no display of products shall be visible from the street, that not more than 25 percent of the total floor area, not to exceed 250 square feet is regularly devoted to such use and that no other person is regularly employed therein in connection with such use in an R-1, R-2 or R-3 district, and not more than one other person is regularly employed therein in connection with such use in an R-4, R-5 or R-6 district.

The practice of massage therapy conducted by a state licensed massage therapist* conducted within the principal building by a resident of the premises, provided that:

1. There is no exterior storage of material or equipment;
 2. No display of products shall be visible from the street;
 3. Not more than 25 percent of the total floor area, not to exceed 250 square feet is regularly devoted to such use and that no other person is regularly employed therein in the R-1, R-2, R-3, R-4, R-5 and R-6 districts;
 4. The resident shall have obtained a special use permit under section 19-39 et seq., Special Use Permit;
 5. The applicant shall obtain any licenses required by the city; and
 6. Proof of a current license issued by the department of health shall be posted on the premises in a location visible to customers.
- i. Servants' quarter.
 - j. A seasonal stall or stand for the sale of farm or garden products, the majority of which are grown or produced on the premises of a permitted farming use by the resident, owner or lessee thereof.
 - k. Dormitory or living quarters for churches or other places of worship, educational or religious institutions, hospitals, sanitariums, and other similar permitted uses.
 - l. The renting of a room to not more than two persons.
 - m. Other similar accessory uses customarily incidental to a permitted use, except that the storage of pallets in commercial form shall not be permitted in residential areas.

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- n. Portable storage containers* may be placed in a residential district for up to 30 calendar days. The building official may permit the placement of a portable storage container for more than 30 days provided that the property owner has a valid building permit for construction, reconstruction, alteration or remodeling of the structure or due to extenuating circumstances such as hurricane, fire or flood. A portable storage container* may not be used as an accessory structure to a principal use and further shall not be permitted for use as a detached permanent storage building, utility building workshop, hobby shop and other similar purposes.
- (2) Open space district:
 - a. One-family dwelling for a caretaker or other personnel required to reside on the premises for the protection or maintenance of a permitted use.
 - b. Seasonal stall or stand for the sale of farm or garden products, the majority of which are grown or produced on the premises by the resident owner or lessee thereof.
 - c. Dormitory or living quarters for educational or religious institutions, hospitals, sanitariums, and other similar permitted uses.
 - d. Other accessory uses customarily incidental to a permitted use.
 - (3) Commercial district:
 - a. One-family dwelling for a caretaker or other personnel required to reside on the premises for the protection or maintenance of a permitted use.
 - b. Dormitory or living quarters for educational or religious institutions, hospitals, sanitariums, and other similar permitted uses.
 - c. Other accessory uses customarily incidental to a permitted use.
 - d. Off-street parking, as regulated by division 11 of this article and off-street loading and unloading as regulated by sections 19-285 through 19-290.
 - e. Amusement game machines, in conjunction with a permitted business use, according to section 19-98, provided such use is beyond 500 feet from the property boundary of any school, church, other place of worship or religious institution, or public recreation area. No amusement game machine, as defined by this chapter, shall be allowed to operate without the issuance of a proper license by the city council.
 - (4) Industrial district:
 - a. One-family dwelling for a caretaker or other personnel required to reside on the premises for the protection or maintenance of a permitted use.
 - b. Seasonal stall or stand for the sale of farm or garden products, the majority of which are grown or produced on the premises by the resident owner or lessee thereof.
 - c. Other accessory uses customarily incidental to a permitted use.
 - d. Off-street parking, as regulated by division 11 of this article and off-street loading and unloading as regulated by sections 19-285 through 19-290.
 - e. Employees services located on the same premises as the principal use and which are clearly incidental to and limited to the employees of the principal use.
 - (5) Business/technology floating zone district:
 - a. Accessory uses customarily incidental to a permitted use.

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- b. Off-street parking as regulated by division 11 of this article, and off-street loading and unloading as regulated by sections 19-285 through 19-290.
 - c. Employee services located on the same premises as the principal use and which are clearly incidental to and limited to the employees of the principal use, and further which meet the requirements of section 19-364 relating to the definition of a business/technology development. Such services shall be limited to the ground floor only, shall not exceed a maximum of 1,000 square feet per structure housing a principal use and further in aggregate shall not exceed a total of five percent of the gross floor area of the total development. Employee services may include the following: dry cleaning services (drop-off and pick-up only with no processing on-site); convenience kiosk (for items such as newspapers, prepackaged food and beverages and coffee); automatic teller machine; coffee/donut satellite business or kiosk (with no baking on-site).
 - d. Licensed child day care centers for children of employees of the businesses in the business/technology district.

(Rev. Ords. 1987, § 19-171; Ch. 457, § VI, 10-7-97; Ch. 146, § VIII, 10-23-00; Ch. 470A, § VI, 10-7-08; Ch. 489A, § III, 10-6-09)

Sec. 19-172. Emergency shelters.

- (a) Emergency shelters shall be permitted as an accessory use in any district, subject to the setback, yard and lot building coverage requirements of the district. In addition, an emergency shelter may be used for any principal or accessory use permitted in the district except for habitation by persons other than occupants of the principal dwelling. Structures or portions of buildings to be used as emergency shelters shall meet the requirements of the building code and standards issued by the department of civil defense, office of civil defense mobilization, and shall be approved by the city director of civil defense.
- (b) Other provisions of this chapter notwithstanding, underground shelters or those not exceeding three feet above grade, or subterranean portions thereof, may exceed the side and rear minimum setback dimensions and lot building coverage requirements of the district and may be placed without restriction on location in relation to the principal building or structure or other accessory structures.
- (c) When it is established that an emergency shelter would not be permitted under the foregoing provisions owing to topographic condition, the location and coverage upon the lot of existing structures or other characteristics peculiar to the site, the zoning board of review, in consultation with the director of civil defense, may grant the following exceptions:
 - (1) An aboveground structure may be located anywhere in a side or rear yard, provided that an underground type shelter is not feasible. Whenever it is considered desirable, the zoning board of review may require that such shelters be attached and constructed to a height conforming to the principal structure.
 - (2) An underground shelter or one not exceeding three feet above grade may be located in the front yard.
- (d) In granting these exceptions, the zoning board of review may impose whatever conditions it may find desirable to control the appearance in relation to the street and the effect on surrounding property.
- (e) Subject to approval of the city director of civil defense, the zoning board of review may permit the construction of a common shelter by two or more property owners across two or more property lines. All side and rear yard requirements may be waived except where an abutting property is not included in the joint proposal. The board shall require the execution of an agreement between all property owners involved concerning rights and obligations of taxation, access and maintenance.

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- (f) Subject to approval of the city director of civil defense, the zoning board of review may permit a privately owned group or neighborhood shelter as a principal use in any district.

(Rev. Ords. 1987, § 19-172)

Sec. 19-173. Helicopter landing areas.

- (a) *General requirements.* Notwithstanding any other provisions of this chapter, the following ~~regulations~~ **criteria** shall apply to all helistops **in order to assure public safety:**
- (1) Helistops shall be located only in those districts as allowed by special use permit in section 19-98;
 - (2) No helistop shall be established or operated in the city until all applicable federal and state rules, regulations, requirements and permits are obtained and complied with;
 - (3) No helistop shall be established or operated in the city until all permits or fees as required by this chapter and the provisions of all other ordinances of the city and all other requirements are complied with;
 - (4) All helistop landing areas shall be located at ground level and shall not be permitted on roof tops, buildings or other elevated structures;
 - (5) The landing and taking off of helicopters at helistops shall be permitted only during daylight hours between sunrise and sunset;
 - (6) For the administration and enforcement of this section and the location, design and layout of helistops, the publication Heliport Design Guide AC 150/5390-1A by the Federal Aviation Administration, U.S. Department of Transportation dated November, 1969 or its latest equivalent, shall be used for standards and reference;
 - (7) A detailed site plan shall be submitted with all applications showing the size, location and other pertinent information of the touchdown, landing and peripheral area, types and location of constructed facilities, paving markings and location of safety equipment, parking layout, fencing and landscaping and all other facilities as required or provided. Additionally, a plot plan shall be submitted showing the helicopter landing facility with two clearance planes (approach and departure paths and side slopes) in relation to all physical features of the land including development thereon for a radius of at least 500 feet from the landing area.
- (b) *Approach, location and area requirements.* Approach, location and area requirements shall be as follows:
- (1) Approach and departure paths shall be selected to provide the most advantageous lines of flight to and from the landing and touchdown area and to minimize the adverse effects of excessive noise on residential areas, schools, churches, religious institutions and similar public and semi-public facilities.
 - (2) Every helistop shall be so located and used so as to provide at least two approach paths oriented as much as possible into the prevailing wind, at least 90 degrees apart, and clear of obstructions above an imaginary plane having a slope of eight feet horizontally to one foot vertically (8:1) flaring uniformly from the width of the landing area to a width of 500 feet at 4,000 feet from the landing area. If necessary, a curved approach may be used, however, it shall have a turning radius of not less than 700 feet.
 - (3) There shall be no obstructions adjacent to the landing area and the approach and departure paths above an imaginary plane (side slope) having a slope of two feet horizontally to one foot vertically (2:1) from the centerline of the approach and departure paths to a distance of 250 feet.
 - (4) The dimension of the touchdown area shall be equal to rotor dimensions of the largest helicopter anticipated to use the landing facility but in any instance not less than 20 feet by 20 feet.

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- (5) The width and length dimensions of the landing area including the touchdown area shall be at least 1.50 times the overall length of the largest helicopter anticipated to use the landing facility but in any instance not less than 50 feet by 50 feet.
 - (6) A peripheral clear area of at least ten feet shall be provided around the landing area for safety purposes.
 - (7) Helistops shall not be located any nearer than 200 feet to any adjacent residential zone boundary line.
- (c) *Improvement requirements.* Improvement requirements for helicopter landing areas shall be as follows:
- (1) All helicopter land pads, touchdown and landing areas shall be paved with dust-proof material and all pathways, driveways, parking areas and other similar associated facilities shall be paved.
 - (2) The peripheral area shall be surrounded by a fence or wall at least four feet in height and constructed in such a manner as to deflect the horizontal wind velocities caused by the rotation of the helicopter rotor blades.
 - (3) Landing markers and a wind indicating device shall be provided and be in conformance with any applicable state regulation and federal recommendation.
 - (4) At least one fire extinguisher shall be provided at helistops and an approved means of emergency communications such as telephone, fire alarm box or other signaling device may be required. All fire protection devices, equipment and the location thereof shall be subject to the approval of the fire prevention officer of the city fire department and he may impose such other safety requirements as deemed necessary.

(Rev. Ords. 1987, § 19-173)

Sec. 19-174. Transit shelters.

- (a) *Permits required.* Transit shelters may be located within city or state highway rights-of-way or on adjacent properties by obtaining a city zoning and building permit, subject to the following requirements:
 - (1) A transit shelter shall meet requirements of chapter 4 as it may be applicable to meeting all structural and electrical requirements in order to obtain a building permit or an electrical permit.
 - (2) Permit fees will be waived for transit shelters to be erected under the authority of a public transportation agency.
- (b) *Location.* The location of transit shelters shall be as follows:
 - (1) Transit shelters may be located within the sidewalk area of a public right-of-way, or on adjacent private property. When the transit shelter is located on private property, the private property owner shall be a signatory to the application for a building permit.
 - (2) A transit shelter, as a public convenience, shall be exempt from the lot area and yard requirements of sections 19-131 through 19-142 but shall conform to the requirements of section 19-143.
 - (3) In order for a zoning permit to be issued under section 19-56, the zoning officer shall determine that the following requirements are met:
 - a. The transit shelter does not block or hinder access to adjacent property;
 - b. The transit shelter does not substantially obstruct the visibility of commercial establishments abutting or adjacent to a street;

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- c. Transit shelter placement must allow a safe, minimum, unobstructed width of three feet for pedestrian movement on the sidewalk, and when space permits, a four-foot width shall be required;
 - d. An applicant for a permit shall provide a written guarantee that there will be no conflict or interference with the location or maintenance of public or private utilities or utility service to abutting property.
- (c) *Liability.* The city shall be indemnified against any and all liability in connection with bus shelter placement, location, maintenance, use or removal.
- (d) *Maintenance.* Maintenance of the transit shelter shall not be the responsibility of the city but shall be the sole responsibility of the applicant for a permit. Maintenance shall be on a routine basis with provisions for snow removal and emergency maintenance. A maintenance plan and schedule shall be submitted with the request to locate a shelter.
- (e) *Cause for removal.* The city reserves the right to order removal or relocation of transit shelters at the expense of the owner/applicant with no liability to the city, upon due notice for

bona fide cause. Causes shall include but not be limited to inadequate maintenance or failure to follow the approved maintenance plan and schedule, nuisance, interference with the construction, repair or maintenance of any public or private utility service or other cause determined to impair or threaten the use, safety, welfare or the rightful use of the right-of-way.

- (f) *Advertising.* Transit shelter advertising shall be as follows:
- (1) Transit shelter advertising shall be limited to one double faced advertising panel. The live area of each face shall not exceed 22 square feet in area, or a width of not greater than 48 inches;
 - (2) If the advertising panel is illuminated, it shall be by internal illumination and shall meet the guidelines of article VII of this chapter.
 - (3) Advertising shall conform to the requirements of chapter 8, article XI.

(Rev. Ords. 1987, § 19-174)

Sec. 19-175. Open storage.

- (a) *Generally.* Except in a floating zone district which is regulated by subsection (b) of this section, the following regulations shall apply to all open storage which may qualify as an accessory use or open storage of a temporary nature or duration:
- (1) The open storage shall not occur within any required front, side, or rear yard as established by the minimum setback requirements of section 19-145;
 - (2) The open storage shall not exceed the maximum height limitation of the district as provided in Section 19-145;
 - (3) The open storage shall be secured from unauthorized access;
 - (4) The open storage shall be contained and/or covered as necessary so as to prevent its movement or transport by act of nature, including leaching into the ground. Without limiting the foregoing, materials which are subject to erosion by wind shall be protected by effective cover or other treatment, which shall be identified in the application. Materials which are subject to erosion by water or leaching shall be protected through effective control measures, which shall be identified in the application.
 - (5) The open storage shall be screened from the view of adjacent residential properties and from public streets; the proposed method of screening shall be noted in the application and on the plans;

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- (6) The open storage of anything that can be moved or damaged by water, or which is wholly or partly soluble in water shall be prohibited within floodways, special flood hazard areas, or V zones, as provided in division 12, flood hazard areas, section 19-306 et. seq.;
 - (7) The open storage shall only be allowed where the findings required in section 19-39 are met;
 - (8) Open storage shall conform in all respects to the standards set forth in division 14, industrial processes, of this article.
 - (9) A special use permit granted for open storage shall be limited to the specific type and quantity of commodity, equipment, supplies, material(s), and substance(s), and the manner of storage of such items, as specified on the special use permit application and shall not be deemed permissive of any other type of open storage activity. A change in open storage activity from that previously granted through a special use permit shall require a new special use permit petition to the zoning board of review.
 - (10) Petitions for special use permit for open storage shall meet the application requirements for a special use permit and shall additionally include the following:
 - a. A specific listing of the commodity, equipment, supplies, material(s), or substance(s) for which the open storage special use permit is being requested, which shall include the specific type and specific quantity of commodity, equipment, supplies, material(s) or substance(s), and the manner in which such items shall be stored;
 - b. A site plan which shall specifically identify and show the location of the proposed open storage on the parcel which is the subject of the special use permit.
 - c. Fire plan. A fire plan, subject to the review and approval of the fire chief, shall be part of the application and, at a minimum, shall address the following: proximity of fire hydrants to the open storage; accessibility and access for emergency vehicles; the chemical nature and qualities of the material(s) to be stored and a statement as to their combustibility; flammability; and/or explosive or corrosive qualities; and any potential threats to public safety, health and welfare.

(Rev. Ords. 1987, § 19-175; Ch. 146, § IX, 10-23-00; Ch. 453, § VIII, 7-15-08)

Sec. 19-176. Purpose - Large-scale, ground-mounted solar photovoltaic facility.

1. The purpose of this section is to promote the development of large-scale solar photovoltaic facilities (SPF) to promote sustainable renewable energy options through the use of such equipment as solar photovoltaic cells and potentially the use of said facility as an educational opportunity regarding green technology and renewable energy. This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section.
2. A large-scale, solar photovoltaic facility shall be a permitted accessory use on portions of the property owned by the City of East Providence, known as the former Forbes Street Landfill, Parcel 001, Block 1, Assessors Map 511, zoned Open Space - 1, subject to review and approval by the planning board as a land development project (LDP).
3. The construction and operation of all large-scale solar photovoltaic installations shall be reviewed in accordance with the procedures and standards of Article V. Land Development Projects. The land proposed for the SPF is owned by the City of East Providence and an SPF shall not be approved unless the applicant(s) has/have executed a contingent sale (based on an SPF being approved) or an executed long-term lease (ten (10) years or more) for all the property composing the proposed SPF. The Board shall impose any reasonable conditions they find appropriate to improve the site design. The

underlying zoning of the site shall stay in effect. In addition, electrical, plumbing and/or building permits from the Building Division shall be required.

4. Preapplication conference: The applicant shall have at least one preapplication conference with the director of the department of planning. The planning director, as administrative officer, may invite the director of public works, city engineer, fire chief, building official, zoning officer, and any other party deemed to be appropriate to the preapplication review.

(Ch. 533, § III, 9-6-11)

Sec. 19-177. General requirements and standards.

1. Consistency with the comprehensive plan. The proposed large scale solar photovoltaic facility shall further the implementation of the City's adopted comprehensive plan and a finding of consistency with said document shall be required.
2. Front, rear and side yard building setback regulations. SPFs shall meet all required setbacks from all property lines which form the perimeter of the site and any interior access driveways and rights-of-ways shall be platted on the site plan and their material for construction, right-of-way width, and paved width, shall be shown on the required plans.
3. Operation and maintenance requirements for the SPF. The property shall be maintained by the owner(s) of the property and/or the operators of in such a way that the property shall be cleared of debris, weeds, trash etc. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. The equipment shall remain in good repair and working order; malfunctioning, equipment in disrepair or inoperable equipment shall be removed from the property immediately and disposed of in accordance with all applicable local, state and federal regulations.
4. Compliance with laws. The construction and operation of a ground-mounted solar photovoltaic facility shall comply with all applicable local, state, and federal requirements, including, but not limited to, all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of or associated with a ground-mounted solar photovoltaic facility shall be constructed in accordance with the state building code.
5. A sign at the facility shall be required to identify the name of the owner and operator of the facility and provide a 24-hour emergency contact phone number. The facility shall not be used for displaying any advertising except for reasonable identification of the operator of the facility. And any such signs shall meet the city's zoning regulations.
6. No large-scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit. This requirement shall not interfere with national grid requirements on net metering.

(Ch. 533, § III, 9-6-11)

Sec. 19-178. Large-scale, ground-mounted solar photovoltaic facility - standards.

- (a) The maximum height of a ground-mounted solar energy panels shall be 15 feet. The height of a ground-mounted solar energy system shall be measured from the ground level or the base of the system's pedestal to the highest point of the solar energy system or the base of the system's pedestal.
- (b) Ground-mounted solar energy systems shall conform to the yard requirements of the applicable zoning district or be setback a distance equal to the total height of a panel, whichever is greater.

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- (c) Electrical wiring and connections from the solar energy system to any building(s) they serve shall be underground to the extent compatible with the topography and site conditions, unless the electrical lines must come aboveground at their termination point to connect to the building or utility line receiving the solar-generated electricity.
 - (d) Electrical, plumbing, and/or building permits from the building official, following LDP approval from the planning board, shall be required.
 - (e) Any and all construction shall comply with the yard and height requirements of the zoning district in which the parcel is located, Open Space - 1.
 - (f) Parking and aisle width requirements. The applicant shall demonstrate that adequate access, parking, driveway and access aisle widths and circulation are provided for service and emergency vehicles as determined by the board in consultation with the fire chief.
 - (g) Drainage. Erosion and sedimentation control shall conform to the Rhode Island Department of Environmental Management Stormwater Design Manual and all applicable regulations of the City of East Providence.
 - (h) Landscaping. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted, solar photovoltaic field or as otherwise prescribed by applicable laws, regulations, and by-laws.
 - (i) Reasonable efforts, as determined by the board, shall be made to place all utility connections from the SPF underground, depending upon appropriate soil conditions, shape, topography of the site, sub-surface conditions, and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
 - (j) Lighting of a ground-mounted solar photovoltaic facility shall be consistent with local, state, and federal law. Lighting of other parts of the facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the facility shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
 - (k) Main access. At the main entrance to the facility, the property shall be secured from unauthorized access subject to the review and acceptance of the planning board and concurrence of the director of public works and the fire chief as it relates to the provision of emergency services.

(Ch. 533, § III, 9-6-11)

Sec. 19-179. Large-scale, solar photovoltaic land development project review.

1. LDP application form signed by both the City of East Providence and an authorized representative of the proposed operator(s) of the facility, an executed ground lease for the location of the facility on portions of the city's former Forbes Street landfill, and a description of the financial surety that satisfies Sec. 19-280. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Rhode Island.
2. Site plan. The applicant shall submit a site plan containing the following information:
 - (a) The boundaries of the property and the area, including dimensions and square footage of the total installation and number of arrays, showing where the solar arrays are proposed to be installed;
 - (b) Geotechnical feasibility study relating to possible landfill settlement post-installation;

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- (c) One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
 - (d) Location and dimensions of proposed parking areas, roads, and other site improvements;
 - (e) Existing and proposed grading, clearing and/or placement of vegetation;
 - (f) Location of existing and proposed electric lines;
 - (g) Location and perimeters of existing and proposed easements;
 - (h) Location of all underground utilities, water and sewer lines;
 - (i) The construction schedule and any phasing schedule for development of the SPF.
 - (j) The large-scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the city's fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- [3.] Proof of liability insurance.
- 4. Operation and Maintenance Plan. The applicant shall submit a plan for the operation and maintenance of the large scale solar photovoltaic facility, which shall include measures for maintaining safe access to the facility, stormwater control, as well as general procedures for operational maintenance of the facility. Maintenance shall include, but be not limited to, painting, structural repairs, and integrity of security measures.
 - 5. Additional materials. The applicant shall submit additional information, reports or other information required by the planning board to make an informed decision.
 - 6. Utility notification. No large-scale ground mounted photovoltaic facility shall be constructed until evidence has been given to the board that the utility company that operates the electrical grid where the facility is to be located has been informed of the solar photovoltaic facility owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

(Ch. 533, § III, 9-6-11)

Sec. 19-180. Abandonment and decommissioning.

- 1. *Removal requirements.* Any large-scale ground-mounted SPF which has reached the end of its useful life or has been abandoned consistent with other provisions of Chapter 19, Zoning, shall be removed. The owner or operator shall physically remove the facility no more than 180 days after the date of discontinued operations. The owner or operator shall notify the Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
 - (a) Physical removal of all large-scale ground-mounted SPF's, structures, equipment, security barriers and transmission lines from the site.
 - (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

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- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
 - 2. *Abandonment.* Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the SPF shall be considered abandoned when it fails to operate for more than one year without the written consent of the city council and planning board as it relates to the land development project approval. If the owner or operator of the large-scale ground-mounted SPF fails to remove the facility in accordance with the requirements of this section within 180 days of abandonment or the proposed date of decommissioning, the city may physically remove the facility.
 - 3. *Financial surety.* Applicants proposing to develop large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the city must remove the facility and restore the landscape, in an amount and form determined to be reasonable by the board (and subject to the review of the city solicitor), as agreed to and detailed in the site lease agreements. As part of the review for the lease agreements, the applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation. Such surety will not be required for municipally or state-owned facilities.

(Ch. 533, § III, 9-6-11)

Secs. 19-181—19-185. Reserved.

DIVISION 5. GASOLINE FILLING STATIONS⁴

Sec. 19-186. Requirements generally.

Gasoline filling stations may be allowed upon issuance of a special use permit by the zoning board of review or planning board under unified review. Notwithstanding any other provisions of this chapter, the requirements and design standards in this division shall apply to all gasoline filling stations as defined in section 19-1.

(a) Special Use Permit criteria. The following criteria shall apply for gasoline filling station applications:

(1) Compatibility with the neighboring transportation network as evidenced by:

- a. **The zoning board of review or planning board under unified development review may require submission of traffic and/or parking impact studies analyzing both on and off-site conditions as they affect surrounding areas including, but not limited to:**
 - 1. **Analysis of roadways which may be influenced by the project; including adjacent roads and major intersections;**
 - 2. **Safety (accident data, sight distance, roadway conditions, etc.);**

⁴Cross reference(s)—Fire prevention, ch. 5.

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3. Capacity analysis utilizing the most current Transportation Research Board guidelines or other document as specified by the Director of Public Works;
 4. Existing volumes (traffic counting);
 5. Site-generated and future traffic;
 6. Planned transportation improvements, if any;
 7. Projected parking demand for the facility, and adequacy of available on-site parking;
 8. Analysis of the specific impacts of fuel deliveries.

(2) Compatibility with neighboring land uses as evidenced by:

- a. Submission of a landscaping plan, prepared by a professional landscape architect, licensed in the State of Rhode Island, which shows how the proposed development will be adequately landscaped and screened from adjacent properties. Suitable landscaping shall be provided on the site in all areas not required for pedestrian or vehicular traffic movement to enhance and make the premises acceptable and attractive to the surrounding area. Suitable separation shall be made between the pedestrian sidewalk and the vehicular moving area by means of a landscaped barrier to vehicular movement.
- b. Submission of evidence that the proposed development's, noise, trash management, and other operations will not unduly disturb nearby residents.
- c. Submission of a lighting plan that includes suitable illumination arranged as to reflect the light away from adjoining property;
- d. Hours of operation, which may be modified by the zoning board or planning board, shall be compatible with neighboring residential uses.
- e. All buildings shall not be less than 30 feet from the lot line fronting the street.
- f. Pumps and other facilities shall be set back not less than 15 feet from the lot line fronting the street.
- g. Where any filling station adjoins or abuts a residential district or a lot or premises used for residential, educational, recreational, or religious purposes, a wall or fence of solid appearance or tight evergreen hedge shall be erected to a height of not less than 5½ feet. Such fence shall be maintained in a neat and attractive manner.
- h. The filling station building shall be located not less than 50 feet from any residential building.

(3) Protection of environmental resources as evidenced by:

- a. Submission of evidence, including but not limited to, a drainage analysis and related plans, prepared by a professional civil engineer, licensed in the State of Rhode Island, showing that any development will not have a negative effect on natural resources or neighboring properties.
- b. Submission of evidence, including but not limited to an erosion and sediment control management plan, prepared by a professional civil engineer, licensed in the State of Rhode Island, showing that any development will not have a negative effect on natural resources or neighboring properties. Surfaces that are subject to automobile traffic shall be paved with a durable surface.
- c. Submission of evidence that fuel will be properly stored, managed and delivered, and will not lead to negative effects on surface or groundwater resources, air quality, or other

environmental factors. The applicant shall provide evidence of spill prevention measures, spill planning, leak prevention and ongoing safety inspections.

(4) Protection of public safety as evidenced by:

- a. Submission of evidence of the proposal's conformance with relevant fire, building, health codes and other relevant state and federal requirements, as well as other relevant public safety factors.
- b. The filling station premises shall be located not less than 200 feet from the premises or any park, playground or other public recreational facility, school or municipal building, church or other place of worship, religious or educational institution, cultural center, cemetery or hospital.
- c. The filling station property shall be separated from the streetline by a curb at least six inches high. The location and extent of curb cuts shall be subject to the approval of the city traffic engineer or the state traffic engineer in accordance with their respective jurisdictions.

(Rev. Ords. 1987, § 19-186)

Sec. 19-187. Site.

The site shall be provided with:

- (1) Adequate drainage;
- (2) Suitable illumination which shall be so arranged as to reflect the light away from adjoining property;
- (3) Paving of a durable surface where subject to automobile traffic;
- (4) Suitable landscaping.

(Rev. Ords. 1987, § 19-187)

Sec. 19-188. Area requirements.

- (a) All buildings shall not be less than 30 feet from the lot line fronting the street. Pumps and other facilities shall be set back not less than 15 feet from the lot line fronting the street.
- (b) The filling station premises shall be located not less than 200 feet from the premises or any park, playground or other public recreational facility, school or municipal building, church or other place of worship, religious or educational institution, cultural center, cemetery or hospital.
- (c) The filling station building shall be located not less than 50 feet from any residential building.

(Rev. Ords. 1987, § 19-188)

Sec. 19-189. Barriers required for certain locations.

Where any filling station adjoins or abuts a residential district or a lot or premises used for residential, educational, recreational, or religious purposes, a wall or fence of solid appearance or tight evergreen hedge shall be erected to a height of not less than 5½ feet and maintained in a neat and attractive manner between such filling station and the residential district or residential, educational, recreational or religious premises, subject to the approval of the zoning officer.

(Rev. Ords. 1987, § 19-189)

Sec. 19-190. Landscaping.

Suitable landscaping shall be provided on the site in all areas not required for pedestrian or vehicular traffic movement to enhance and make the premises acceptable and attractive to the surrounding area. Suitable separation shall be made between the pedestrian sidewalk and the vehicular moving area by means of a landscaped barrier to vehicular movement.

(Rev. Ords. 1987, § 19-190)

Sec. 19-191. Curb cuts.

The filling station property shall be separated from the streetline by a curb at least six inches high. The location and extent of curb cuts shall be subject to the approval of the city traffic engineer or the state traffic engineer in accordance with their respective jurisdictions.

(Rev. Ords. 1987, § 19-191)

Secs. 19-192-187—19-200. Reserved.

DIVISION 6. CARE FACILITIES

Sec. 19-201. Nursing homes, rest homes and homes for the aged.

(a) Notwithstanding any other provisions of this chapter, the following regulations shall apply to all nursing homes, rest homes and homes for the aged:

- (1) The maximum percent of coverage of all buildings and structures shall not exceed 30 percent of the lot or premises.
- (2) Every room used for sleeping purposes shall contain at least 100 square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least an additional 60 square feet of floor space for each additional occupant thereof.
- (3) Landscaping and architectural treatment shall be in harmony with the surrounding residential development. The building and grounds shall be maintained so as to enhance the appearance of the premises.
- (4) Provisions for outdoor passive recreation shall be provided in the form of paved walks and patios and shall include benches and similar facilities. Area devoted to passive recreation shall equal at least ten percent of the lot or premises.

b) Special Use Permit criteria. In cases where nursing homes, rest homes and homes for the aged are allowable by special use permit in a district, the following criteria shall apply:

(1) Compatibility with the neighboring transportation network as evidenced by:

a. Submission of a traffic impact study analyzing both on and off-site conditions as they affect surrounding areas including, but not limited to:

- 1. Analyses of roadways which may be influenced by the project; including adjacent roads and major intersections;**

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2. Safety (accident data, sight distance, roadway conditions, etc.)
 3. Capacity analysis utilizing the most current Transportation Research Board guidelines or other document as specified by the Director of Public Works;
 4. Existing volumes (traffic counting);
 5. Site-generated and future traffic;
 6. Planned transportation improvements, if any.

(2) Compatibility with neighboring residential land uses as evidenced by:

- a. Submission of a landscaping plan, prepared by a professional landscape architect, licensed in the State of Rhode Island, which shows how the proposed development will be adequately landscaped and screened from adjacent residential properties.
- b. Submission of evidence that the proposed development's loading, trash management, and other operations will not unduly disturb nearby residents.
- c. Submission of evidence, including but not limited to a drainage analysis and related plans, prepared by a professional civil engineer, licensed in the State of Rhode Island, showing that development will not have a negative effect on adjacent properties or natural resources.
- d. Submission of evidence, including but not limited to an erosion and sediment control management plan, prepared by a professional civil engineer, licensed in the State of Rhode Island, showing that the development will not have a negative effect on adjacent properties or natural resources.

(3) Safety of the development's residents as evidenced by the proposal's conformance with relevant fire code, building code and health code requirements, conformance to other dimensional requirements listed in this section, as well as other relevant public safety factors.

(Rev. Ords. 1987, § 19-201)

Sec. 19-202. Accessory family dwelling units.

- (a) *Description.* This section authorizes the installation of accessory family dwelling units in [an] owner-occupied, single-family house that shall be permitted as a reasonable accommodation only for a family member(s) with disabilities as allowed by G.L. 1956, § 45-24-37 and this chapter. The purpose of this section is to permit families to care for their family member(s) with a disability or disabilities at home if possible.
- (b) *General requirements and standards.*
 - (1) Only an owner, who is also an occupant, of a single-family dwelling may apply for, and maintain, an accessory family dwelling unit.
 - (2) Only one accessory family dwelling unit shall be created on a lot.
 - (3) The accessory family dwelling unit shall be located within or attached to the principal single-family owner-occupied dwelling.
 - (4) The design and size of the accessory family dwelling unit shall conform to all applicable standards, including health regulations, building code requirements, and all other federal, state and local laws, rules and regulations, including the provisions of this chapter.

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- (5) The utilities for both the principal unit and the accessory family dwelling unit shall be common to both (i.e., one electric service, one gas service, one oil tank, one water connection, and one sewer hook-up for the structure).
 - (6) The owners of the residence in which the accessory family dwelling unit is created shall occupy one of the dwelling units, except for bona fide temporary absences not exceeding 90 consecutive days or 180 days in any single year. The owner shall be responsible for documenting the period of said absence (the commencement and ending of said absence) and providing this in writing to the zoning officer.
 - (7) The accessory family dwelling unit shall be designed so that the appearance of the structure remains that of a one-family residence and the accessory family dwelling unit shall remain subordinate to the principal residence. There shall be an internal means of egress between the principal unit and the accessory family dwelling unit. If possible, no exterior entrances should be added. If additional exterior entrances are required, they shall be located to the rear or side of the structure and shall be as unobtrusive as possible. Exterior staircases shall be covered or enclosed.
 - (8) One additional off-street parking space shall be provided for the accessory family dwelling unit in addition to those required for residents of the principal dwelling unit and as otherwise required by section 19-284 et seq., and it shall be provided on the premises.
 - (9) Cessation of use. Once the family member or members with disability no longer resides in the premises on a permanent basis, or the title to the real property is transferred, the property owner shall notify the zoning official in writing, and the accessory family dwelling unit shall no longer be permitted nor shall it be marketed as an accessory family dwelling unit, unless there is a subsequent, valid application for such a unit as allowed by G.L. 1956, § 45-24-37 and this chapter. The applicant shall discharge the declaration of an accessory family dwelling unit recorded in the city's land evidence records at their expense and provide documentation of same to the zoning officer.

(c) *Submission requirements.*

- (1) Submit original completed application form to the zoning officer and five additional copies. Said application will be a sworn and notarized declaration from the owner stating:
 - a. That the owner of the property will continue to occupy one of the dwelling units on a year-round basis, except for bona fide temporary absence(s);
 - b. Shall acknowledge that the right to use the accessory family dwelling unit terminates upon transfer of the title unless the accessory family dwelling unit is reapplied for; and
 - c. Shall identify the name of family member(s) who will occupy the accessory family dwelling unit.
- (2) Submit original completed declaration form to the zoning officer and five additional copies.
- (3) Submit original scaled floor plans for the entire structure which shall show the dimensions and description of all the rooms in the structure and a detailed floor plan, drawn at a scale of one-fourth [inch] to the foot, showing the floor(s) where the changes are proposed. Said plans shall show the floor plans for both units and the means of connection between the two units, and shall also show means of ingress and egress.
- (4) Submit graphic depiction of the elevations of the structure being affected by the change.
- (5) A site plan drawn to scale, showing structures, landscaping, and driveway/parking area. One additional off-street parking space shall be provided for the AFDU in addition to those required for residents of the principal dwelling unit and as otherwise required by section 19-284 et seq., and it shall be provided on the premises and shall be shown on the certified site plan.
- (6) Submit certified floor plan(s) illustrating conversion back to a single-family residential unit upon "cessation of use". The referenced plan(s) must illustrate the manner in which the improvements

associated with the "accessory family dwelling unit" will be altered, once again reflecting a single-family dwelling.

- (7) A copy of the property assessor's information.
- (8) Application fee of \$250.00 payable by check to the City of East Providence.
- (9) Obtain a finance department report as to taxes on the property (they must be up-to-date).
- (d) *Review and referral.* The zoning officer shall refer applications for accessory family dwelling units to the director of planning, director of public works, building official, and fire chief for review and comments. The application shall be reviewed for conformance to the general requirements and standards.
- (e) *Recording, posting, inspection.* The applicant shall submit a declaration of the creation of the accessory family dwelling unit including the name for the family member(s) occupying said unit and the restrictions associated with said unit which shall be recorded in the city's land evidence records at the cost of the applicant. No occupancy of the accessory family dwelling unit shall take place without an occupancy permit that has been reviewed and approved by the zoning officer prior to its issuance. The accessory family dwelling unit shall be open for inspection upon request of the city as least one time annually for conformance with requirements and restrictions.
- (f) *Failure to comply.* Failure to comply with any of the provisions of this section is considered a violation of this chapter and will be subject to enforcement and prosecution in accordance with City Charter and ordinances. In the event the owner does not cure such defects within 30 calendar days following the date of such notice, the building official shall immediately revoke any certificates of occupancy or building permits and shall cite the property for a violation of this chapter. The revocation of any such accessory family dwelling unit permits for a family member(s) with disability made by the city shall be recorded in the city's land evidence records by the city.

(Ch. 506, § VII, 7-20-10)

Secs. 19-203—19-215. Reserved.

DIVISION 7. MULTIFAMILY DWELLINGS

Sec. 19-216. General requirements.

Notwithstanding any other provisions of this chapter, the regulations in this division shall apply to all multifamily structures.

(Rev. Ords. 1987, § 19-216)

Sec. 19-217. Area requirements.

In any multifamily structure the minimum front, side and rear setbacks shall be increased by five feet for each full floor level in the structure over the first two floor levels.

(Rev. Ords. 1987, § 19-217; Ch. 867, § VI, 12-20-22)

Sec. 19-218. Schedule for multifamily dwelling usable lot area.

The following tables are the schedules for multifamily dwellings usable lot area as defined in section 19-1.

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Number of bedrooms per dwelling unit	Number of square feet
3 or more	2,500
2	2,000
1	1,500

(Rev. Ords. 1987, § 19-218; Ch. 867, § VII, 12-20-22)

Secs. 19-219—19-230. Reserved.

DIVISION 8. AMUSEMENTS⁵

Sec. 19-231. Amusement game center.

- (a) Amusement game centers, as defined in section 19-1, shall be located only in ~~the C-3 district as a special use permit by the zoning board of review, subject to compliance with the regulations of this section, and subject to the requirements and findings of section 19-38(2), and as a permitted use in~~ **the C-3** C-4 and C-5 districts **subject to compliance with the regulations of this section.**
- (b) No amusement game center shall be located within 500 feet of the property boundary of any public or nonprofit school, church, other place of worship, religious institution, or public recreation area; within a 200-foot radius of a residentially zoned area; and not within 2,500 feet of each other.
- (c) Each machine in an amusement game center shall meet all licensing requirements of the city, and any other ordinance provisions of the city that may be applicable.
- (d) Amusement game centers shall be physically separated and isolated from a business establishment of another character whenever located as part of another business establishment.

(Rev. Ords. 1987, § 19-231)

Secs. 19-232—19-244. Reserved.

DIVISION 9. HAZARDOUS WASTE FACILITIES⁶

Sec. 19-245. Sites in neighboring communities.

Any person seeking to develop a hazardous waste management facility in a neighboring community shall file with the city clerk ten copies of all original application documents submitted to, and siting agreements made with

⁵Cross reference(s)—Regulations of amusements generally, § 8-66 et seq.

⁶Editor's note(s)—Ch. 146, § X, adopted Oct. 23, 2000, repealed sections 19-245—19-249, in their entirety and renumbered former section 19-250 as new section 19-245. Former sections 19-245—19-249 pertained to regulation of hazardous waste facilities and derived from Rev. Ords. 1987, §§ 19-245—19-249.

Cross reference(s)—Fire prevention, ch. 5; utilities, ch. 17.

the state department of environmental management and the neighboring community including applications and agreements made in variance of the original permit and agreements.

(Rev. Ords. 1987, § 19-250; Ch. 146, § XI, 10-23-00)

Secs. 19-246—19-260. Reserved.

DIVISION 10. TRASH STORAGE AREAS⁷

Sec. 19-261. Trash storage areas.

(a) In conformance with the requirements of section 19-56, trash storage areas, including provision for dumpsters where applicable, shall be required for the following uses or categories of uses as set forth in section 19-98:

- (1) Multifamily dwelling.
- (2) Tourist home or lodginghouse.
- (3) Motel, motor inn or hotel.
- (4) Nonprofit club; civic, social or fraternal.
- (5) Hospital, sanitarium, clinic, nursing home.
- (6) Retail business.
- (7) Wholesale business.
- (8) Service business.
- (9) Office uses.
- (10) Commercial recreation.
- (11) Transportation.
- (12) Industrial.
- (13) Trailer courts.
- (14) Gasoline filling stations.

This requirement may be waived by the city zoning officer where the applicant for a permit demonstrates that no outdoor trash disposal area will exist on the premises.

(b) Trash storage area, including dumpsters, shall meet the following requirements:

- (1) Shall not be located within the required front yard;
- (2) May be located in the required side or rear yards but not less than five feet from the property line and enclosed by a stockade fence or similar screening structure at least six feet in height. The trash storage area shall be obscured from the view of the adjacent property and from the street;
- (3) Shall be maintained by the property owner in compliance with sections 4-161 and 4-330;

⁷Cross reference(s)—Garbage and refuse, ch. 6.

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- (4) Shall not interfere with off-street parking and loading areas or requirements including safe vehicular and pedestrian movement;
 - (5) Shall not cause a public nuisance.
 - (6) Trash storage areas shall not be located between the public-right-of-way, or public rights-of-way in the case of a corner lot or parcels with more than one public street frontage, and the principal use which it serves.

(Rev. Ords. 1987, § 19-261; Ch. 198, § VI, 2-19-02; Ch. 642, § VIII, 3-15-16)

Secs. 19-262—19-275. Reserved.

DIVISION 11. OFF-STREET PARKING REGULATIONS⁸

Sec. 19-276. Requirements.

In any district where permitted, no use of premises shall be authorized or extended, no land shall be used or occupied and no building or structure shall be erected, altered, used or enlarged unless there is provided for such use, extension, erection, alteration or enlargement off-street automobile parking spaces as required in this division. Any building or use of premises existing at the time of the adoption of this chapter with parking space that does not meet the requirements of this chapter will not be required to do so, provided that any enlargement, extension or alteration of the building or use of the premises shall provide off-street parking space as required in this division. Such off-street parking space may be provided in the open or under cover.

(Rev. Ords. 1987, § 19-276)

Sec. 19-277. Continuation of requirements.

The off-street parking spaces associated with permitted uses as provided for and required by this chapter shall be a continuing obligation of the present or future owner of any premises and shall not be reduced, changed, encroached upon in any manner or discontinued unless a change in the parking requirements of such associated permitted uses occurs to permit a corresponding change in the size of the required off-street parking area.

(Rev. Ords. 1987, § 19-277)

Sec. 19-278. Location and street access.

Each off-street parking space required by this chapter shall have vehicular access to a street and shall be on the same lot or premises as the building, structure or use it is intended to serve, on a lot adjoining the premises or on a lot directly across an adjoining street from the premises. When practical difficulties as determined by the zoning board of review prevent the location of off-street parking space as required in this division, such space shall be located within 400 feet of the premises. In such instances, appropriate deed restrictions and/or easements shall be placed in the land evidence records for both the property on which the use is located and the property on which the parking is located. Such legal documents shall be subject to the review and approval of the city solicitor.

⁸Cross reference(s)—Stopping, standing and parking generally, § 18-296 et seq.

Notwithstanding any other provisions of this chapter, off-street parking for commercial or industrial uses as required in this section shall not be permitted in any residential or open space zone.

(Rev. Ords. 1987, § 19-278; Ch. 146, § XIII, 10-23-00)

Sec. 19-279. Joint use and shared use.

- (a) *Joint use.* Nothing in this chapter shall be construed to prevent the joint use of off-street parking space for two or more buildings, structures or uses if the total of such spaces when used together shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the provisions of this chapter.
- (b) *Shared use.* No part of an off-street parking space required for any building, structure or use for the purpose of complying with the provisions of this chapter shall be included as part of an off-street parking space similarly required for another building, structure or use unless the type of use indicates that the peak period of usage of such buildings, structures or uses will not be simultaneously with each other as determined by the zoning officer. Applicants requesting use of shared parking under this sub-section (b) shall submit documentation in narrative form, and graphically depicted on a development plan, the specifics of the request and justification for the shared parking arrangement, which shall be reviewed and approved by the director of planning in consultation with the zoning officer, or by the development review committee, or planning board depending upon the scale of the development. All properties utilizing shared parking under this sub-section (b) shall have notice of such restriction recorded in the land evidence records of the city at the cost of the applicant.

(Rev. Ords. 1987, § 19-279; Ch. 146, § XIII, 10-23-00; Ch. 453, § IX, 7-15-08)

Sec. 19-280. Mixed uses on a premises.

In the case of mixed uses on a premises, the total requirements for off-street parking space shall be the sum of the requirements of the various uses computed separately as hereinafter required, and the off-street parking space for one use shall not be considered as providing the required off-street parking space for any other use.

(Rev. Ords. 1987, § 19-280; Ch. 146, § XIII, 10-23-00)

Sec. 19-281. Methods of determining off-street parking requirements.

- (a) When the schedule requires the on-site number of spaces to be calculated per employee and employees are on the site in shifts, the number to be used is the number of employees present during the largest shift (most employees). It shall mean the total number of employees on the site who will use the site for parking at any one time.
- (b) A garage or carport may be used to meet the requirements of this section. A driveway may only be used to meet the requirements of this section where it serves a one-family or two-family dwelling. Parking spaces may be stacked or in tandem, for no more than two cars deep, one and two-family dwellings only. Parking in the front yard setback shall not exceed one-third of the overall lot width.
- (c) Industrial uses. Where it can be demonstrated, to the satisfaction of the zoning officer and/or the planning board or the department of planning and urban development, that employment projections indicate less parking would be needed than that required by section 19-284 and adequate land is available should future use(s) warrant additional parking, then fewer parking spaces will be allowed.

- (d) If a use is not specifically listed in the off-street parking schedule, the requirements shall be the same as for the most similar use listed as determined by the zoning officer in consultation with the department of planning and urban development referencing the Institute of Traffic Engineers Parking Generation Report.

(Rev. Ords. 1987, § 19-281; Ch. 146, § XIII, 10-23-00; Ch. 642, § IX, 3-15-16)

Sec. 19-282. Parking space design requirements.

- (a) Minimum size. Each parking space shall contain an area of not less than 162 square feet for the parking of one vehicle, exclusive of necessary drives or aisles. In allocating space for off-street parking, each parking space shall measure no less than nine feet by 18 feet. Minimum aisle widths shall be as follows:

90 degree angle parking	24 feet (one-way and two-way traffic)
60 degree angle parking	23 feet (two-way traffic)
	18 feet (one-way traffic)
45 degree angle parking	21 feet (two-way traffic)
	13 feet (one-way traffic)
30 degree angle parking	20 feet (two-way traffic)
	11 feet (one-way traffic)
0 degree angle parking	20 feet (two-way traffic)
	13 feet (one-way traffic)

- (b) Individual parking spaces shall be clearly defined, and permanently marked and maintained on the parking surface with painted lines, or other means acceptable to the zoning officer, and directional arrows and traffic signs shall be provided as necessary for traffic control. A driveway may be considered a required parking space only for detached one- and two-family dwellings and need not contain painted lines.
- (c) Pervious parking surfaces shall be allowed in environmentally sensitive areas, subject to the approval of the zoning officer, in consultation with the director of planning and the city engineer/deputy director of public works.

(Rev. Ords. 1987, § 19-282; Ch. 146, § XIII, 10-23-00; Ch. 642, § X, 3-15-16)

Sec. 19-283. Plans, construction and maintenance of off-street parking areas.

- (a) The following requirements establish minimum acceptable standards for alleviating the visual and environmental effects associated with parking facilities. The application of these standards will serve to improve the compatibility and attractiveness of such facilities, provide relief from un-shaded paved areas, and minimize noise and glare from lights associated with off-street parking facilities. In addition, these requirements will improve pedestrian safety, and optimize traffic circulation patterns with better-defined space. For those developments subject to the development plan review provisions of article VIII of this chapter, additional landscaping requirements apply.
- (b) Plans. For the purpose of converting spaces into the required parking area, plans for parking areas containing five vehicles or more shall be submitted to the zoning officer to show how the required parking space shall

be arranged in the area supplied for such purposes and to indicate sufficient space for parking maneuvers as well as adequate ingress and egress to the parking area.

- (1) Such plan(s) shall be prepared at a reasonable scale and shall show: property lines; building location(s) and use; the dimensions and lot area of the property; the size and arrangement of all parking and any required loading spaces; the means of ingress and egress to such parking and loading spaces from the street system and interior circulation with the property; the location and design of required landscaping; the area of the parcel available for winter snow storage (this shall not be within the public right-of-way and shall not damage required landscaped buffering); the extent of any change required in existing site conditions to provide required parking and loading spaces; and such other conditions as may be necessary to permit review and approval of the proposed parking and any required loading spaces.
 - (2) Such plan(s) may be referred to other agencies and city departments as may be necessary to review the proposed parking area.
- (c) Construction standards. Every parcel of land which after the effective date of the ordinance from which this chapter was derived is changed to a parking area for five vehicles or more, shall be developed as follows, subject to the review and approval of the required plans by the city engineer/deputy director of public works and subject to the approval of the zoning officer and building official:
- (1) Such area where subject to wheeled traffic shall be paved, drained, lighted and arranged and marked for convenient access and safety of pedestrians and vehicles;
 - (2) Any light used to illuminate the parking area shall be so arranged as to reflect the light away from adjoining premises and streets;
 - (3) Suitable separation shall be made between the pedestrian sidewalk and the vehicular parking or moving area with the use of appropriate bumper or wheel guards or traffic islands;
 - (4) Where the portion of the property used for vehicular traffic abuts a street, such portion shall be separated from the street line by a curb at least six inches high;
 - (5) The location and extent of the appropriate curb cuts shall be determined by the city engineer/deputy director of public works, subject to the approval of the zoning officer, and wherever state jurisdiction exists, all curb cuts shall be subject to the approval of the state department of transportation as evidenced by submission of an approved physical alteration permit. In order to minimize vehicular conflicts, curb cuts shall be placed at the maximum feasible distance from intersections or from curb cuts for adjacent properties. Except where peculiar site or safety conditions warrant, only one curb cut shall be permitted for each development. Where a lot has more than one street frontage, all curb cuts for multi-family, commercial, or industrial uses shall be located on the primary (arterial or collector) street. This condition may be waived only, if in the determination of the city engineer/deputy director of public works, particular site or safety conditions so warrant.
 - (6) A plan that identifies changes in drainage associated with the construction of paved parking areas, and the method(s) proposed to address site drainage, shall be submitted and subject to the review and approval of the city engineer/deputy director of public works in accordance with city standards and requirements.
- (d) Commercial or industrial areas. Where any parking area containing five parking spaces or more and located in a commercial or industrial district adjoins or abuts a residential district or a lot or premises used for residential, educational, recreational or religious purposes, there shall be provided a five-foot wide landscaped strip containing a wall or fence of solid appearance or tight evergreen hedge having a height of not less than five and one-half feet maintained in a neat and attractive manner between the parking area and the residential district or residential, educational, recreational or religious premises, subject to the approval of the zoning officer.

- (e) Residential areas. Where any parking area containing five parking spaces or more and located in a residential district adjoins or abuts a lot or premises used for residential purposes, a wall or fence of solid appearance or tight evergreen hedge having a height of not less than five and one-half feet shall be erected and maintained in a neat and attractive manner between the parking area and the lot or premises, subject to the approval of the zoning officer.
- (f) Landscaping. Any parking area established, expanded, or required to be altered because of building alteration or reuse of premises, after the effective date of the ordinance from which this chapter was derived, shall provide a minimum five foot wide planting strip between the parking area and the street. The planting strip may be interrupted to allow for entrances and exits, but in no portion may the planting strip be less than ten feet in length. The planting strip shall be planted with trees, shrubs, plants or other live vegetation. Such other landscaping treatment as hereinbefore required and practicable to enhance the premises and make the parking area acceptable and attractive to the adjoining neighborhood shall be provided, subject to the approval of the zoning officer.
- (g) Maintenance. Any parking space or area shall be kept by the owner in a neat and attractive manner in accordance with specifications and ordinances of the city. The owner shall be responsible for maintenance of landscaping, including the removal and replacement of all dead or diseased plantings. The parking area shall be plowed and/or sanded within 24 hours after the end of any snow or sleet storm.

(Rev. Ords. 1987, § 19-283; Ch. 53, § VI, 2-3-99; Ch. 146, § XIII, 10-23-00)

Sec. 19-284. Off-street parking spaces required.

- (a) In calculating the total number of required spaces, all numbers should be rounded off to the nearest whole number. As required in section 19-283, for the purpose of creating parking spaces into a required parking area, plans for parking areas containing five vehicles or more shall be submitted to the zoning officer to show how the required parking spaces shall be arranged in the lot area supplied for such purposes and to indicate sufficient space for parking maneuvers as well as adequate ingress and egress to the parking area. The following numbers or amounts of off-street parking space or area shall be required for the listed uses in this section according to the following schedule:

Use	Spaces Required (Note: GFA is Gross Floor Area)
(1) Dwelling: (a) One-family and two-family (b) Three-family	(a) Two spaces for each household or dwelling unit (b) One and one-third per dwelling unit
(2) Dwelling, multifamily and elderly housing: (a) Dwelling, multifamily (b) Dwelling, elderly housing (publicly assisted)	(a) Two spaces for each household or dwelling unit, plus one space for each bedroom in excess of two bedrooms (b) One-half space for each dwelling unit, plus one space for each employee
(3) Congregate care or assisted living facility	One space for each three dwelling units or rental units
(4) Child day care center or nursery school	One space for each five persons of the facility's licensed capacity, plus three spaces designed for the safe and convenient loading and unloading of children
(5) Churches and other places of worship	One space for each eight seats, plus one for each employee

(6) Clinics	Four spaces for each doctor, plus one for each employee
(7) Clubs: Civic, social, fraternal	One space for each five members or one space for each five seats, whichever is greater, plus one space for each two employees
(8) Clubs: golf country, swimming and similar uses, including yacht clubs	One space for each three members, plus one space for each employee
(9) Communications services and broadcasting	One parking space for each 400 square feet of GFA
(10) Commercial education institutions, industrial trade schools	One space for each instructor, plus one space for each two employees or other staff members, plus one space for each two students
(11) Commercial recreation	One space for each 200 square feet of GFA or one space for every three seats, whichever is greater, plus one space for each employee
(12) Community or regional shopping center greater than 200,000 square feet of gross floor area	One space for each 250 square feet of retail GFA, plus one space for each employee. Total parking space for restaurant and/or each free-standing use on the premises shall be added cumulatively to the above requirements.
(13) Cultural center	One space for each 200 square feet of GFA, plus one space for each employee
(14) Funeral homes and mortuaries	One space for each three seats in meetings rooms, plus one space for each employee, plus one space for each company vehicle
(15) Helistop	Two spaces where a helistop is located more than 500 feet from the buildings or main premises of the owner or proprietor or as otherwise determined by the zoning officer
(16) Home occupations and professional offices or studios	One space for each 100 square feet of floor area so used, plus one space for each employee, plus two spaces for each dwelling unit for permanent occupancy
(17) Hospitals	One space for each two beds, plus one space for each two employees including accredited physicians
(18) Nursing or convalescent homes	One space for each four patient beds
(19) (a) Hotels, motels, lodging houses, boarding houses and tourist homes (b) Bed and Breakfast	(a) One space for each guest sleeping room or suite, plus one space for each employee. Total parking space for each accessory use on the premises shall be added cumulatively to the above requirements (b) One per guest room, plus one for the owner/occupant of the premises.

(20) Industrial and manufacturing establishments	One space for each 270 square feet of GFA or one space for each two employees on the largest shift, whichever is most appropriate, subject to the approval of the zoning officer
(21) Institution of higher education	One space for each classroom, plus one space for each two employees or staff members other than teachers, plus one space for each two students
(22) Marinas, yacht clubs, boatyards and docks	One space for each mooring slip or other berthing facility, plus one space for each two employees
(23) Office uses: (a) Office use including bank, professional, medical and dental (b) Office building(s) of greater than 40,000 GFA (c) Medical and dental	(a) One space for each 500 square feet of GFA (b) One space for each 500 square feet of GFA (c) One space for each 200 square feet of GFA
(24) Telemarketing uses	One space for each 150 square feet of GFA
(25) Data processing center*	One space for each 150 square feet of GFA
(26) Business/technology development, as defined in section 19-1	One space for each 250 square feet of GFA; however, up to 15 percent of the total spaces required may be held in reserve as provided for in section 19-370, pertaining to reserve parking area for business/technology development
(27) Other institutions devoted to the board, care and treatment of humans	One space for each four beds, plus one space for each two employees, including accredited physicians
(28) Theatres, auditoriums or other any public assembly area with fixed seats	One space for each three seats, plus one space for each employee
(29) Any public assembly area without fixed seats	One space for each 100 square feet of total floor area
(30) Public and private elementary and junior high/middle schools	Two spaces for each classroom, plus one space for each employee or staff member other than teachers
(31) Public and private high schools	Two spaces for each classroom, plus one space for each employee or staff member other than teachers, plus one space for each four students of driving age
(32) Religious institution*	One space for each ten occupants, plus one space for each institution vehicle, plus one space per employee
(33) Retail and service business establishments	One space for each 500 square feet of GFA
(34) Convenience store	One space for each 500 square feet of GFA
(35) Retail furniture and major appliance showrooms	One space for each 500 square feet of GFA, plus one space for each employee

(36) Restaurants and other eating or drinking establishments	One space for each six seats provided for patron use, plus one space for each two employees. <u>Up to 20 outdoor seats shall be exempt from these requirements.</u>
(37) Fast food restaurant	One space for each four seats or one space per 500 square feet of GFA, whichever is greater, plus drive-through window stacking spaces as elsewhere required by this chapter. <u>Up to 20 outdoor seats shall be exempt from these requirements.</u>
(38) Trailer courts	One and one-third spaces for each trailer, plus one space for each employee, plus one space for each dwelling unit for permanent occupancy
(39) Wholesale, distribution and warehousing establishments	One space for each two employees, or at a minimum, one space for each 2,000 square feet of GFA, plus additional spaces for customers' vehicles as determined appropriate by the zoning officer
(40) Dormitory for institution of higher education	One space for each two beds
(41) Other uses (Note: Drive-through stacking land requirements are contained in section 19-464.)	The requirement(s) shall be the same as for the most similar use listed as determined by the zoning officer and the department of planning and urban development referencing the Institute of Traffic Engineers Parking Generation Report.

- (b) For the calculation of off-street parking space for proposed development or re-development under the provisions of the Main Street and Neighborhood Center Overlay District, refer to subsection 19-322(d).
- (c) In addition to the hereinabove required off-street parking spaces, adequate provisions shall be made for the off-street parking of all company-owned vehicles operating out of the premises, as determined by the city engineer/deputy director of public works, subject to the approval of the zoning officer.
- (d) The number, size, location and identification of handicapped spaces shall comply with the standards of title III of the American with Disabilities Act (ADA), and as otherwise required by applicable law.
- (e) No part of any required non-residential parking area shall be used for dead storage, automotive repair work, or dismantling of any kind.
- (f) For certain critical areas of concern as identified in the city's comprehensive community plan (1992), namely the Turner Reservoir/Central Pond critical area and the Runnins River critical area, the city may prohibit the provision of off-street parking spaces that are in excess of the number of spaces required under this ordinance.

(g) Outdoor dining.

(1) Up to 50% of a restaurant and/or fast food restaurant's required non-handicap, on-site parking spaces may be used for outdoor dining, up to a maximum of 4 required spaces. Additional parking

spaces may be utilized for outdoor dining if they conform to all applicable parking and other requirements. See Section 19-360.3

(Rev. Ords. 1987, § 19-284; Ch. 457, § VII, 10-7-97; Ch. 146, § XIII, 10-23-00; Ch. 154, § II, 1-16-01; Ch. 216, § III, 6-18-02; Ch. 470A, § VII, 10-7-08; Ch. 642, § XI, 3-15-16; Ch. 867, § X, 12-20-22)

Sec. 19-285. Off-street loading and unloading—Required areas.

In order to avoid undue interference with the public use of the street, adequate space for the standing, loading and unloading of delivery vehicles shall be provided and maintained. No land or premises shall be used or occupied and no buildings or structures shall be erected or used unless off-street loading space as required by this chapter is provided. Such off-street space is not required for any building, structure or use of premises existing on the effective date of the ordinance from which this chapter was derived with off-street loading spaces that do not meet the requirements of this chapter; provided however that off-street loading space as required by this chapter shall be provided for by any enlargement, extension or alteration to any such existing structure or use.

(Rev. Ords. 1987, § 19-285)

Sec. 19-286. Same—Continuation of requirements.

Off-street spaces with permitted uses as required by this chapter shall be a continuing obligation of the present or future owner of any premises and shall not be reduced, changed, encroached upon in any manner or discontinued unless a change in the off-street loading requirements of such associated permitted uses occurs to permit a corresponding change in the number of off-street loading spaces.

(Rev. Ords. 1987, § 19-286)

Sec. 19-287. Same—Joint use.

Nothing in this chapter shall be construed to prevent the joint use of off-street loading space for two or more buildings, structures or uses on the same or contiguous premises if the total of such spaces when used together shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the provisions of this chapter.

(Rev. Ords. 1987, § 19-287)

Sec. 19-288. Same—Location and street access.

The off-street loading spaces required by this chapter shall be in all cases on the same premises as the use, building or structure they are intended to serve and shall have vehicular access to a street. In no case shall any required off-street loading space be part of an area used to satisfy the off-street parking requirements of this chapter. The use of such off-street loading space shall not hinder the free movement of vehicles and pedestrians over a street, sidewalk or alley.

(Rev. Ords. 1987, § 19-288)

Sec. 19-289. Same—Space requirements.

- (a) For each club of any type, commercial educational institution, commercial recreation, cultural center, educational institution, motel, hotel or motor inn, hospital or sanitarium, office, place of public assembly, elementary, junior or high school or other similar use not provided for in this division, off-street loading and unloading space of at least 480 square feet in area with a minimum width of 12 feet, a minimum length of 40 feet and, where covered, a minimum overhead clearance of 14 feet shall be provided according to the following schedule:

Gross Floor Area in Square Feet	Number of Off-Street Loading Spaces
0 to 9,999	0
10,000 to 49,000	1
50,000 to 99,000	2
Each additional 100,000	1

- (b) For each business, commercial, manufacturing or industrial enterprise of over 1,000 square feet but less than 4,000 square feet of gross floor or ground area in which commodities are sold, stored, displayed, serviced, repaired, altered, processed or fabricated as the principal use of the premises, off-street loading space of at least 300 square feet in area shall be provided.
- (c) For each business, commercial, manufacturing or industrial enterprise of over 4,000 square feet of gross floor or ground area in which commodities are sold, stored, displayed, serviced, repaired, altered, processed or fabricated as the principal use of the premises, off-street loading space of at least 770 square feet in area with a minimum width of 14 feet, minimum length of 55 feet and, where covered, a minimum overhead clearance of 15 feet shall be provided according to the following schedule:

Gross Floor Area in Square Feet	Number of Off-Street Loading Spaces
4,001 to 8,000	1
8,001 to 25,000	2
25,001 to 40,000	3
40,001 to 100,000	4
100,001 to 250,000	5
Each additional 200,000	1

(Rev. Ords. 1987, § 19-289)

Sec. 19-290. Same—Plans, construction and maintenance of off-street loading areas.

- (a) *Plans.* Detailed plans shall be submitted to the zoning officer to show how the off-street loading space shall be arranged and to indicate sufficient space for maneuvering as well as adequate ingress and egress to and from the street, subject to review of the city traffic engineer, before any permits are issued or approved by the zoning officer.

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- (b) *Construction.* Off-street loading space and access drives shall be paved, drained and lighted and shall have appropriate bumper or wheel guards where needed, and any light used for illumination shall be so arranged as to reflect the light away from adjoining premises and streets. Where any off-street loading space adjoins or abuts a residential district or a lot or premises used for residential, educational, recreational or religious purposes, there shall be provided a wall or fence of solid appearance or tight evergreen hedge having a height of not less than five and one-half feet maintained in a neat and attractive manner between the off-street loading space and the residential district or residential, educational or religious premises, subject to the approval of the zoning officer, provided that when the provisions of this division are in the judgment of the zoning officer impossible or impractical of performance, they may be waived by the zoning officer at his discretion.

(Rev. Ords. 1987, § 19-290)

Sec. 19-291. Land development project approval.

Any development or construction, whether residential, commercial or industrial, requiring 50 or more parking spaces, must obtain land development project approval subject to article V of this chapter.

(Rev. Ords. 1987, § 19-291)

Secs. 19-292—19-305. Reserved.

DIVISION 12. SPECIAL FLOOD HAZARD AREAS⁹

Sec. 19-306. Purpose.

The purpose of this division is to ensure public safety; minimize hazards to persons and property from flooding, to protect watercourses from encroachment, and to maintain the capability of floodplains to retain and carry off floodwaters. The City of East Providence elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

(Ch. 580, § I, 8-20-13; Ch. 628, § I, 9-15-15)

Sec. 19-307. Applicability.

- (a) *[Floodplain overlay district established.]* The special flood hazard areas are herein established as a floodplain overlay district. The district includes all special flood hazard areas within the City of East Providence designated as Zone A, AE, AH, AO, A99, V, or VE on the Providence County Flood Insurance Rate Map (FIRM) and Digital FIRM issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Providence County FIRM that are wholly or partially within the City of East Providence are panel numbers 44007C337G, and 44007C339G dated March 2, 2009; 44007C317J, 44007C336H, 44007C338H, and 44007C451H dated September 18, 2013; and 44007C309K, 44007C326J, 44007C327H, 44007C328J and 44007C329H dated October 2, 2015. The exact boundaries of the district may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Providence County Flood Insurance Study (FIS) report dated October 2, 2015. The

⁹Editor's note(s)—Section I of Ch. 580, adopted Aug. 20, 2013, amended Div. 12 in its entirety to read as herein set out. Former Div. 12 pertained to similar subject matter and derived from Ch. 474, adopted Jan. 20, 2009.

office of emergency management is responsible for floodplain management. The FIRM and FIS report and any revisions thereto are incorporated herein by reference and are on file with the Emergency Management Agency and the department of public works engineering division.

- (b) *Disclaimer of responsibility.* The degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.
- (c) *Severability.* If any section, provision, or portion of this division is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.
- (d) *Other development.* For the purposes of this section, "other development" shall be defined as any action exclusive of that which requires the issuance of a building permit under the Rhode Island State Building Code. Such other development shall include, but not necessarily be limited to, the following:
 - (1) Earth, gravel or mineral removal or extraction.
 - (2) Alteration of the topography by cutting, filling or grading.
 - (3) Storage of bulk materials outside of a structure.
 - (4) Construction or placement of facilities or improvements not normally requiring a building permit.
- (e) *[Conflict of provisions.]* This division shall not in any way impair/remove the necessity of compliance with any other applicable laws, ordinances, regulations, etc. Where this division imposes a greater restriction, the provisions of this division shall control.

(Ch. 580, § I, 8-20-13; Ch. 628, § II, 9-15-15)

Sec. 19-308. Definitions.

Unless specifically defined below, words and phrases used in this division pertain to floodplain management, have the same meaning as they have in common usage and to give this division its most reasonable application.

Accessory structure: A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of special flood hazard: See definition for "special flood hazard area".

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE): The elevation of the crest of the base flood or 100-year flood. The height, as established in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum where specified), in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

Basement: Any area of a building having its floor subgrade (below ground level) on all sides.

Building: See definition for "Structure".

Coastal A Zone: Area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped V zones. The principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for breaking wave heights shall be greater than or equal to 1.5 feet.

Cost: As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor's estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site

preparation; repairs made to damaged parts of the building worked on at the same time; contractor's overhead; contractor's profit; and grand total. Items to be excluded include: cost of plans and specifications, survey costs, permit fees, costs to correct code violations subsequent to a violation notice, outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.

Development: Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Existing manufactured home park or manufactured home subdivision: A manufactured home park or manufactured home subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including, as a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or existing manufactured home subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads). **(Required)**

Federal Emergency Management Agency (FEMA): The federal agency that administers the National Flood Insurance Program (NFIP).

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood insurance rate map (FIRM): The official map of a community on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a digital flood insurance rate map (DFIRM).

Flood insurance study (FIS): The official study of a community in which the Federal Emergency Management Agency (FEMA) has conducted a technical engineering evaluation and determination of local flood hazards, flood profiles and water surface elevations. The flood insurance rate maps (FIRM), which accompany the FIS, provide both flood insurance rate zones and base flood elevations, and may provide the regulatory floodway limits.

Floodproofing: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. For the purposes of these regulations, the term "regulatory floodway" is synonymous in meaning with the term "floodway".

Freeboard: A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Functionally dependent use or facility: A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities.

Highest adjacent grade (HAG): The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure: Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior, or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

Limit of moderate wave action (LiMWA): An advisory line indicating the limit of the one and one-half-foot wave height during the base flood.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of § 60.3 [sic].

Manufactured home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or manufactured home subdivision: A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

Market value: Market value is the price of a structure that a willing buyer and seller agree upon. This can be determined by an independent appraisal by a professional appraiser; the property's tax assessment, minus land value; the replacement cost minus depreciation of the structure; the structure's actual cash value.

New construction: Structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

~~(Required)~~

New manufactured home park or manufactured home subdivision: A manufactured home park or manufactured home subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain regulations adopted by the community. ~~(Required)~~

Recreational vehicle: A vehicle which is:

- (a) Built on a single chassis;
- (b) Four hundred square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and

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- (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway: See definition for "floodway".

Sheet flow area (for community with AO, AH, or VO zones only): See definition for "area of shallow flooding".

Special flood hazard area (SFHA): The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

Start of construction: For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erections of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

For insurance purposes, means:

- (1) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;
- (2) A manufactured home ("a manufactured home," also known as a mobile home, is a structure; built on permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
- (3) A travel trailer, without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

For the latter purpose, "structure" does not mean recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

Substantial damage: Damage of any origin sustained by a structure, whereby the cost of restoring the structure to before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement: Any reconstruction, rehabilitation, addition or other improvements to a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:

- (1) Any project to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

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- (2) Any alteration of the "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Variance: A grant of relief by a community from the terms of the floodplain management ordinance that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

Violation: Failure of a structure or other development to be fully compliant with the community's floodplain management ordinance. Construction or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

(Ch. 580, § I, 8-20-13; Ch. 628, § III, 9-15-15)

Sec. 19-309. Permit required.

All proposed construction or other development within a special flood hazard area shall require a permit. The National Flood Insurance Program Special Flood Hazard Area requires permits for all projects that meet the definition of development, not just "building" projects. Development projects include any filling, grading, excavation, mining, drilling, storage of materials, temporary stream crossings. If the construction or other development within a special flood hazard area is not covered by a building permit, all other nonstructural activities shall be permitted by either the Rhode Island Coastal Resources Management Council and/or the Rhode Island Department of Environmental Management as applicable. Therefore if another state agency issues a permit, the local building official must have the opportunity for input and keep a copy of the respective permit in their files.

Prior to the issuance of a building or development permit, the applicant shall submit evidence that all necessary permits and approvals have been received from all government agencies from which approval is required by federal or state law.

(Ch. 580, § I, 8-20-13)

Sec. 19-310. Permit fee.

A permit fee (based on the cost of the construction) may be required to be paid to the City of East Providence and a copy of a receipt for the same shall accompany the application. An additional fee may be charged if the ~~code enforcement officer~~ **permitting authority** and/or board of appeals need the assistance of a professional engineer.

(Ch. 580, § I, 8-20-13)

Sec. 19-311. Notification of watercourse alteration.

- (a) In a riverine situation, the building official or his/her designee shall notify the following of any alteration or relocation of a watercourse:

- Adjacent communities
- Bordering states (optional)
- NFIP State Coordinator
Rhode Island Emergency Management Agency

645 New London Avenue
Cranston, RI 02920

- Risk Analysis Branch
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

The carrying capacity of the altered or relocated watercourse shall be maintained.

- (b) The building official or his/her designee shall maintain, as a permanent record, copies of all flood hazard development permits issued and data relevant thereto, including reports of the zoning board of review on variances.

(Ch. 580, § I, 8-20-13)

Sec. 19-312. Use regulations.

The special flood hazard areas are established as a floodplain overlay district. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with the following:

- Rhode Island State Building Code (as established under G.L. 1956, ch. 23-27.3)
- Coastal Resources Management Act, Rhode Island Coastal Resources Management Council (G.L. 1956, ch. 46-23)
- Endangered Species Act, Rhode Island Department of Environmental Management (G.L. 1956, § 20-1-2)
- Freshwater Wetlands Act, Rhode Island Department of Environmental Management (G.L. 1956, § 2-1-18)
- Minimum Standards Related to Individual Sewage Disposal Systems, Rhode Island Department of Environmental Management (G.L. 1956, chs., 5-56, 5-56.1, 23-19.15, 23-19.5, 23-24.3, 42-17.1, and 46-13.2)
- Water Quality Regulations, Rhode Island Department of Environmental Management (G.L. 1956, chs. 42-17.1 and 42-17.6 and 46-12)
- Revised Ordinances of the City of East Providence

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of the above state regulations.

(Ch. 580, § I, 8-20-13)

Sec. 19-313. Other use regulations.

- (a) *Construction standards in special flood hazard areas (SFHA), zones AH, AO, A1-30, and AE.*
- (1) Within zones AH and AO on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
 - (2) Within zones AO on the FIRM, new and substantially improved residential structures shall have the top of the lowest floor at least as high as the FIRM's depth number above the highest adjacent grade and nonresidential structures shall be elevated or floodproofed above the highest adjacent grade to at least as high as the depth number on the FIRM. On FIRMs without a depth number for the AO Zone, structures shall be elevated or floodproofed to at least two feet above the highest adjacent grade.

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- (3) In zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Providence County FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (b) *[Subdivision proposal requirements.]* All subdivision proposals must be designed to assure that:
- (1) Such proposals minimize flood damage;
 - (2) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - (3) Adequate drainage is provided to reduce exposure to flood hazards.
- (c) *Accessory structures.* Detached accessory structures in zones A, AE, A1-30, AO, and AH (i.e., garages, sheds) do not have to meet the elevation or dry floodproofing requirement if the following standards are met:
- (1) The structure has a value less than \$1,000.00.
 - (2) The structure has unfinished interiors and must not be used for human habitation. An apartment, office or other finished space over a detached garage is considered human habitation and would require the structure to be elevated.
 - (3) The structure is not in the floodway.
 - (4) The structure is not used for storage of hazardous materials.
 - (5) The structure is used solely for parking of vehicles and/or limited storage.
 - (6) The accessory must be wet floodproofed and designed to allow for the automatic entry and exit of floodwater.
 - (7) The accessory structure shall be firmly anchored to prevent flotation, collapse and lateral movement.
 - (8) Service facilities such as electrical, mechanical and heating equipment must be elevated or floodproofed to or above the base flood elevation.
 - (9) The structure must not increase the flood levels in the floodway.
- (d) *[Contour intervals.]* Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
- (e) *[Change of use.]* No person shall change from business/commercial to residential use of any structure or property located in the floodway of a special flood hazard area so as to result in a use or expansion that could increase the risk to the occupants.
- (f) *The space below the lowest floor [must be]:*
- (1) Free of obstructions as described in FEMA Technical Bulletin 5 "Free of Obstruction Requirements for Buildings Located in Coastal High Hazard Area in Accordance with the National Flood Insurance Program"; or
 - (2) Constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or
 - (3) Designed with an enclosed area less than 300 square feet that is constructed with non-supporting breakaway walls that have a design safe loading resistance of not less than ten or more than 20 pounds per square foot.

(Ch. 580, § I, 8-20-13)

Sec. 19-314. Base flood elevation and floodway data.

- (a) *Floodway data.* In zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (b) *Base flood elevation data.* Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A zones.
- (c) *Base flood elevations in A zones.* In the absence of FEMA BFE data and floodway data, the best available federal, state, local, or other BFE or floodway data shall be used as the basis for elevating residential and nonresidential structures to or above the base flood level and for floodproofing nonresidential structures to or above the base flood level.

(Ch. 580, § 1, 8-20-13)

Sec. 19-315. Enforcement.

- (a) The building official shall enforce all provisions as applicable in reference to G.L. 1956, § 23-27.3-108.1.
- (b) Every person who shall violate any provision of this code shall be subject to penalties put forth in G.L. 1956, § 23-27.3-122.3.

(Ch. 580, § 1, 8-20-13)

DIVISION 13. BEEKEEPING

Sec. 19-316. Beekeeping.

- (a) *Description and purpose.* The purpose of this section is to establish sound beekeeping practices, which are intended to avoid problems that may otherwise be associated with the keeping of bees in populated areas. Where honey bees are of benefit to mankind, by providing agriculture, fruit and garden pollination services, and by furnishing honey, wax and other useful products, and gentle strains of honey bees can be maintained within populated areas in reasonable densities without causing a nuisance if the bees are properly located and carefully managed and maintained, the city allows such use as an accessory use in all zoning districts only when in accordance with this section and only when in compliance with all applicable rules and regulations of the city and state. Notwithstanding compliance with the various requirements of this section, it shall be unlawful for any beekeeper to keep any colony or colonies in such a manner or of such a disposition as to cause a public nuisance, and/or so as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others or interfere with the normal use and enjoyment of any public property or property of others.
- (b) *[State regulation and registration.]* Section 4-12-1 et seq. of the Rhode Island General Laws regulates apiculture and G.L. 1956, § 4-12-12 requires that all apiaries in the state are registered with the director of the Department of Environmental Management.
- (c) *[Definitions.]* As used in this section, the following words and terms shall have the meanings ascribed in G.L. 1956, Chapter 4-12-2, Definitions, unless the context clearly requires otherwise:
 - (1) *Abandoned colony or apiary* means any colony or apiary which is not currently registered and has not been registered within the preceding two years and/or which the state inspector is unable to locate the

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(Supp. No. 79)

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- owner and is unable to inspect due to conditions within the colony which render the colony or apiary uninspectable. Apiary means the assembly of one or more colonies of bees at a single location.
- (2) *Apiary* means any place or location where one or more colonies or nuclei of honeybees are kept.
 - (3) *Authorized official* means the state official authorized to inspect apiaries in the state of origin of the bees being transported into or through the state.
 - (4) *Beekeeper* means any individual, person, firm, association or corporation owning, possessing, or controlling one or more colonies of bees for the production of honey, beeswax, or byproducts, or for the pollination of crops for either personal or commercial use.
 - (5) *Beekeeping equipment* means all hives, hive bodies, supers, frames, combs, bottom boards, covers, excluders, screens, escape boards, feeders, hive tools, slatted racks, or other devices or boxes or other containers which may have been used in the capturing or holding of swarms, and including honey which may be or have been used in or on any hive, colony, nuclei or used in the rearing or manipulation of bees or their brood.
 - (6) *Bees* means any stage of the common honey bee (*Apis mellifera*) at any stage of its life kept for the production of honey, wax, or pollination, excluding the African honeybee (*Apis mellifera scutellata*) and any hybrids.
 - (7) *Colony* means the bees inhabiting a single hive, nuclei box or dwelling place.
 - (8) *Director* means the director of the Rhode Island Department of Environmental Management.
 - (9) *Disease* means American foulbrood and other infections, contagious or communicable disease affecting bees or their brood.
 - (10) *Eradicate* means the destruction and or disinfection of infected and/or infested bees, equipment and/or pests by burning or by treatment approved by the state inspector.
 - (11) *Feral colony* means an unowned or unmanaged colony of bees existing naturally.
 - (12) *Hive* means any manmade domicile with removable frames for keeping bees.
 - (13) *Inspector* means a person appointed by the director of the Department of Environmental Management to check for diseased conditions or pest infestations in one or more apiaries as authorized by law.
 - (14) *Pests* means the honey bee tracheal mite, *Acrapis woodi*, and the Varroa mite, *Varroa jacobsoni*, and other arthropod pests detrimental to honey bees; and genetic strains of the Africanized bee subspecies, *Apis mellifera adansonii* and/or *Apis mellifera scutellata*.
 - (15) *Swarms* means a natural division of a colony in the process of becoming a feral colony.
- (d) *Standards and requirements.*
- (1) *Registration.* As required by Rhode Island State Law, all honey bee colonies shall be registered annually with the Rhode Island Department of Environmental Management, Division of Agriculture, in compliance with their rules and regulations, and a copy of said registration shall be submitted annually to the city's zoning officer and animal control officer.
 - (2) *Beekeeping equipment.* Bees shall be kept in hives with removable frames which shall be kept in sound and usable condition.
 - (3) *Colony densities.* It is unlawful to keep more than the following number of colonies on any lot of land within the city, based upon the size and/or configuration of the lot on which the apiary is located. All setbacks and other regulations shall be met.
 - a. A lot of a minimum of 7,000 square feet: One hive.

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- b. A lot of minimum of 7,000 square feet but 10,000 square feet or less: Two hives.
 - c. A lot of at least one-half acre (21,768 square feet) but less than one acre (43,560 square feet): Four hives.
 - d. One acre or larger lot size: Eight hives
 - e. Regardless of tract size, where all hives are situated at least 200 feet in any direction from all property lines on which the apiary is situated, there shall be no limit to the number of colonies.
- (4) *Hive placement.* Hives shall be located in a side or rear yard only and shall be set back a minimum of ten feet from any adjoining property line. Hives shall be kept as far away as possible from roads, sidewalks, and rights-of-way. Hives shall be placed on a lot so that general flight patterns avoid contact with humans and domestic animals.
 - (5) *[Commercial or industrial building hives.]* Commercial or industrial building rooftop hives or garage roof-mounted hives shall meet all applicable building codes and standards and shall apply for and receive a building permit prior to commencement of work.
 - (6) *Water source.* Each beekeeper shall ensure that a convenient source of water is available to all bees at all times during the year on the lot on which the hive(s) is located so that the bees will not congregate at swimming pools, faucets, pet watering bowls, bird baths or other water sources where they may cause human, bird or domestic pet contact.
 - (7) *Queens.* All colonies shall be maintained with marked queens. In any instance in which a colony exhibits unusual aggressive characteristics by stinging or attempting to sting without provocation or exhibits an unusual disposition toward swarming, it shall be the duty of the beekeeper to promptly requeen the colony with another marked queen. Queens shall be selected from stock bred for gentleness and nonswarming characteristics.
 - (8) *Flyway Zone.* In each instance in which any colony is situated within ten feet of a developed public or private property line on the lot upon which the apiary is situated, as measured from the nearest point of the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six feet in height consisting of a solid wall or fence parallel to the property line and extending five feet beyond the hive in each direction so that all bees upon leaving the hive are forced to fly at an elevation of at least six feet above ground level over the flyway structure.
 - (9) *General maintenance.* Each beekeeper shall ensure that no bee comb or other materials are left upon the grounds of the apiary site. Upon their removal from the hive, all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.
 - (10) *Prohibited.* The keeping by any person of honeybee colonies in the city not in strict compliance with this chapter is prohibited. Any bee colony not residing in a hive structure intended for beekeeping, or any swarm of bees, or any colony not residing in a standard or homemade hive structure which, by virtue of its condition, has obviously been abandoned by the beekeeper, is unlawful and may be summarily destroyed or removed from the city by the city manager or designee. Unless such bees present an imminent threat to public safety, the Department of Environmental Management, Division of Agriculture, and the city's animal control officer shall first be contacted to assess the possibility of collecting and relocating the bees by a person or company possessing the means to safely remove said bees.

(Ch. 506, § VIII, 7-20-10)

Sec. 19-317. Certificate of zoning compliance required.

No one shall engage in apiculture without first obtaining a zoning certificate as provided for in this section. A certificate of zoning shall not be issued until the applicant submits proof of registration of the apiary with the Rhode Island Department of Environmental Management, Division of Agriculture.

- (1) *Information required.* Applicants seeking to engage in apiculture must provide the following on the site plan and/or in accompanying documentation in conjunction with an application for a zoning certificate:
 - a. A copy of a current, valid apiary registration application to the Rhode Island Department of Environmental Management, Division of Agriculture, and proof that they have also notified and/or provided the city's animal control officer with a copy of said registration application.
 - b. Property owner name and address, assessors map block and parcel and existing structures on the lot.
 - c. Location of hive(s) showing setbacks; location of roads, sidewalks and rights-of-way in relation to the location of the hive(s).
 - d. Location of and manner of fencing of flyways, if required under section 19-317(b)(8) [19-316(d)(8)].
 - e. Location of required water source.
 - f. Any other relevant information related to the operation of the apiary, if requested by the zoning officer.
 - g. If the hive(s) shall be located on a rooftop, the applicant shall also apply for a building permit and provide all information required for such by the building official.
- (2) *Operation.* It shall be presumed for purposes of this section that the beekeeper is the person or persons who own or otherwise have the present right of possession and control of the lot upon which a hive or hives are situated. The certificate of zoning authorizing such use shall be recorded in the city's land evidence records at the expense of the applicant. This shall not be changed but by a written agreement authorizing another person to maintain the colony or colonies upon the lot setting forth the name, address, and telephone number of the other person who is acting as the beekeeper, which is reviewed for a certificate of zoning and which shall then be recorded in the city's land evidence records at the expense of the applicant.

(Ch. 506, § VIII, 7-20-10)

Secs. 19-318—19-320. Reserved.

DIVISION 14. TRAILER COURTS¹⁰

Sec. 19-321. Requirements.

- (a) *General requirements.* General requirements for trailer courts shall be as follows:

¹⁰Editor's note(s)—Section VIII of Ch. 506, adopted July 20, 2010, renumbered Div. 13 to read as herein set out.

Cross reference(s)—Regulation of trailers and trailer camps generally, § 8-496 et seq.

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- (1) Trailer courts shall be located only in those districts as allowed in section 19-98.
 - (2) No trailer shall be located and no trailer court shall be established or operated until all permits and fees as required by this chapter and other ordinances and requirements of the city have been complied with.
 - (3) Any individual trailer hereafter located and used for living purposes in the city shall be located in a trailer court. Storage of a single camping or travel trailer by a resident owner thereof may be allowed on a premises, provided that such storage shall be restricted to the rear yard of such premises.
 - (4) Any trailer used for living purposes failing to meet the requirements of chapter 4, article III for housing and the minimum residential floor area requirements of this chapter shall not be allowed to remain in the city for more than ten days.
- (b) *Specific requirements.* Specific requirements for trailer courts shall be as follows:
- (1) Any applicant for a special use permit for a trailer court shall present detailed plans and specifications acceptable to the zoning officer and suitable for making determinations as required in this section as well as sections 19-5, 19-6, 19-36 through 19-41, 19-56, 19-57, 19-71 through 19-77, 19-173 through 19-175, 19-216 through 19-218, 19-231, 19-245 through 19-250, 19-261, 19-361 through 19-370 and 19-386 through 19-392.
 - (2) The plans and specifications of the proposed court shall show its area, boundaries, locations of driveways, interior streets, sites for trailers, automobile parking, locations and kinds of all sanitary conveniences, methods of sewage and garbage disposal and plans for water supply and lighting.
 - (3) Prior to the granting of an occupancy permit by the zoning officer, the state department of health shall inspect the trailer court and notify the zoning officer in writing if such premises comply with the regulations of the state department of health concerning the operation of such premises. Upon receiving such notice, the zoning officer may issue an occupancy permit to the applicant, provided that the applicant has satisfied all other requirements as contained in this division.
 - (4) The trailer court shall be under the direct supervision of the holder of the permit who shall be responsible for its proper management. The holder of the permit shall require all persons residing in the court to register in a book kept for that purpose giving their name, age, place of permanent residence, marital status and the license number of their motor vehicle and trailer. Such registration book shall be available at all times to the police for inspection.
 - (5) Each trailer court shall meet the following requirements as to improvements:
 - a. Each trailer lot site shall be provided with suitable connections to:
 1. A potable water supply system;
 2. A sewage disposal system;
 3. An electrical distribution system.
 - b. Whenever possible, these facilities shall be connected to the appropriate municipal facilities subject to the approval of the city engineer.
 - c. Parking for residents and visitors shall be provided as required in section 19-276 et seq., except that the required parking spaces shall be located within 50 feet of the trailer lot site, notwithstanding any other provisions of this chapter.
 - d. Interior streets, parking spaces and walkways shall be provided with a paved and durable surface. The paved widths shall be at least 20 feet for the interior streets and two feet for walkways.
 - e. Suitable communal recreation areas shall be provided in the court.

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- f. Where any trailer court adjoins or abuts a residential district or a lot or premises used for residential, educational, recreational or religious purposes, there shall be provided a wall or fence of solid appearance or tight evergreen hedge of not less than 5½ feet maintained in a neat and attractive manner between the trailer court and the residential district or residential, educational, recreational or religious premises, subject to the approval of the zoning officer, provided that when the provisions of this division are impossible or impractical of performance, they may be waived by the zoning officer at his discretion.
- (6) Each trailer court shall meet the following area requirements:
- a. The site shall contain at least five acres and shall have no more than a maximum residential density of 15 trailer lot sites per gross acre.
 - b. Trailer lot sites shall have a width of at least 30 feet and of not less than 1,500 square feet, provided that trailer courts in existence on the effective date of the ordinance from which this chapter was derived which provide trailer lot sites having a width or area less than that prescribed in this subsection may continue to operate with sites of the existing width and area.
 - c. Trailers shall be so harbored on each site that there shall be at least a 20-foot clearance between trailers, provided that with respect to trailers parked end to end, the end to end clearance shall not be less than 15 feet.
 - d. Trailers shall not be located closer than 20 feet from any building in the court or from any property line bounding the court.
 - e. Individual trailers shall conform to the requirements of subsection 19-306(2).
 - f. Adequate drainage and access for a trailer hauler shall be provided for each trailer lot site.
 - g. Use of pilings in areas subject to flooding according to section 19-306 shall conform with floodproofing requirements as provided in section 19-1.
- (7) No person shall operate a trailer court without first obtaining a license therefor from the city council as follows:
- a. Prior to the granting of an occupancy permit by the zoning officer, all applicants shall be required to file a petition for the issuance of a license with the city council.
 - b. No license shall be issued until a public hearing on such issuance shall be held by the city council. Notice of such hearing shall be mailed postage prepaid by the city clerk not less than ten days prior to the date of such hearing to all property owners within 200 feet excluding streets and other public rights-of-way, of the perimeter of the property in question. Additional notice of such public hearing specifying the time and place shall be given by publication of such information in a newspaper of general circulation within the city at least once each week for three successive weeks prior to the date of the hearing.
 - c. At the hearing an opportunity shall be given all persons interested to be heard upon the matter of such license.
 - d. After such hearing as provided in this section, the city council deems such license to be in the interest of the welfare of the city.
 - e. Every such petition to the city council shall be accompanied by ten copies of a map, accurately drawn, showing the actual shape, dimensions and area of the lot or premises in question and of abutting property within 100 feet excluding public rights-of-way, and such other information as may be necessary.

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- f. Every such petition for city council action shall set forth the names and addresses of all property owners within a 200-foot radius from the perimeter of the land in question, excluding streets and other public rights-of-way, where applicable, as of 30 days prior to the date and time of filing. Such names and addresses shall be used by the city clerk to give notice by mail, as required in this division, to abutting property owners.
 - g. Every petition so filed shall be accompanied by a filing fee of \$50.00, payable to the city.

(Rev. Ords. 1987, § 19-321)

DIVISION 15. MIXED USE HUB OVERLAY DISTRICTS¹¹

Sec. 19-322. Main Street and Neighborhood Center Overlay Districts.

- (a) *Application.* The Main Street and Neighborhood Center Overlay Districts within the city shall include the following designated districts:
 - (1) Taunton Avenue Overlay District—All those parcels directly fronting on the northerly and southerly sides of Taunton Avenue from the westerly side of its intersection with Walnut Street and going easterly on the southerly side of Taunton Avenue to its intersection with Carlton Avenue, and on the northerly side of Taunton Avenue to its intersection with Irving Avenue, as shown on the East Providence Zoning Map, and as defined in G.L. ch. 45-24 (Overlay Districts). All properties located within the Taunton Avenue Overlay District may choose either to develop or redevelop subject to the provisions of Division 15, section 19-322 or may choose to develop or redevelop under the current underlying zoning of the property (C-1, C-2, C-3, and (Taunton Avenue) TA).
 - (2) Waterman Avenue Overlay District—All those parcels directly fronting on the northerly and southerly sides of Waterman Avenue, commencing on the western terminus from its intersection with Massasoit Avenue and North Brow Street, proceeding easterly, and terminating at its intersection with Pawtucket Avenue, as shown on the East Providence Zoning Map, and as defined in G.L. ch. 45-24 (Overlay Districts). All properties located within the Waterman Avenue Overlay District may choose either to develop or redevelop, subject to the provisions of Division 15, section 19-322 or may choose to develop or redevelop under the current underlying zoning of the property (C-1, C-2 and C-3).
 - (3) Warren Avenue Overlay District—All those parcels directly fronting on the northerly and southerly sides of Warren Avenue, commencing on the western terminus of Warren Avenue from its intersection with Waterfront Drive, proceeding easterly, and terminating at its intersection with Boyd Avenue, as shown on the East Providence Zoning Map, and as defined in G.L. § 45-24-31 (Overlay Districts). All properties located within the Warren Avenue Overlay District may choose either to develop or redevelop, subject to the provisions of Division 15, section 19-322 or may choose to develop or redevelop under the provisions of the current underlying zoning of the property (C-1, C-2, C-3 and Bold Point Harbor (BPH)).
 - (4) Riverside Square Overlay District—All those parcels directly fronting on the easterly and westerly sides of Bullocks Point Avenue from parcel 13 of map 311, block 1 and commencing southerly to the intersection of Beach Road on the westerly side and Crescent View Avenue on the easterly side, and

¹¹Editor's note(s)—Ch. 642, § XII, adopted March 15, 2016, renumbered the former Div. 15, pertaining to industrial processes, as Div. 16 and enacted a new Div. 15 as set out herein.

Note(s)—Terms defined in section 19-1, definitions, are indicated with an asterisk (*).

inclusive of parcel 6 of map 312 block 8, and with the exception of parcel 20 of map 312, block 12 (former Vamco site, as regulated under Division 19 of Zoning entitled Riverside Square Mixed Use/Downtown Overlay) and all parcels fronting on the easterly and westerly sides of Pawtucket Avenue from the intersection of Hoppin Avenue and commencing southerly to the intersection of Turner Avenue and as defined in G.L. § 45-24-31 (Overlay Districts). All properties located within the Riverside Square Overlay District may choose either to develop or redevelop, subject to the provisions of Division 15, section 19-322 or may choose to develop or redevelop under the provisions of the current underlying zoning of the property (C-1, C-2, C-3).

- (5) However, within the Main Street and Neighborhood Center Overlay Districts as defined within this Code, the provision of off-street parking is not required for non-residential uses located within existing structures. New construction or development involving expansion of a building footprint is required to comply fully with the provisions of this article.

(b) *Intent.*

- (1) It is the intent of section 19-322 to encourage new opportunities for mixed land use(s), in "Main Street" and/or neighborhood center configurations, that promote a mixture of land use(s), including multi-unit residential and a variety of neighborhood oriented commercial land uses and to realize commercial and/or mixed use development with a storefront character using a typical Main Street build-to-line* configuration with buildings at the sidewalk and front property line, whenever feasible. Main Street uses primarily provide convenience retail sales and services to the surrounding residential neighborhood and gives priority to the access and convenience of pedestrians. Building types are small commercial structures, multi-story mixed use, and residential structures (by special use permit). Non-residential uses typically occupy the street front, although residential uses are conditionally permitted by special use permit. These uses may include, but are not limited to, a combination of commercial use(s), offices, retail, residential, personal convenience service businesses, cultural activity* and public and civic uses. Land uses may be mixed by floor (vertically within a building) or horizontally on a parcel of land. Pedestrian linkages from mixed commercial/residential, retail, personal service and recreational land uses to existing areas of neighborhood residential land use shall be encouraged. The scale of mixed use may range from a single stand-alone retail use with office or residential use on the upper stories to a larger scale development such as a neighborhood center* that integrates commercial, retail, offices, housing and public spaces, or to a stand-alone residential facility.
- (2) Neighborhood center* may only be developed on a lot consisting of not less than a minimum of 50,000 square feet. A neighborhood center* means a development consisting of a building or buildings used for mixed land use, that has a community or civic space that is open to the public. A neighborhood center development shall include a location for a public transit stop (when applicable to available transit routes), provide pedestrian linkages to surrounding neighborhoods, while also providing a buffered edge between the center and abutting residentially used or zoned land. A neighborhood center* should be adjacent to a residential district(s) they are intended to serve. A neighborhood center should be oriented to streets with pedestrian amenities. The mixed land use in a neighborhood center* may include multi-family dwelling* provided that the commercial, retail, office, and/or personal convenience use(s) comprises more than 50 percent of the gross leasable area of the total building(s) area either of an existing or proposed building(s) on the parcel. Neighborhood centers* and mixed uses are destinations for people and draw the public to a space. A public feature such as a gazebo, garden, art, etc., that provides consumers with an attractive amenity is encouraged.
- (3) Development proposals shall comply with all applicable sections of chapter 19, Zoning, and shall be consistent with all city rules, standards, regulations and ordinances (including adopted plans). For all the parcels within this district, development may alternatively occur as is currently allowed within the zoning district in which parcel(s) is located and not under the provisions of section 19-322, Main Street and Neighborhood Center Overlay Districts.

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- (4) All commercial and mixed-use development and redevelopment under this division, other than minor modifications to existing permissible land uses, shall minimally be reviewed in accordance with article VIII., Development Plan Review. Purely residential land uses that comply with the requisite off-street parking regulations as described within this section, shall be deemed permissible, and likewise reviewed in accordance with article VIII., Development Plan Review. Purely residential land uses that fail to comply with the requisite off-street parking regulations as described within this section, shall necessitate both development plan review, as well as a special use permit pursuant to section 19-39, provided the degree of deficiency does not exceed 25 percent of the overall development, otherwise both a special use permit (section 19-39) and corresponding dimensional variance pursuant to section 19-45, shall be required.

When a Special Use Permit is required for less than required off-street parking, the zoning board of review, or planning board, in the case of unified development review, must consider the following criteria:

- a. **Consideration of a parking impact analysis, prepared by a professional civil engineer, licensed in the State of Rhode Island, or a professional planner with relevant experience in providing such analyses. The study shall analyze parking supply (on and off-site) and projected demand, projected impacts on surrounding areas, potential parking management strategies for the development, loading considerations, available public transit, and emergency access considerations.**
- b. **Consideration of the proposal's impact on the revitalization of the City's main street corridors, economic development implications of the development, preservation of historic resources, and possible benefits related to a reduction in the amount of impervious area on-site.**

(c) *Uses.*

- (1) Mixed use is permitted subject to the following: Any use permitted by right in either a C-1, C-2, C-3 and/or Taunton Avenue TA or Bold Point Harbor (BPH) zoning district, as well as any other accessory or special uses as may be permitted generally by chapter 19, zoning, and under section 19-98, schedule of use regulations and section 19-171, accessory uses, shall be allowed, except that the following shall be prohibited uses:

Self-storage, mini-storage; automotive repair shop*, auto body, or soldering or welding shop; limited manufacturing*; motel*, thrift shops and similar type of uses, and retail uses with across the board maximum pricing or "everything under" pricing and surplus goods and cash checking operations.

- (2) In addition to those uses permitted under section 19-98, chapter 19, zoning in the underlying zoning districts other uses are permitted, and may include, but are not limited to, the following:
- a. Mixed use*;
 - b. Incubator*;
 - c. Photography studio;
 - d. Black box theatre*;
 - e. Cafe*;
 - f. Cultural activity*;
 - g. Gallery*;
 - h. Co-worker space*;
 - i. Museum* (art, history, fashion, etc.), small design showroom*, e.g., lighting, interior design, handcrafted furniture;

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- j. Film studio;
 - k. Recording studio;
 - l. Design studio*;
 - m. Yoga or pilates studio (not a commercial full-service gym);
 - n. Live/work space*;
 - o. Small fabricating shops not to include industrial trade schools, and further provided that the activity does not include a use that is prohibited in the C-4, C-5, I-1, I-2 and/or I-3 zoning districts;
 - p. Cigar lounge;
 - q. Tattoo parlors;
 - r. Previously owned goods and merchandise including antiques, collectibles, coins, consignment and stamps, excluding pawn shops;
 - s. Transit shelters, drop off-points, bicycle rack(s) and/or corrals, and informational or retail kiosks, as accessory uses to permitted principal land use(s). Layover locations for buses shall be prohibited;
 - t. Public structure or public use including, but not limited to, public and private park, community or civic space, museum, gallery, or community center, as accessory uses to permitted principal land use(s).
 - u. Bicycle paths and/or road bike lanes and pedestrian paths, bicycle racks or corrals, as accessory uses to permitted principal land use(s).
 - v. Multi-family dwelling* - Subject to the provisions described under Section 19-322 (c)(3).
 - w. Professional office limited to the Riverside Square Overlay District with a building footprint of less than 4,000 square feet.
- (3) Multi-family dwelling* in Mixed Use Development "Main Street" parcels or without the presence of any commercial entit(ies).
- a. Multi-family dwelling* in "Main Street" configuration. Multi-family dwelling* is permitted and when mixed with a commercial, retail, and/or office use in a Main Street configuration at a density that is proportional to the ability to provide 50 percent of the total off-street parking spaces required if the uses were calculated separately based upon Section 19-284, off-street parking. (See Section 19-322).
 - b. Multi-family dwelling* without the presence of any commercial entit(ies) is likewise a permissible land use, provided requisite off-street parking is appropriately furnished. Residential density will be based upon the provision of one off-street parking space per residential dwelling unit, and compliance with all other applicable regulations pursuant to section 19-284, off-street parking. Off street parking that fails to meet the referenced one to one ratio, but does not exceed a 25 percent deficiency, or a minimum of .75 spaces per residential unit, may still be permitted by special use permit pursuant to section 19-39. Any deficiency greater than 25 percent, shall necessitate both a special use permit pursuant to section 19-39 and a dimensional variance pursuant to section 19-45.
 - c. A neighborhood center* shall be permitted on lots of not less than 50,000 square feet and such a development shall consist of a building or buildings used for mixed land use. The mixed land use in a neighborhood center* may include multi-family dwelling* provided that the other commercial, retail, office, and/or personal convenience uses comprises more than 50 percent of

the gross leasable area of the total building(s) area either of an existing or proposed building(s) on the parcel. The neighborhood center* provides a location for a public transit stop (when applicable to available transit routes), linkages to surrounding neighborhoods and properties, while also providing a buffered edge between the center and abutting residentially used or zoned land. Neighborhood centers* are destinations for people. The mixed use draws the public to the space and a public feature such as a gazebo, garden, art, etc. provides consumers with an attractive amenity.

- d. Other uses shall be permitted in the Main Street and Neighborhood Center Overlay District when provided as an integral part of the overall development and such use(s) are consistent with the stated purposes of chapter 19, Zoning, and which are intended to serve the commercial and residential users of a mixed use development. Other uses shall be suitable to the proposed development, consistent with the comprehensive plan, and compatible with the surrounding land uses. Said determination shall be made by the zoning officer in consultation with the director of planning.
- (d) *Off-street parking and off-street loading.*
- (1) For those properties proposing development in the Main Street Overlay Districts, and not "neighborhood center" scale development, off-street parking with the exception of professional office uses shall be provided at no less than 50 percent of the total off-street parking spaces required if the uses were calculated separately based upon Section 19-284, off-street parking, provided that the proposal meets the intent of the overlay district of subsection 19-322(b). Additionally, required employee parking that is stacked or in tandem shall be permitted and counted towards the total number of off-street parking spaces required provided there is a written agreement among the individual tenants of a building provided to the zoning officer. The zoning officer shall have the authority to monitor such an arrangement and require modified parking or a petition to the zoning board of review regarding the off-street parking if it is apparent that the stacked employee parking arrangement is unfeasible and/or there are unforeseeable impact to adjoining streets with overflow parking, particularly local residential streets. A purely residential development shall not require introduction of any off-street loading, and shall be subject to the off-street parking density referenced in subsection (c)(3)b. above. However, within the overlay districts as defined within this Code, the provision of off-street parking is not required for non-residential uses located within existing structures. New construction or development involving expansion of a building footprint is required to comply fully with the provisions of this article.
- (2) A neighborhood center development shall provide off-street parking as required by section 19-284. However, this amount may be reduced by ten percent provided that the applicant/owner shall submit a valet parking plan, including certification that a valet is on-duty during business hours, and documenting authorized use of a satellite parking area to the zoning officer such that a modification may be granted. An applicant or developer of a neighborhood center* may further reduce parking subject to the provisions of section 19-279, joint use and shared use, where the applicant and/or owner are able to provide a shared parking study and plan to the zoning officer, and provided that the procedures of section 19-279 regarding joint and shared and parking shall be followed.
- (3) Bonus height structured parking incentive. An additional one (12 foot) building story shall be permitted for every story of structured parking provided in a building, with the overall height not to exceed five stories or 60 feet.
- (e) *Purposes.* Consistent with the City of East Providence Comprehensive Plan, the purposes of the Main Street and Neighborhood Center Overlay Districts are to:
- (1) Promote flexibility in the siting and design of new development to allow a mixture of complimentary land uses on a parcel(s) that may include, but is not limited to, commercial, housing, retail, offices, and

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- personal convenience services to create economic and social vitality that otherwise might not be possible under conventional zoning regulations that separate land uses.
- (2) To provide a desirable mix of land uses, including commercial and residential, that will serve the community interest in job creation, housing, and economic development, including uses related to the arts and culture.
 - (3) Encourage efficient use of land by facilitating centers and minimizing the amount of land that is needed for surface parking.
 - (4) Encourage quality development that facilitates utilization of public transportation, where applicable.
 - (5) Provide opportunities to businesses within the districts for coordinated mixed use development, pedestrian and bicycle connections, and innovative site design.
 - (6) Provide safe, comfortable and attractive pedestrian connections from existing areas such as residential and open space to currently predominantly commercial roadways and to public transportation, and to new areas of land use and new neighborhood centers*.
 - (7) Reinforce public rights-of-way, shoulder sides of roadways and sidewalks, as public places that encourage pedestrian and bicycle travel.
 - (8) Enhance linkages and pedestrian connections to residential areas, schools, and recreational space in the vicinity of the overlay districts for the convenience of the public.
 - (9) Encourage the use of sidewalks for outdoor cafes, sitting, and shop displays where possible, and when new development or redevelopment is proposed, look for opportunities to widen the sidewalk/pedestrian area in front of the building(s) for outdoor cafe seating, sitting, restaurant and shop displays, and trees for shade.
- (f) *General standards.* All applicants whose proposals require permits from other agencies, e.g., a state agency such as the Department of Transportation, shall obtain any and all such applicable permits, including city building permits and licenses. As with all other proposed development reviewed under this chapter, the proposal shall meet the general purposes of section 19-2, chapter 19, Zoning, and the following:
- (1) The design of the proposed development will be consistent with the goals of the city comprehensive plan and will implement the purposes of the Main Street and Neighborhood Center Overlay Districts.
 - (2) Erosion will be adequately controlled during and after construction and will not adversely affect adjacent or neighboring property or public facilities and services; provisions have been made for storm water and drainage facilities, and that increased runoff due to development on the site will not be injurious to any nearby property owners or cause hazardous conditions on any streets.
 - (3) The movement of vehicular and pedestrian traffic within the site and in relation to access streets will be safe and convenient and adequate provision has been made for snow removal.
 - (4) All utilities, infrastructure, streets, roadways, sidewalks, walkways and parking are improvements will be provided for the development in a manner meeting the applicable requirements and standards of the city. Construction standards for utilities and improvements serving the public shall meet city standards.
 - (5) The location, arrangement, appearance, and sufficiency of off-street parking and loading comply in all respects with chapter 19, Zoning and/or the provisions of subsection 19-322(d) as applicable, and are adequate to serve the proposed development.
 - (6) The proposed development and all uses and structures therein, shall comply in all respects with chapter 19, Zoning. Nothing in this article shall prevent an applicant from seeking a variance ~~from the zoning board of review.~~

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- (g) *Dimensional criteria pursuant to section 19-145* Development within the Main Street Overlay Districts will be given great flexibility and allowed to pursue the most lenient dimensional standard(s) prescribed in either the C-1, C-2, C-3, Taunton Avenue (TA) or Bold Point Harbor (BPH) districts, in accordance with Section(s) 19-145 or 19-481 (in the case of Taunton Avenue (TA) and Bold Point Harbor (BPH) districts), unless the subject Main Street Overlay Districts regulations permit even greater latitude, then they may take precedence.
- (1) To promote flexibility in the siting and design of new development to allow a mixture of complimentary land uses on a parcel(s) that may include, but not be limited to, commercial, housing, retail, offices, and personal convenience services to create economic and social vitality that otherwise might not be possible under conventional zoning regulations that separate land uses.
 - (2) To provide a desirable mix of land uses, including commercial and residential, that will serve the community interest in job creation, housing and economic development, including uses related to the art and culture.

(Ch. 642, § XII, 3-15-16; Ch. 803, § I, 5-18-21; Ch. 814, § I, 8-17-21; Ch. 840, § I, 5-17-22)

19-323. Definition.

Mixed use means combination of residential and commercial land uses within a single development, building, or tract. Mixed use development in a C-1 through C-5 district must be reviewed through the ~~development plan review~~ **land development project review** process.

(Ch. 867, § VIII, 12-20-22)

Secs. 19-323—19-335. Reserved.

DIVISION 16. INDUSTRIAL PROCESSES¹²

Sec. 19-336. Regulation standards for industrial processes.

Industrial operations, shall be located only in those districts permitted in section 19-98. Industrial operations and processes, shall not exceed the standards of performance as established in this section and required by this chapter.

(Rev. Ords. 1987, § 19-336; Ch. 453, § X, 7-15-08)

Sec. 19-337. Smoke.

No emission at any point from any chimney or otherwise of visible gray smoke of a shade darker than No. 2 on the Ringelmann Smoke Chart, as published by the U.S. Bureau of Mines in August, 1955, as information circular 7718 (revision of i.c. 6888), is permitted, except that visible smoke of a shade darker than No. 2 on such chart may be emitted for not more than four minutes in any 30 minutes in a C-5 district or in an I-1 or I-2 district and not more than eight minutes in any 30 minutes in an I-3 district. These provisions applicable to visible gray smoke shall

¹²Editor's note(s)—Section XII of Ch. 642, adopted March 15, 2016, renumbered Div. 15 to read as herein set out.

Cross reference(s)—Licenses and business regulations, ch. 8.

also apply to visible smoke of a different color, excluding steam and other nontoxic emissions, but with an equivalent apparent opacity.

(Rev. Ords. 1987, § 19-337)

Sec. 19-338. Dust and other particulate matter.

Any handling, transfer or storage of materials shall use best available technology to control fugitive emissions of dust or other particulate matter from migrating to off-site locations in any amount which is injurious to human health, animals, vegetation or other forms of property or which causes any excessive soiling at any point beyond the property lines. Such technology may include dust collection/suppression systems, wind guards and spraying of stockpiles with surfactants.

(Rev. Ords. 1987, § 19-338)

Sec. 19-339. Odor.

No emission of odorous gases or other odorous matter in such quantities as are offensive outside the industry property shall be permitted. No odorous emission shall be permitted which is determined to be obnoxious or which unduly transfers with or prevents the comfortable enjoyment of life or property.

(Rev. Ords. 1987, § 19-339)

Sec. 19-340. Gases; fumes.

Industrial use shall not emit noxious, toxic or corrosive fumes or gases in concentrations or amounts causing unreasonable discomfort or injury to humans or harm to vegetation. When acceptable air quality criteria are developed by the U.S. public health service, these standards shall be considered for adoption in this section.

(Rev. Ords. 1987, § 19-340)

Sec. 19-341. Noise.

- (a) Noise shall be measured from the nearest property line in a commercial 5 district or an industrial 1 or 2 district or floating zone district and from the nearest industrial 3 district boundary line in an industrial 3 district. At the specified points of measurement, the sound pressure level of noise radiated continuously from an industrial operation or plant other than background noises produced by non-industrial sources such as vehicular traffic or other transportation shall not exceed the values given in Table I of section 10-53 in octave bands of frequency. The sound-pressure level shall be measured with a sound level meter and an octave band analyzer that conform to specifications published by the American Standards Association. American standard sound level meters for measurement of noise and other sounds, S1.4-1961, and American standard specification for an octave band filter set for the analysis of noise and other sounds, Z24.10-1963, American Standards Association, Inc., New York, New York, shall be used.
- (b) The maximum permissible sound-pressure levels at specified points of measurement for noise radiated continuously from a facility shall conform with the values in subsection 10-53(c)(2).
- (c) The aforementioned limits are intended for normal continuous day-to-day operations. A variance to exceed these limits by a reasonable amount may be granted for temporary and shortterm operations during construction, maintenance or emergency conditions.

(Rev. Ords. 1987, § 19-341; Ch. 453, § XI, 7-15-08)

(Supp. No. 79)

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Sec. 19-342. Vibration.

- (a) Vibration shall be measured from the nearest property line in a C-5 district or an I-1 or I-2 district and from the nearest I-3 district boundary line in an I-3 district.
- (b) No vibration is permitted which is discernible to the human sense of feeling for three minutes or more duration in any hour of the day between 7:00 a.m. and 7:00 p.m. or of 30 seconds or more duration in any one hour between 7:00 p.m. and 7:00 a.m. No vibration at any time shall produce an acceleration of more than 0.1g or shall result in any combination of amplitudes and frequencies beyond the safe range of Table 7, U.S. Bureau of Mines Bulletin No. 442, Seismic Effects of Quarry Blasting, on any structure. The methods and equations of such bulletin shall be used to compute all values for enforcement of this regulation.

(Rev. Ords. 1987, § 19-342)

Sec. 19-343. Heat and glare.

No industrial use shall carry on any operation that would produce heat or glare beyond the property line in a C-5 district or an I-1 or I-2 district or beyond the I-3 district boundary line in an I-3 district. No industrial activity shall use industrial and exterior lighting in a manner that produces glare on property highways or neighboring property.

(Rev. Ords. 1987, § 19-343)

Sec. 19-344. Industrial sewage and waste.

- (a) Industrial sewage and waste may be deposited in a public sewage system when available. Such wastes, if adequately treated by a private treatment plant, may be disposed into other than a public sewage system provided that:
 - (1) A septic tank, tile field or other disposal place for any waste shall be located at least 50 feet from the nearest point of any river, pond, swampy area or district boundary of a residential district or 1,000 feet from any drinking water source or supply unless the water is adequately treated and chlorinated to be satisfactory for such use or unless evidence is given to show that geologically it is not possible for the waste to migrate into or contaminate any drinking water supply;
 - (2) No effluent shall contain any acids, oils, dust, toxic metals or corrosive or other toxic substances in concentrations which would create obnoxious odors or discolor, poison or otherwise pollute any stream or watershed adversely.
- (b) Wherever feasible, process or cooling waters shall be recirculated and reused.

(Rev. Ords. 1987, § 19-344)

Sec. 19-345. Radiation.

Industrial operations shall cause no dangerous radiation at the property line as specified by the regulations of the Nuclear Regulatory Commission.

(Rev. Ords. 1987, § 19-345)

Sec. 19-346. Reserved.

Editor's note(s)—Ch. 453, § XII, adopted July 15, 2008, repealed § 19-346, which pertained to port district loading, unloading and handling, and derived from Rev. Ords. 1987 § 19-346. See also the Code Comparative Table.

DIVISION 17. WIRELESS TELEPHONE COMMUNICATION TOWERS AND ANTENNAS¹³

Sec. 19-347. Purpose and objectives.

- (a) The purpose of this division is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this division are to:
- (1) Protect residential areas and land uses from potential adverse impacts of towers and antennas;
 - (2) Encourage the location of towers in nonresidential areas;
 - (3) Minimize the total number of towers throughout the community;
 - (4) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
 - (5) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
 - (6) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
 - (7) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
 - (8) Consider the public health and safety of communication towers; and
 - (9) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
- (b) In furtherance of these goals set out in subsection (a), the city shall give due consideration to the comprehensive plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

(Ch. 463, § I, 12-16-97)

Sec. 19-348. Definitions.

As used in this division, the following terms shall have the meanings set forth below:

Alternative tower structure means manmade trees, clock towers, bell steeples, light poles, flag poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

¹³Editor's note(s)—Section XII of Ch. 642, adopted March 15, 2016, renumbered Div. 16 to read as herein set out.

Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Backhaul network means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Height means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

Preexisting towers and preexisting antennas means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this division, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

(Ch. 463, § I, 12-16-97)

Sec. 19-349. Applicability.

- (a) *New towers and antennas.* All new towers or antennas in the city shall be subject to these regulations, except as provided in subsections 19-349(b) through (e), inclusive. The height limitations of section 19-145 applicable to buildings and structures shall not apply to towers and antennas.
- (b) *Amateur radio station operators/receive only antennas.* This division shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
- (c) *Preexisting towers or antennas.* Preexisting towers and preexisting antennas shall not be required to meet the requirements of this division, other than the requirements of subsections 19-350(f) and 19-350(g).
- (d) *AM array.* For purposes of implementing this division, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.
- (e) *Antennas.* See section 19-352.

(Ch. 463, § I, 12-16-97; Ch. 154, § III, 1-16-01)

Sec. 19-350. General requirements.

- (a) *Preapplication conference.* A preapplication conference with the zoning officer and the planning department is required before any building permit is sought. The conference will serve to familiarize the applicant with the city's regulations.

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- (b) *Principal or accessory use.* Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- (c) *Lot size.* For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- (d) *Inventory of existing sites.* Each applicant for an antenna and/or tower shall provide to the director of planning and zoning officer at a preapplication meeting an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the city or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The zoning officer may share such information with other applicants applying for administrative approvals or special use permits under this division or other organizations seeking to locate antennas within the jurisdiction of the city, provided, however that the zoning officer is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- (e) *Aesthetics.* Towers and antennas shall meet the following requirements:
- (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 - (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
 - (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (f) *Lighting.* Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- (g) *State or federal requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this division shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (h) *Building codes; safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within the 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (i) *Measurement.* For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the city irrespective of municipal jurisdictional boundaries.

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- (j) *Nonessential services.* Towers and antennas shall be regulated and permitted pursuant to this division and shall not be regulated or permitted as essential services, public utilities, or private utilities.
 - (k) *Franchises.* Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the city have been obtained and shall file a copy of all required franchises with the zoning officer.
 - (l) *Public notice.* For purposes of this division, any special permit request, variance request, or appeal of an administratively approved use or special permit shall require public notice via certified mail to all property owners within a 200 foot radius of the perimeter of the property which is the subject of the request in addition to any notice otherwise required by this chapter.
 - (m) *Signs.* No signs shall be allowed on an antenna or tower.
 - (n) *Buildings and support equipment.* Buildings and support equipment associated with antennas or towers shall comply with the requirements of section 19-354.
 - (o) *Multiple antenna/tower plan.* The city encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.
- (Ch. 463, § I, 12-16-97)

Sec. 19-351. Permitted uses.

- (a) *Generally.* The uses listed in this section are deemed to be permitted uses and shall not require a special use permit. All such uses shall, to the greatest extent possible, comply with the design standards of this article relating to setbacks and separation, lighting, landscaping and security fencing.
- (b) *Permitted uses.* The following uses are specifically permitted:
 - (1) Antennas or towers located on property owned, leased, or otherwise controlled by the city provided a license or lease authorizing such antenna or tower has been approved by the city and further provided that a site plan and a copy of the executed lease shall be submitted by the applicant and approved by the zoning officer and director of planning prior to a building permit being issued.
 - (2) (a) Notification of the proposed antenna or tower on property owned, leased or otherwise controlled by the city shall be required to be sent by first class mail by the applicant to all owners of real property whose property is located at within a 200-foot radius of the perimeter of the subject area as measured from the corners of the subject area; such notice shall be sent to the last known address of such owners as shown on the current real estate tax assessment records of the city at least 14 days prior to the planning board meeting at which the use of city owned property for the location of the proposed antenna or tower will be reviewed by the planning board for purpose of making its recommendation to the city council.
 - (b) Notification of the proposed antenna or tower on property owned, leased or otherwise controlled by the city shall be required to be sent by first class mail by the applicant to all owners of real property whose property is located at within a 200-foot radius of the perimeter of the subject area as measured from the corners of the subject area; such notice shall be sent to the last known address of such owners as shown on the current real estate tax assessment records of the city and at least fourteen days prior to the city council meeting at which the license or lease authorizing such antenna or tower will be reviewed by the city council.

(c) The public notice to abutters provided for herein for the planning board meeting and the city council meeting shall contain a copy of the radius map showing the location of the cell tower and each of the properties within the 200-foot radius of said location.

(3) Antennas, but not towers, upon the roof of any ten story building or greater located within any zoning district.

(Ch. 463, § I, 12-16-97; Ch. 80, § I, 8-10-99; Ch. 81, § I, 8-10-99)

Sec. 19-352. Administratively approved uses.

(a) *Generally.* The following provisions shall govern the issuance of administrative approvals for towers and antennas.

(1) The zoning officer may grant administrative approval to the uses listed in this section. The zoning officer shall seek an advisory opinion from the director of planning prior to the issuance of a decision of administrative approval.

(2) Each applicant for administrative approval shall apply to the zoning officer, providing the information set forth in subsections 19-353(b)(1) and 19-353(b)(3) of this division for towers and subsection 19-352(c) for antennas, along with a nonrefundable fee as established by the city council to reimburse the city for the costs of reviewing the application.

(3) The zoning officer shall review the application for administrative approval and determine if the proposed use complies with section 19-350 (general requirements), subsection 19-353(b)(4) (setbacks) and 19-353(b)(5) (separation) of this division. The zoning officer may refer the application to other agencies and departments as necessary in order to make an informed decision.

(4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

(5) The zoning officer shall respond to each such application within 60 days after receiving it by either approving or denying the application. If the zoning officer fails to respond to the applicant within the 60 days, then the application shall be deemed to be approved.

(6) In connection with any such administrative approval, the zoning officer may, in order to encourage shared use, administratively waive any zoning district setback requirements in section 19-353(b)(4) or separation distances between towers in section 19-353(b)(5) by up to 20 percent.

(7) In connection with any such administrative approval, the zoning officer may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

(8) If an administrative approval is denied, the applicant, prior to filing any appeal that may be available under this chapter, shall first file an application for a special use permit, pursuant to section 19-353, provided that the proposed use will be located in a district where a special use permit may be granted under the terms of section 19-98.

(9) Administrative decisions shall be posted in the land evidence records of the city and copies of all decisions shall be forwarded to the city manager, director of public works and director of planning.

(b) *List of administratively approved uses.* The following uses may be approved by the zoning officer after conducting an administrative review:

(1) Locating a tower, including the placement of additional buildings or other supporting equipment used in connection with the tower, in any I-3 zoning district provided, however, that such tower shall be set back a distance equal to the height of the tower from any off-site residential land use, or in the case of

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- vacant residentially zoned land, setback a distance equal to the height of the tower less the residential yard setback for the adjacent residential district.
- (2) Locating antennas on existing structures or towers in any zoning district consistent with the terms of subsections a. and b. below.
- a. *Antennas on existing structures.* Any antenna which is not attached to a tower may be approved by the zoning officer as an accessory use to any structure in an I-3 zoning district, provided:
1. The antenna does not extend more than 30 feet above the highest point of the structure;
 2. The antenna complies with all applicable FCC and FAA regulations; and
 3. The antenna complies with all applicable building codes.
- b. *Antennas on existing towers.* An antenna which is attached to an existing tower may be approved by the zoning officer and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:
1. A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the zoning officer allows reconstruction as a monopole.
 2. Height.
 - (i) An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height, to accommodate the collocation of an additional antenna.
 - (ii) The height change referred to in subsection 3.(i) of this section may only occur one time per communication tower.
 - (iii) The additional height referred to in subsection 3.(i) shall not require an additional distance separation as set forth in section 19-353. The tower's premodification height shall be used to calculate such distance separations.
 3. On-site location.
 - (i) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved on-site within ten feet of its existing location.
 - (ii) After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.
 - (iii) A relocated on-site tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to subsection 19-353(b)(5). The relocation of a tower hereunder shall in no way be deemed to cause a violation of subsection 19-353(b)(5).
 - (iv) The on-site relocation of a tower which comes within the separation distances to residential uses or residentially zoned lands as established in subsection 19-353(b)(5) shall only be permitted when approved by the zoning officer.
- (3) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

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- (c) *Information required.* Applicants for administrative approval shall submit the following information, based upon a determination of applicability and need by the zoning officer.
- (1) A scaled site plan clearly indicating the location, type and height of the proposed tower(s) or antenna(s), on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to abutting municipalities), comprehensive plan classification of the site and adjacent properties, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower(s) or antenna(s) and any other structures, topography, parking, and other information deemed necessary by the zoning officer in order to assess compliance with this division.
 - (2) Legal description of the parent tract and leased parcel (if applicable).
 - (3) The setback distance between the proposed tower(s) or antenna(s) and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
 - (4) The separation distance from other tower(s) and/or antennas described in the inventory of existing sites submitted pursuant to subsection 19-350(d) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
 - (5) A landscape plan (if required by the zoning officer) showing specific landscape materials.
 - (6) Method of fencing, and finished color and method of camouflage and illumination (if required by the zoning officer).
 - (7) A description of compliance with subsections 19-350 (c), (d), (e), (f), (g), (j), (l), and (m) and all applicable federal, state or local laws.
 - (8) Identification of the entities providing the backhaul network for the tower(s) and antenna(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
 - (9) A description of the feasible location(s) of future towers or antennas within the city based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

(Ch. 463, § I, 12-16-97; Ch. 154, § IV, 1-16-01)

Sec. 19-353. Special use permits.

- (a) *Generally.* The following provisions shall govern the issuance of special use permits and/or variance for towers or antennas in addition to all other requirements of this section for the issuance of special use permits:
- (1) Applications for special use permits or variance under this section shall be subject to the procedures and requirements of section 19-39 et seq. and section 19-45 et seq. of this chapter, as applicable, except as modified in this section.
 - (2) In granting a special use permit, the zoning board of review may impose conditions to the extent the zoning board of review concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
 - (3) If a tower is not a permitted use under section 19-98 of this division, then a use variance shall be required for the construction of a tower or placement of an antenna and all such applications shall submit the information required within this division for special use permits, shall meet the design standards for towers or antennas requiring a special use permit and further shall be subject to the procedures and requirements of section 19-45 et seq., except as modified in this section.

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- (4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
- (5) An applicant for a special use permit shall submit the information described in this section and a nonrefundable fee as established by the city council to reimburse the city for the costs of reviewing the application.
- (b) *Towers.*
- (1) *Information required.* In addition to any information required for applications for special use permits pursuant to section 19-41 of this chapter, applicants for a special use permit for a tower shall submit the following information:
- a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), comprehensive plan classification of the site and all properties within the applicable separation distances set forth in subsection 19-353(b)(5), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the zoning officer to be necessary to assess compliance with this division.
 - b. Legal description of the parent tract and leased parcel (if applicable).
 - c. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
 - d. The separation distance from other towers described in the inventory of existing sites submitted pursuant to subsection 19-350(d) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
 - e. A landscape plan showing specific landscape materials.
 - f. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
 - g. A description of compliance with subsections 19-350(c), (d), (e), (f), (g), (j), (l), and (m), 19-353(b)(4), 19-353(b)(5) and all applicable federal, state or local laws.
 - h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
 - i. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
 - j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
 - k. A description of the feasible location(s) of future towers or antennas within the city based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
 - l. A certified list of the names and addresses of property owners within a 200 foot radius of the perimeter of the property which is the subject of the application.
- (2) *Factors considered in granting special use permits or variance for towers.* In addition to any standards for consideration of special use permit applications pursuant to section 19-39 et seq. of this chapter,

the following factors shall be considered in determining whether to issue a special use permit or variance:

- a. Height of the proposed tower;
 - b. Proximity of the tower to residential structures and residential district boundaries;
 - c. Nature of uses on adjacent and nearby properties;
 - d. Surrounding topography;
 - e. Surrounding tree coverage and foliage;
 - f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - g. Proposed ingress and egress; and
 - h. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in subsection 19-353(b)(3) of this division.
- (3) *Availability of suitable existing towers, other structures, or alternative technology.* No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the zoning board of review that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the zoning board of review related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
 - b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - g. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- (4) *Setbacks.* The following setback requirements shall apply to all towers for which a special use permit is required:

- a. Towers must be set back a distance equal to at least seventy-five percent of the height of the tower from any adjoining lot line.
 - b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- (5) *Separation.* The following separation requirements shall apply to all towers and antennas for which a special use permit is required:
- a. Separation from off-site uses/designated areas.
 - 1. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
 - 2. Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1:
Separation Requirements for Towers
MINIMUM STANDARDS

Off-Site Use/Designated Area	Separation Distance
Single-family or duplex residential units ¹	200 feet or 300 percent height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300 percent height of tower ² whichever is greater
Vacant unplatted residentially zoned lands ¹	100 feet or 100 percent height of tower whichever is greater
Existing multifamily residential units greater than duplex units	100 feet or 100 percent height of tower whichever is greater
Nonresidentially zoned lands or nonresidential uses	None; only setbacks apply
¹ Includes modular homes and mobile homes used for living purposes.	
² Separation measured from base of tower to closest building setback line.	
³ Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multifamily residentially zoned land greater than duplex.	

- b. Separation distances between towers.
 - 1. Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

Table 2:
Existing Towers—Types
MINIMUM SEPARATION BETWEEN TOWERS (BY TOWER TYPE)

	Lattice	Guyed	Monopole 75 Feet in Height or Greater	Monopole Less Than 75 Feet in Height

Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 Feet in Height or Greater	1,500	1,500	1,500	750
Monopole Less Than 75 Feet in Height	750	750	750	750

- (6) *Security fencing.* Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anticlimbing device.
- (7) *Landscaping.* The following requirements shall govern the landscaping surrounding towers for which a special use permit is required:
- a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.
 - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived by the zoning board of review.
 - c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(Ch. 463, § I, 12-16-97; Ch. 154, § V, 1-16-01)

Sec. 19-354. Buildings or other equipment storage.

- (a) *Antennas mounted on structures or rooftops.* The equipment cabinet or structure used in association with antennas shall comply with all applicable building and fire codes.
- (b) *Antennas mounted on utility poles or light poles.* The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:
- (1) In residential districts, the equipment cabinet or structure for each user may be located in accordance with the following:
 - a. All front and side yard setbacks of the district in which the tower is located shall be met and the cabinet or structure shall be no greater than 15 feet in height or 240 square feet of gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 42-48 inches and a planted height of at least 36 inches.
 - b. All rear yard setbacks of the district in which the tower is located shall be met and the cabinet or structure shall be no greater than 15 feet in height or 240 square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches.
 - (2) In commercial or industrial districts the equipment cabinet or structure shall be no greater than 15 feet in height or 240 square feet in gross floor area for each user. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties

which abut or are directly across the street from the structure or cabinet by a solid fence six feet in height or an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches.

- (c) *Antennas located on towers.* The related unmanned equipment structure shall not contain more than 240 square feet of gross floor area or be more than 15 feet in height for each user, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.
- (d) *Modification of building size requirements.* The requirements of subsections 19-354(a) through (c) may be modified by the zoning officer in the case of administratively approved uses or by the zoning board of review in the case of uses permitted by special use permit or variance to encourage collocation.

(Ch. 463, § I, 12-16-97)

Sec. 19-355. Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the city notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within the 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(Ch. 463, § I, 12-16-97)

Sec. 19-356. Nonconforming uses.

- (a) *Nonexpansion of nonconforming use.* Towers that are constructed, and antennas that are installed, in accordance with the provisions of this division shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (b) *Preexisting towers.* Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this division.
- (c) *Rebuilding damaged or destroyed nonconforming towers or antennas.* Notwithstanding section 19-355, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the setback and separation requirements specified in subsections 19-353(b)(4) and 19-353(b)(5). The type, height, and location of the tower on-site shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if the permit expires, the tower or antenna shall be deemed abandoned as specified in section 19-355.

(Ch. 463, § I, 12-16-97)

DIVISION 18. CHILD DAY CARE CENTERS¹⁴

Sec. 19-357. Requirements applicable to child day care centers.

(a) Notwithstanding the district regulations applicable to the district in which a child day care center is located, the following requirements shall also apply to child day care centers, however, these regulations shall not apply to any part of a public or private school system or to a Sunday school conducted by a religious institution where children are cared for during short periods of time while persons responsible for such children are attending religious services. Any and all required licenses must be obtained from the state.

- (1) *Permitted districts.* Child day care centers* shall be permitted by special use permit only in the residential-5 and residential-6 zoning districts, and permitted by right in the commercial-1, commercial-2 and industrial-1 zoning districts.
- (2) *Increased required yards.* Increased yards adjacent to side and rear property lines shall be provided and shall not be less than 25 feet in depth. The first ten feet from these property lines shall be landscaped.
- (3) *Minimum separation distance from potential hazards.* No child day care center shall be located within a 300-foot distance from gasoline pumps, underground gasoline storage tanks, or any other storage and/or use of hazardous, explosive and/or flammable materials, said 300 feet to be measured from the perimeter of the property on which the day care center is proposed. No child day care center shall be sited in a location which exposes children to commercial and/or industrial land uses and/or activities which involve toxic emissions, noxious odors, and/or other potential dangers.
- (4) *Location of outdoor play area.* No outdoor play area or part of an outdoor play area shall be permitted in the front yard as required by section 19-145 for the applicable zoning district, and no outdoor play area shall be sited in a manner which poses threats to children from motor vehicle operations. No outdoor play area shall be located in a manner which creates a potential conflict with truck access to trash storage areas, such as dumpsters.

b) Special Use Permit criteria. In cases where child day care centers are allowable by special use permit in a district, the following criteria shall apply:

- (1) **Adequacy of the neighboring transportation network to accommodate the proposed use, and adequacy of proposed parking arrangements as evidenced by:**
 - a. **The zoning board of review or planning board under unified development review may require submission of traffic and/or parking impact studies analyzing both on and off-site conditions as they affect surrounding areas including, but not limited to:**
 1. **Analysis of roadways which may be influenced by the project; including adjacent roads and major intersections;**
 2. **Safety (accident data, sight distance, roadway conditions, etc.)**

¹⁴Editor's note(s)—Section XII of Ch. 642, adopted March 15, 2016, renumbered Div. 17 to read as herein set out.

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3. Capacity analysis utilizing the most current Transportation Research Board guidelines or other document as specified by the Director of Public Works;
 4. Existing volumes (traffic counting);
 5. Site-generated and future traffic;
 6. Planned transportation improvements, if any;
 7. Projected parking demand for the facility, and adequacy of available on-site and off-site parking;
 8. Analysis of the specific impacts of child drop-off and pick-up related to the above factors.

(2) Compatibility with neighboring residential land uses as evidenced by:

- a. Submission of a landscaping plan, which shows how the proposed development will be adequately landscaped and screened from adjacent residential properties. The zoning board or planning board under unified development review may require plans to be prepared by a professional landscape architect, licensed in the State of Rhode Island.
- b. Submission of evidence that the proposed development's noise, lighting, trash management, and other operations will not unduly disturb nearby residents.
- c. Submission of evidence, including but not limited to a drainage analysis and related plans, prepared by a professional civil engineer, licensed in the State of Rhode Island, showing that any construction and/or site development will not have a negative impact on adjacent properties or natural resources.
- d. Submission of evidence, including but not limited to an erosion and sediment control management plan, prepared by a professional civil engineer, licensed in the State of Rhode Island, showing that any construction and/or site development will not have a negative effect on adjacent properties or natural resources.

(3) Safety of children as evidenced by the proposal's conformance with fire, building and health codes, and other relevant state and federal requirements, conformance to other dimensional requirements for child day care centers listed in this section, as well as other relevant public safety factors.

(Ch. 146, § XIV, 10-23-00)

Sec. 19-358. Site plan requirements.

A site plan shall be required for each application for a child day care center. For child day care centers in districts where the use is permitted by right, the site plan shall be submitted to the zoning officer for review and approval. The site plan shall include the following:

- (1) All driveways, off-street parking spaces, drop-off zones, outdoor play areas, fences and dumpster/trash storage locations shall be shown on the site plan.
- (2) Proposed signage shall be shown on the site plan (location and square footage of sign face(s)).
- (3) A radius plan showing lots and land uses within a 300-foot radius of the perimeter of the proposed child day care center.
- (4) A landscaping plan which shall at a minimum show location of a landscaped buffer at the perimeter of the off-street parking area, and the side and rear yard landscaping.

(Supp. No. 79)

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DIVISION 19. RIVERSIDE SQUARE MIXED USE/DOWNTOWN OVERLAY¹⁵

Sec. 19-359. Purposes and review process.

- (a) *Purposes.* The purpose of this section is to:
- (1) Allow a mixture of complimentary land uses that may include housing, retail, offices, commercial services, and civic uses, to create economic and social vitality;
 - (2) Develop commercial and mixed-use areas that are safe, comfortable and attractive to pedestrians;
 - (3) Provide flexibility in the siting and design of new developments and redevelopment;
 - (4) Reinforce streets as public places that encourage pedestrian and bicycle travel;
 - (5) Provide roadway and pedestrian connections to residential areas;
 - (6) Encourage efficient land use by facilitating compact, high-density development and minimizing the amount of land that is needed for surface parking; and
 - (7) Facilitate development (land use mix, density and design) that utilizes public transit, where applicable;
- (b) *Review process.* The ~~Development Plan Review Committee~~ **planning board** shall review and approve proposals within the Riverside Square Mixed Use/Downtown Overlay District following the process for development plan review identified in section 19-453 **and the city's land development and subdivision review regulations**. ~~Procedure.~~ The DPR Committee **permitting authority** may apply such special conditions, restrictions or stipulations as it may deem necessary to maintain consistency with the comprehensive plan, zoning ordinance, and subdivision and land development regulations to maintain harmony with neighboring uses.
- (c) *Design intention and functioning.*
- (1) [Reserved.]
 - (2) Maximize the building floor area on each lot.
 - (3) Locate parking off the street frontage to the rear of parcels so that businesses can move close to the sidewalk and more readily attract pedestrians.
 - (4) Place buildings at a minimal front setback line, close behind a sidewalk of adequate width.
 - (5) Encourage construction of at least two-story buildings.
 - (6) Locate retail uses on the ground-floor street frontage, preferably adjacent to other retail uses.
 - (7) Develop sidewalks and building features (e.g. entrances, weather protection) so as to maximize safety, comfort, ease of movement, and convenience for pedestrians.
 - (8) Encourage building heights of two and one-half stories (maximum height of 35 feet), with first floor commercial use and second floor residential use. Residential use may also be provided on the first floor but the main entrance of such first floor residential use shall be limited to the rear or side of the structure.

¹⁵Editor's note(s)—Section XII of Ch. 642, adopted March 15, 2016, renumbered Div. 17 to read as herein set out.

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- (9) Floors above ground level shall have independent, separate access to the street.
 - (10) Driveway and parking lot surfaces are encouraged to be permeable, using such materials as brick, concrete pavers, "grass-crete" and other similar permeable materials, but not gravel. Vegetative buffers shall be planted to treat runoff as it percolates into the soil. Use of low impact development (LID) techniques is encouraged.
 - (11) Walk-up windows to retail uses may be permitted provided that such windows shall be located on the front lot line facing a street, with no curb cut or allowance of any motorized vehicular access.

(Ch. 453, § XXIII, 7-15-08)

Sec. 19-360. Standards for development.

- (a) No development plan shall be approved unless it is determined that the following standards are reached to the maximum extent feasible, or to the extent feasible given the circumstances of the property, in accordance with the provisions of these regulations.
 - (1) *Build-to line requirement.* In no case shall the front setback specified for the underlying zoning district take precedence. All building front setback requirements shall be zero, except under the following circumstances:
 - a. Where other site requirements such as utility or access easements preclude such building placement.
 - b. Where it is determined that the use of existing buildings on adjacent parcels would be significantly adversely affected by setbacks from front or side property lines that are smaller than those on the adjoining parcels (e.g., light would be blocked from existing windows on the side of a building).
 - c. Where minimum required clearance from an overhead electric power line, based on the National Electric Code, must be maintained, especially for buildings of more than one story.
 - (2) *Setbacks.* For a particular development plan, a determination shall be required that proposed setbacks are consistent with the purposes and design intention of this overlay district.
 - (3) *Ground floor facade.* At least 50 percent of the ground floor facade of non-residential use shall be constructed of transparent material or otherwise designed to allow pedestrians to view activities inside the building. The ground floor facade shall be composed of windows opening into the interior, display windows (which need not be open into the interior), or entrances, which openings are determined to be well-distributed along the face of the building or addition so as to minimize the lengths of blank wall areas.
 - (4) *Building width.* A new building or addition to an existing building shall occupy the full width of the lot, except in the following circumstances:
 - a. A pedestrian passageway to parking or other businesses to the rear of the building is provided.
 - b. A side yard is used as an outside seating area for a cafe or a public courtyard.
 - c. A driveway to parking spaces in the rear is allowed alongside the building because there is no other access to the parking spaces.
 - d. A utility easement precludes use of the full width, in which case one of the above uses shall be placed over the easement.
 - (5) *Outdoor patron seating areas.* Administrative review and issuance of an outdoor use area permit is required for designation of proposed outdoor seating areas, to ensure that the standards in this

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Chapter are met and that public safety and access for pedestrians, persons with disabilities, and emergency response personnel will not be compromised.

- (6) *Signage.* The signage requirements of article VII. Signs shall be met, except as provided below:
- a. *Wall sign.* Wall signs shall be externally illuminated by incandescent, metal halide or halogen light and shall be made of metal, painted wood or similar material (no plastic). Signs shall be placed on the building so as not to obscure architectural features and details. Internally illuminated neon signs are permitted.
 - b. *Free standing sign.* A freestanding sign shall be externally illuminated by incandescent, metal halide or halogen light and shall be made of metal, painted wood or similar material (no plastic).
- (7) *Parking.* Each development in this district shall be required to demonstrate to the satisfaction of the DPR Committee that the location, arrangement, appearance, and sufficiency of off-street parking and loading shall be adequate to serve the development. No parking, driveway, or other area for vehicles shall be placed between the building and the street.
- a. *Parking ratios.* The number of parking spaces provided for a site shall be considered as a base from which to adjust, as applicable and appropriate, to an adequate number and location of spaces. In no case shall the number of off-street parking spaces exceed the number calculated from the parking ratios required by the zoning ordinance. For a building of two or more stories, floor area within stairwells and elevator shafts shall not be included in total floor area for parking calculations.
 - b. *Shared parking.* Where a parking area will serve two or more uses for which peak parking demand occurs at different times, the parking spaces provided may be counted toward the parking requirement for more than one of those uses provided that the requirements of section 19-279 (b) "Shared Use of Parking" are met.
 - c. *Parallel parking.* Where parallel parking is allowed on a street section abutting the property and on the same side of the street as the property, such parallel parking shall count toward meeting the parking requirement for the property.
 - d. *Alleys.* As development or redevelopment occurs, alleys shall be created for access to parking on the rear of properties.
 - e. *Off-site parking.* Where alternative off-site parking (either public parking or private parking obtained by lease or recorded easement) is provided within 300 feet of the property, the on-site parking requirement shall be reduced, provided that the total of on-site and alternative off-site parking together shall meet the requirement for the proposed use.

(Ch. 453, § XXIII, 7-15-08)

DIVISION 20. COMMERCIAL MIXED USE (CMU) DISTRICT

[Note: Sections 19-360.1 / 19-360.2 may be amended if Christine Apartments' proposed regulation amendment is approved by the Council]

Sec. 19-360.1. Purpose and objective.

- (a) *Commercial mixed use (CMU).* The purpose of the commercial mixed use district is to encourage more active use and redevelopment of oversized multi-tenant commercial properties by promoting more flexibility of uses and design that is well suited for active economic activity along Newport Avenue.
- (b) *Qualification.* On the date any parcel of land is placed into a CMU Zone, it shall be part of one or more contiguous parcels of land containing a minimum of 45,000 square feet of land that is adjacent to Newport Avenue and that are under common control/ownership, unless otherwise waived by the city council and the planning commission. The term "common control/ownership" means and relates to either one person or entity, or separate entities in which the underlying ownership is held in part by one or more of the same person, persons, or entities.

(Ch. 721, § III, 8-21-18)

Sec. 19-360.2. Dimensional regulations; permitted uses; additional criteria.

- (a) *Dimensional regulations.* Dimensional regulations, as presented in Sections 19-131 through 19-145 of the zoning ordinance, as amended below for the commercial mixed use district, shall apply to all uses in the CMU Zone.

Zone and Use	Minimum Lot Size	Minimum Lot Frontage	Maximum Lot Coverage	Minimum Yard Setback Line			Maximum Height of Structures	
				Front	Side	Rear	Main	Accessory
	(square feet)	(square feet)	(percentage)	(feet)	(feet)	(feet)	(feet)	(feet)
Commercial Mixed Use	45,000	50	50%					
Main structures between 46 and 100 feet				10	20*	10	100	
Main structures up to 45 feet				0	0	5	45	
Accessory structures				0	0	5		45

*Minimum side yard setback requirement when directly abutting residential zoning districts only, minimum side yard setback of ten feet applies when abutting commercial or industrial zoning districts. Minimum side yard setback of zero feet applies for contiguous parcels under the same ownership.

(b) *Permitted uses.*

(1) Uses permitted by right in the commercial retail business (C-3) district are permitted in the CMU Zone.

a. The following uses, listed in the schedule of uses table, are also permitted in the CMU Zone:

1. Three-family dwelling* and multi-family dwelling*;
2. Hotel*;
3. Sportsmen's club;
4. Salesroom for display of motor vehicles, trailers, building supplies, boats, or machinery: (2) With storage and repair facilities;
5. New or used motor vehicle sales lot shall be limited to the display of a maximum of ten vehicles.
6. Retail services for employees as detailed in section 19-364, business/technology* development;
7. Sale of business and/or industrial equipment and supplies;
8. Wholesale showroom: (2) With storage and repair facilities;
9. Wholesale distribution or warehouse, excluding truck terminal facility;
10. Automotive repair shop*;
11. Animal or veterinary hospital or kennel;
12. Business or industrial services: (2) With storage and repair facilities;
13. Child day care centers*;
14. Data processing centers*;
15. Gasoline filling stations*;
16. Amusement game centers*;
17. Radio, television or wireless telecommunication towers and antennas (see definition of antenna in section 19-348)
18. Communication services and broadcasting offices;
19. Industrial trade schools

*As currently defined in section 19-1

b. The following uses, not listed in the schedule of uses table, are also permitted in the CMU Zone:

1. Residence above first story business use;
2. Mixed use*;
3. Small fabricating shops;
4. Previously owned goods and merchandise shops, including antiques, collectibles, coins, consignment and stamps;

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5. Electric vehicle charging station;
 6. Kiosk, free standing exterior;
 7. Outdoor retail—accessory;
 8. Music and dance studio;
 9. Garden center;
 10. Adult day care.

*As currently defined in section 19-1

- (2) Uses allowed by special use permit in the commercial retail business (C-3) District are permitted by special use permit in the CMU Zone, unless allowed by right above.
 - (3) Uses permitted as accessory uses in the commercial retail business (C-3) District are permitted in the CMU Zone.
- (c) *Number of buildings on a lot.*
- (1) More than one commercial or mixed-use primary structure located on a single lot is permitted in the CMU Zone.
- (d) *Signs.* Any permitted signs for the commercial retail business (C-3) District as set forth in section 19-438 through 19-446 shall be permitted in the CMU Zone. Any electronic messaging centers (EMC signs) shall only be permitted by special use permit. Defined in section 19-442.
- (e) *Additional criteria for approval.*
- (1) There is no maximum requirement for off-street parking in the CMU Zone. Parking design standards as set forth in Section 19-282 shall apply.
 - (2) Minimum parking requirements in the CMU Zone are: Residential: one and one-half spaces/unit; Office: four spaces/1,000 square feet; Retail/restaurant: four and one-half spaces/1,000 square feet.
 - (3) Maximum impervious coverage is 90 percent.
 - (4) Off-street loading minimum requirements:
Size:
Length: 55 feet;
Width: 12 feet.
Number:
4,000 square feet to 20,000 square feet = one space;
20,000 square feet + = one space per 20,000 square feet or fraction thereof.
Office uses are excluded from off-street loading requirements.

(Ch. 721, § III, 8-21-18)

DIVISION 21. ADAPTIVE REUSE

Sec. 19-360.3. Purpose and objective.

- (a) Adaptive reuse for the conversion of any commercial building, including offices, schools, religious facilities, medical buildings, and malls into residential units or mixed use developments which include the development of at least fifty percent (50%) of the existing gross floor area into residential units, shall be a permitted use, except where such is prohibited by environmental land use restrictions recorded on the property by the State of Rhode Island Department of Environmental Management or the United States Environmental Protection Agency preventing the conversion to residential use.
- (b) **Parking.** Adaptive Reuse projects shall require a minimum of one off-street parking space per dwelling unit. In cases where Adaptive Reuse projects are located within Main Street and Neighborhood Center Overlay Districts, a minimum of 0.5 off-street parking spaces per dwelling unit may be provided for 1 bedroom units.
- (c) **Density.**
 - (1) For projects that meet the following criteria, these regulations shall not limit the maximum residential density:
 - a. Where the project is limited to the existing footprint, except that the footprint is allowed to be expanded to accommodate upgrades related to the building and fire codes and utilities; and
 - b. The development includes at least twenty percent (20%) low- and moderate-income housing; and
 - c. The development has access to public sewer and water service or has access to adequate private water, such as a well and/or wastewater treatment system(s) approved by the relevant state agency for the entire development as applicable.
 - (2) For all other adaptive reuse projects, the residential density permitted in the converted structure shall be a maximum of thirty (30) units per acre.
 - (3) All adaptive reuse projects are exempt from the requirements of Section 19-156 (minimum residential floor area) and Section 19-218 (Schedule for multifamily dwelling usable lot area).
- (d) **Setbacks.** Notwithstanding any other provisions of this chapter, for adaptive reuse projects, existing buildings setbacks shall remain and shall be considered legal nonconforming, but no additional encroachments shall be permitted into any nonconforming setback.
- (e) **Building Height.** For adaptive reuse projects, notwithstanding any other provisions of this chapter, the height of the existing structure, if it exceeds the maximum height of the zoning district, may remain and shall be considered legal non-conforming, and any rooftop construction shall be included within the height exemption.

DIVISION 22. OUTDOOR DINING

Sec. 19-360.4 – Outdoor dining.

- (a) The purpose of this section is to provide restaurants and/or fast food restaurants the ability to establish outdoor dining areas while protecting public safety and minimizing negative impacts to neighboring properties.
- (b) Addition of outdoor seating at an established facility shall require approval from the Zoning Officer. Submission of a plan indicating compliance with these regulations is required.
- (c) Restaurants and/or fast food restaurants that have been permitted through a Special Permit process shall not require a Special Permit for the addition of outdoor seating.
- (d) Outdoor dining areas shall be reviewed to the satisfaction of the Building Official, Fire Department and City Engineer to include Building Code and Fire Code compliance, ADA accessibility, internal traffic circulation and vehicle crash protection. When outdoor dining areas are adjacent to roadways or parking areas, vehicle crash protection shall be provided to include permanent or semi-permanent barriers, bollards, or similar materials, that are capable of protecting diners from a moving automobile. Parking areas with outdoor dining must continue to comply with the parking space/parking lot design, maintenance and loading requirements in Division 11 of these regulations.
- (e) Outdoor dining hours shall be limited to between 7:00AM and 10:00PM without additional permitting.
- (f) Unamplified music or entertainment is permitted by right until 10:00PM.
- (g) All lighting shall be shielded and focused directly onto the seating area and away from abutting properties.
- (h) See Section 19-284 for outdoor dining parking requirements.

DIVISION 23. ADDITIONAL CRITERIA FOR THE ISSUANCE OF SPECIAL USE PERMITS

Sec. 19-360.5 – Sportsmen’s clubs.

- (a) Notwithstanding any other provisions of this chapter, the following regulations shall apply to all sportsman’s clubs:
 - (1) Minimum lot size of 5 acres.
- (b) Special Use Permit criteria. In cases where sportsman’s clubs are a special permit use in a district, the following criteria shall apply:
 - (1) Compatibility with neighboring residential land uses as evidenced by:
 - a. Submission of a landscaping plan, prepared by a professional landscape architect, licensed in the State of Rhode Island, which shows how the proposed development will be adequately landscaped and screened from adjacent residential properties.
 - b. Submission of evidence that any proposed firearm activity will not pose a public safety risk to neighboring residents, users of the facility, or the general public, and that all relevant firearm related laws will be met.
 - c. Submission of evidence that noise from any proposed firearm activity will not unduly disturb residents in proximity of the site. In order to make this determination, the zoning

board of review or planning board under unified development review may require submission of an acoustical impact analysis, prepared by an acoustical engineer, licensed in the State of Rhode Island.

- d. Submission of evidence, including but not limited to a drainage analysis and related plans, prepared by a professional civil engineer, licensed in the State of Rhode Island, showing that any development will not have a negative effect on adjacent properties or natural resources.
- e. Submission of evidence, including but not limited to an erosion and sediment control management plan, prepared by a professional civil engineer, licensed in the State of Rhode Island, showing that any development will not have a negative effect on adjacent properties or natural resources.

Sec. 19-360.6 – Nonprofit club; civic, social or fraternal.

Special Use Permit criteria. In cases where nonprofit clubs are a special permit use in a district, the following criteria shall apply:

(a) Compatibility with neighboring residential land uses as evidenced by:

- (1) Submission of a landscaping plan, prepared by a professional landscape architect, licensed in the State of Rhode Island, which shows how the proposed development will be adequately landscaped and screened from adjacent residential properties.
- (2) Submission of evidence that any proposed events or activities will not pose a public safety risk to neighboring residents, users of the facility, or the general public and will adequately manage traffic, parking, emergency access, trash and potential light pollution.
- (3) Submission of evidence that noise from any proposed events or activities will not unduly disturb residents in proximity of the activity. In order to make this determination, the zoning board of review or planning board under unified development review may require submission of an acoustical impact analysis, prepared by an acoustical engineer, licensed in the State of Rhode Island.
- (4) Submission of evidence, including but not limited to a drainage analysis and related plans, prepared by a professional civil engineer, licensed in the State of Rhode Island, showing that any development will not have a negative effect on adjacent properties or natural resources.
- (5) Submission of evidence, including but not limited to an erosion and sediment control management plan, prepared by a professional civil engineer, licensed in the State of Rhode Island, showing that any development will not have a negative effect on adjacent properties or natural resources.

Sec. 19-360.7 – Bulk petroleum storage.

Special Use Permit criteria. In cases where bulk petroleum storage is listed a special permit use in a district, the following criteria shall apply:

- (a) Evidence of compliance with the Industrial Processes regulations in Division 16 of these regulations.
- (b) Submission of evidence that any proposed fuel storage, deliveries or transportation will not pose a fire safety risk to neighboring residents or properties, or the general public, and will conform to all relevant fire safety codes.

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- (c) Submission of evidence that any proposed fuel storage, deliveries or transportation will not have a negative impact on surface or groundwater resources, air quality, and/or other environmental factors. The applicant must ensure that releases due to spills and overfill will not occur. Leak prevention measures must be included. Spill release plans shall be developed and approved by relevant authorities. The applicant must provide for an ongoing inspection program conforming to all relevant laws, regulations and best management practices. All safety measures must continue after the closure of any bulk petroleum storage facility.
 - (d) Submission of evidence, including but not limited to a drainage analysis and related plans, prepared by a professional civil engineer, licensed in the State of Rhode Island, showing that any development will not have a negative effect on adjacent properties or natural resources.
 - (e) Submission of evidence, including but not limited to an erosion and sediment control management plan, prepared by a professional civil engineer, licensed in the State of Rhode Island, showing that any development will not have a negative effect on adjacent properties or natural resources.
 - (f) Submission of evidence that the facility will be compatible with neighboring land uses, including but not limited to management of truck traffic, trash, potential light pollution and provisions for landscaping and screening of the facility.

Sec. 19-360.8 – Drive-through facilities.

Special Use Permit criteria. In cases where development of new drive-through facilities is listed a special permit use in a district, the following criteria shall apply:

- (a) Compatibility with the neighboring transportation network as evidenced by submission of traffic and/or parking impact studies analyzing both on and off-site conditions as they affect surrounding areas including, but not limited to:
 - (1) Analysis of roadways which may be influenced by the project; including adjacent roads and major intersections;
 - (2) Safety (accident data, sight distance, roadway conditions, etc.);
 - (3) Capacity analysis utilizing the most current Transportation Research Board guidelines or other document as specified by the Director of Public Works;
 - (4) Existing volumes (traffic counting);
 - (5) Site-generated and future traffic;
 - (6) Planned transportation improvements, if any;
 - (7) Projected parking demand for the facility, and adequacy of available on-site parking;
 - (8) Adequacy of proposed queuing areas, parking lot and travel lane geometry and emergency access.
- (b) Conformance with the following standards for stacking lanes and traffic circulation:
 - (1) Vehicular stacking capacity of the drive-through facility and the internal circulation of the site shall be reviewed and approved by the development plan review committee. The petitioner shall submit information addressing the following issues with the application:
 - a. Nature of the product or service being offered;
 - b. Method by which the order is processed;
 - c. Time required to serve typical customer;

- d. Anticipated arrival rate of customers;
- e. Peak demand hour;
- f. Anticipated vehicular stacking required;
- g. Site plan reflecting all elements of internal circulation including parking, loading, stacking, traffic aisles and means to be used to delineate between these areas, e.g., striping, change of materials, landscaping etc.;
- h. Location and size of signs (including order boards);
- i. Location of trash storage areas and consumer trash receptacles;
- j. Location, direction, power and timing of outdoor lighting; and
- k. Areas for snow storage.

(2) Stacking spaces for vehicles waiting to complete a transaction shall be provided in addition to the off-street parking spaces required under article IV, division II, Off-Street Parking. The following are guidelines for numbers of stacking spaces by type of use. The required amount is to be calculated by the development plan review committee based on these guidelines and information provided by the applicant:

<u>Restaurant</u>	<u>7 per station</u>
<u>Bank</u>	<u>5 for the first station, plus 2 for each additional station</u>
<u>Use with no order board</u>	<u>4 per station</u>

In addition there shall be at least one stacking space after the service window, before entrance to a traffic aisle.

- (3) Each stacking space shall be a minimum of ten feet in width and 20 feet in length. Stacking lanes shall be a minimum of ten feet in width along straight portions and a minimum of 12 feet in width at curved segments. Stacking lanes shall be clearly designated by signs and delineated from traffic aisles, other stacking lanes and parking areas with striping, curbing, landscaping, the use of alternative paving material or raised medians.
- (4) Stacking lanes shall be designated to prevent circulation congestion, both on-site and on adjacent public streets. The site circulation shall:
 - a. Separate drive-through traffic from site circulation;
 - b. Not impede or impair vehicular or pedestrian traffic movement; and
 - c. Minimize conflicts between pedestrian and vehicular traffic by providing physical and visual separation between pedestrian ways and stacking lanes and driveways, or at the crossing of the two. Stacking lanes shall not interfere with required loading and trash storage areas. No drive-through lane shall exit onto a street.
- (5) Walk-in customer access should not intersect the drive-through lanes, but where it does, clearly marked pedestrian crosswalks shall be provided. These crosswalks must be emphasized by enriched paving or striping and include signage aimed at drivers in the drive-through lane.
- (6) Entrances to drive-through facilities shall be off-set at least 50 feet from an intersection. The distance shall be measured along the property line from the junction of the two sued right-of-way lines to the nearest edge of the entrance. Where a choice is possible, exits from

facilities with a drive-through shall be onto collector or arterial streets rather than minor streets. Curb cut design shall be consistent with the additional provisions of section 19-283.

(c) Conformance with the following standards for signage and lighting:

Menu boards or other informational boards at the window area, shall face away from public rights-of-way. Adequate directional signs shall be provided to assure smooth traffic circulation and pedestrian safety including marking entrances, exits and one way path of drive-through areas. The placement of all directional and street level advertising signage shall be subject to the review and approval of the development plan review committee to ensure that safe and efficient traffic circulation patterns and adequate sight distances will be maintained both within the street and them interior site parking area. The facility is subject to the signage standards of article VII, section 19-442. All lighting associated with the menu boards, window service area or site security, shall be directed and shielded to prevent any glare or reflection on adjoining streets or property.

(d) Conformance with the following standards for litter and noise control:

(1) Drive-through facilities are subject to the requirements of article IV, division 10, Solid Waste Facilities, with regard to trash storage areas. The business shall be operated so that the premises, adjacent properties, and public areas or rights-of-way nearby are free of litter and trash originating from the site. In addition refuse receptacles for customer use shall be placed at appropriate locations along the end of drive-through areas.

(2) Exterior loudspeakers shall not be used for advertising or entertainment. No outside loudspeaker system shall be installed within 50 feet of a residential use or district. Limitations on the hours of operation for the outdoor speaker system may be necessary in order to be compatible with neighboring residential uses. Outdoor speakers with a night time lower volume control are preferred.

(e) Conformance with the following landscaping standards:

(1) Conformance to the landscaping requirements of section 19-283.

(2) Screen drive-through lanes from public rights-of-way and abutting residential properties;

(3) Minimize the visual impact of reader boards and headlights of stacked cars; and

(4) If applicable be part of the additional buffer requirements of section 19-137.

(f) Conformance with the following fire protection standards:

(1) Flammable and hazardous materials used in the conduct of a drive-through business shall be stored within the building or outside the building in accordance with section 5-28 of the revised East Providence ordinances. Proper care shall be exercised in the location of fuel storage containers to protect public safety.

(2) Every business which utilizes drive-through service lanes must install a six-inch steel pipe, concrete filled, to be placed within two feet of the property's gas meter to protect such meters from being accidentally struck while vehicles are moving through the drive-through lane.

ARTICLE V. LAND DEVELOPMENT PROJECTS

Sec. 19-361. Purpose and objectives.

- (a) *Purpose.* The purpose of this article is to permit the review and establishment of land development projects; ~~formerly known as planned unit developments~~. Land development projects are developments which have been determined to be appropriately implemented through review of the planning board in accordance with G.L. 1956, § 45-23-4 et seq., due to the impacts associated with the nature of the use; scale of the project; or other unusual conditions which require additional regulations to meet the objectives of this article, the land development and subdivision review regulations adopted by the city planning board and the city comprehensive plan. The types and intensities of uses requiring this procedure are set forth in section 19-362. The review process for land development projects is promulgated to further the following purposes:
- (1) Provide for the orderly, thorough and expeditious review and approval of projects;
 - (2) Promote high quality and appropriate design and construction;
 - (3) Promote the protection of existing natural and built environment and the mitigation of all significant negative impacts of any proposed development on the existing environment;
 - (4) Promote design of land developments which are well integrated with the surrounding neighborhoods with regard to natural and built features and which concentrate development in areas which can best support intensive use by reason of natural characteristics and existing infrastructure;
 - (5) Encourage local design and improvement standards to reflect the intent of the city comprehensive plan with regard to the physical character of various neighborhoods and districts of the municipality;
 - (6) Promote thorough technical review of all proposed land developments by appropriate local officials;
 - (7) Encourage local requirements for dedications of public land, impact mitigation and payment-in-lieu thereof, to be based on clear documentation of needs and to be fairly applied and administered; and
 - (8) Encourage the establishment and consistent application of procedures for local recordkeeping on all matters of land development review, approval and construction.
- (b) *Subdivision.* Where the land development project also constitutes a subdivision, as defined in the land development and subdivision regulations adopted by the city planning board, the two processes shall proceed concurrently in a unified manner. The procedures for review shall be in accordance with this chapter and the land development and subdivision review regulations, including requirements for applications and fees. All information must be submitted, but where there is a duplication of requested information, the application need only provide the information once and make reference to the plans/documents on the other application. At each stage, the subdivision review and action shall take place prior to the site plan review decision on the land development project.
- (c) *Objectives.* Any decision to approve a land development project or any component thereof shall be consistent with the following objectives where applicable:
- (1) To promote more economical and efficient use of the land while providing harmonious housing choices and opportunities;
 - (2) To promote greater flexibility in design and diversification in the location of structures;

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- (3) To promote greater flexibility and consequently more creative and imaginative design for the development of residential and mixed use areas than generally is possible under conventional zoning regulations;
 - (4) To provide suitable safeguard and consideration for land use and site and architectural design that is compatible with adjacent districts and uses;
 - (5) To permit development to an extent commensurate with the availability and capacity of public facilities and services and promote the safe circulation of traffic throughout the city;
 - (6) To preserve and protect natural resources and features and encourage consideration of environmental impacts and mitigative measures;
 - (7) To encourage the provision of open space and public access and give due consideration to the quality and design of landscaping;
 - (8) To encourage adequate consideration for the proper control of erosion, surface and subsurface drainage and pollution;
 - (9) To facilitate orderly and harmonious site development including safe and convenient provision and design of egress and ingress, off-street parking, truck loading, internal circulation, emergency access, refuse disposal, outdoor storage, signage and lighting;
 - (10) To give developers reasonable assurance of ultimate approval before incurring the cost of final design and engineering while providing assurances to the city and the general public that the approved project will meet with approved objectives and standards;
 - (11) To preserve natural, historical and cultural resources to the maximum extent feasible;
 - (12) To protect appropriate vistas and environmental qualities of the city; and
 - (13) To assure consideration of the various elements of the comprehensive plan of the city.

(Rev. Ords. 1987, § 19-361; Ch. 453, § XIII, 7-15-08)

(d) Development Standards. Any land development project application shall conform to the following standards set forth as well as the city's land development and subdivision review regulations.

~~Sec. 19-362. Uses and activities requiring land development project approval.~~

- (a) ~~The following uses or activities may be established only through the land development project process:~~
- ~~(1) The construction of any multi-family dwelling or use of 20 units or greater.~~
 - ~~(2) Any development or construction, whether residential, commercial or industrial, requiring 50 or more parking spaces, where otherwise permitted in the underlying district as required in article IV, division 11 of this chapter, regarding off-street parking regulations, including the proposed reserve parking area for business/technology development as defined in section 19-1.~~
 - ~~(3) A mixed use residential/commercial development in the mixed use floating zone district and/or a development meeting the criteria for any other land use or activity that may be established only through the land development project process.~~
 - ~~(4) A cluster development in any residential district.~~
 - ~~(5) A business/technology development as defined in sections 19-1 and 19-364.~~
 - ~~(6) Any construction or development which does not otherwise require city council approval of a site plan or subdivision, which involves the construction or development of a private street or right-of-way~~

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which serves or is intended to serve more than one principal building or use, whether residential, commercial or industrial, including condominium developments.

(7) ~~A large scale ground mounted solar photovoltaic field.~~

(b) ~~In determining whether a use or activity requires land development project approval under subsections (a)(1) or (a)(2) of this section, all dwelling units or parking spaces planned in total for all phases of the entire development shall be considered. If such number is not yet known, an estimate must be submitted by the applicant with a certification that such estimate is the best estimate that can, at the time, be made based on all available data, and is made in good faith.~~

(Rev. Ords. 1987, § 19-362; Ch. 457, § VII, 10-7-97; Ch. 453, § XIV, 7-15-08; Ch. 533, § IV, 9-6-11; Ch. 642, § XIII, 3-15-16)

Sec. 19-~~363~~ 362. Applications and review procedures.

Land development projects shall be reviewed in accordance with the land development and subdivision regulations adopted by the city planning board. These regulations shall provide for application requirements, review procedures, findings, amendments and appeals.

(Rev. Ords. 1987, § 19-363; Ch. 533, § IV, 9-6-11)

Sec. 19-363 - Unified development review and zoning modifications

As per Sec. 19-55.5, the planning board, as part of its review of land development projects, shall also consider and decide on any related requests for zoning variances or special use permits under the unified development review process. The planning board's consideration of a land development project which requires a variance or special use permit shall be subject to a public hearing meeting the requirements of Division 2 of Article II of this chapter and the city's land development and subdivision review regulations.

Land development project applications which require dimensional relief from the zoning regulations which qualifies only as a modification under Sec. 19-45(c) shall proceed by filing a land development project application and a request for a modification to the zoning officer. If such a modification is granted, the application shall then proceed to be reviewed by the permitting authority. If the modification is denied or an objection is received as set forth in Sec. 19-45(c) such application shall proceed under unified development plan review.

Sec. 19-~~364~~ 365. Definitions and regulations.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affordable housing. The purpose of this section is to increase the supply of affordably priced housing by providing incentives for developers to provide affordable units within market-rate residential or mixed-use developments. An increase in maximum development density of up to ten percent may be permitted commensurate to the number of affordable housing units provided such units meet the definition of "affordable housing" over time as referenced in the city housing action plan.

Business/technology development means a business/technology development as defined in section 19-1 in which the following uses are permitted:

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- (1) Uses permitted by right or special use permit within the business/technology floating zone district under section 19-98; accessory or special uses as may be permitted in the BT floating zone district under section 19-98 and section 19-171.
 - (2) Other uses when provided as an integral part of the overall development which are consistent with the stated purposes and objectives of this article and which are intended to serve the employees of the business/technology development and which are suitable to the proposed development, consistent with the city comprehensive plan, and compatible with the surrounding areas as determined by the planning board. No use shall be allowed except in conformity with the business/technology development plan approved in accordance with the provisions of this chapter. Other uses may include, but are not limited to, the following:
 - a. Employee services located on the same premises as the principal use and which are clearly incidental to and limited to the employees of the principal use. Such services for employees shall be limited to the ground floor only, shall not exceed a maximum of 1,000 square feet per structure housing a principal use and further in aggregate shall not exceed a total of five percent of the gross floor area of the total development. Employee services may include the following: Dry cleaning services (drop off and pick up only with no processing on-site); convenience kiosk (for items such as newspapers, prepackaged food and beverages and coffee); automatic teller machine; coffee/donut satellite business or kiosk (with no baking on-site).
 - b. Those uses incidental to the sanitation needs and mechanical operation of the business/technology development, including the following uses which shall be covered, housed or enclosed:
 1. Electric substation and facilities not locatable within principal structures; and
 2. Sewerage treatment, disposal or pumping facilities.
 - c. Licensed child day care centers provided for the children of employees of businesses in the business/technology district.
 - (3) Notwithstanding any other provisions of this chapter, the following lot regulations shall apply to all business/technology developments: Building heights, setback, yard and lot requirements shall be calculated in the manner set forth in sections 19-131 through 19-145; however, in no case will a business/technology use be permitted on a site less than three acres in area. Off-street parking requirements shall be calculated in the manner prescribed by sections 19-276 through 19-284, and further prescribed by section 19-370. All of the zoning requirements shall be calculated in the manner prescribed and regulated by the underlying zoning district.
 - (4) In approving a business/technology development, the planning board, subject to the requirements of this chapter, may allow reasonable variation or modification of certain zoning and land development and subdivision requirements, subject to the following:
 - a. An application for a business/technology development shall identify any modification of any standard of the city's zoning and land development and subdivision regulations which would result from approval of such plans as presented, and shall include a written statement explaining the reasons or justification for any such modification as related to the objectives of this chapter.
 - b. Except where modification of standards may be approved by the planning board, as set forth in the board's adopted land development and subdivision review regulations, a business/technology development shall meet all requirements set forth in the land development and subdivision review regulations.
 - c. Each modification under this article shall be conditioned upon exceeding the stated objectives of this chapter beyond that required by existing laws or regulations. The purpose of granting

modifications to zoning or land development and subdivision requirements is to obtain certain benefits for the prospective employees of the development, the abutting property owners or for the public as a whole.

Cluster development means a residential development in which the following are permitted:

- (1) Any use permitted by right in any residential district as well as any accessory and special uses as may be permitted under section 19-56 and section 19-98.
- (2) Other related uses when provided as an integral part of the overall development which are consistent with the stated purposes and objectives of this article, and which are intended primarily to serve the residents of the cluster development, and which are suitable to the proposed cluster development, consistent with the city's comprehensive plan, and compatible with the surrounding area as determined by the planning board. No use shall be allowed except in conformity with a cluster development plan approved in accordance with the procedural and regulatory provisions of this article. Other uses may include, but are not limited to, the following:
 - a. Recreation facilities, clubhouses, and meeting halls;
 - b. Maintenance, storage and utility buildings;
 - c. Parking lot areas;
 - d. Those uses incidental to the sanitation needs and the mechanical operation of the cluster development including the following uses which shall be covered, housed, or enclosed:
 1. Electric substation and facilities not locatable within residential structures; and
 2. Sewerage treatment, disposal, or pumping facilities.
- (3) The intent of this article with respect to cluster development is to permit density transfers within a cluster development. Such a density transfer will permit relaxation of the minimum lot requirements of section 19-145 as compensation for reserving an equivalent amount of land as usable open space within the cluster development. In making its determination with respect to any application for a cluster development, the planning board shall follow the following standards:
 - a. In no case shall the maximum number of dwelling units permitted in the cluster development exceed the number which would have been permitted on the usable open space as defined above in the underlying zoning district in which the overall tract lies.
 - b. Notwithstanding any other provisions of this chapter, the following lot regulations shall apply to all cluster developments:
 1. Density for multifamily housing shall be calculated in the manner prescribed by sections 19-216 through 19-218. Density for one-family, two-family or three-family dwellings, as may be permitted in the underlying zoning districts, shall be calculated on the basis of minimum land or area required per dwelling unit in accordance with the respective underlying zoning district as set forth in section 19-145.
 2. Building heights, setback, yard and lot requirements shall be calculated in the manner set forth in sections 19-131 through 19-145 and off-street parking requirements shall be calculated in the manner prescribed by sections 19-276 through 19-284, for the underlying district. All of the zoning requirements shall be calculated in the manner prescribed and regulated by the underlying zoning district.
 - c. In approving a cluster development, the planning board subject to the requirements of this chapter, may allow reasonable variation or modification of certain zoning or land development and subdivision requirements subject to the following:

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1. An application for a cluster development shall identify any modification of any standard of the city's zoning and land development and subdivision regulations which would result from approval of such plans as presented, and shall include a written statement explaining the reasons or justification for any such modification as related to the objectives of this chapter.
 2. Except where modification of standards may be approved by the planning board, as set forth in the board's adopted land development and subdivision review regulations a cluster development shall meet all requirements set forth in the land development and subdivision review regulations.
 3. Each modification under this article shall be conditioned upon exceeding the stated objectives of this chapter beyond that required by existing law or regulation. The purpose of granting modifications to zoning or land development and subdivision requirements to obtain certain benefits for the prospective residents of the development, the abutting property owners or for the public as a whole. It is the intent of this article that usable open space be primarily for the benefit of the residents of the cluster development, and be maintained in private ownership with public assurance provided as necessary. Usable open space may be considered for public donation and maintenance only if it meets a demonstrated public need as identified in the city comprehensive plan. The city council reserves the right to reject any reasonable variation or modification of and all donations of open space as certain zoning or land development set forth in this section. Open space may also be conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space.
 4. Modifications to lot sizes, building dimensions, and building setback requirements may be permitted to accommodate the allowable dwelling unit density of the site as a whole as calculated according to subsection (2) of this definition. Any modification allowed under this article shall be conditioned by transfer of an equal amount of land area as would otherwise be required to common usable open space as defined by this section. The residue areas resulting from the reduction shall be contiguous with one another in order to provide adequate and appropriately sized parcels which shall be devoted to common usable open space as required by this chapter. However, the distance between buildings and properties adjacent to the cluster development, between parking areas and streets, and between parking areas and adjacent properties shall not be less than required in the underlying zoning district, including subsection 19-217(a).
 5. Strips of common land within a cluster development which may be necessary for access paths between residences, streets and open space areas, utility areas, drainage areas and/or buffers; or other required service functions shall not be considered or calculated as common usable open space under this section. Access areas to the common open space shall be clearly identified with appropriate materials to distinguish commonly owned open space area from private property. Common usable open space may be in one or more parcels. The size, location, shape and character of the parcel must be suitable for the designated uses.
 6. Land which has been environmentally damaged prior to final approval of the development by the planning board and acceptance by the city council, as a result of soil and earth removal operations, harvesting of trees or other natural features, refuse disposal, or other alteration of the natural environment, shall not be accepted as common open space unless and until the land is restored to a condition which the planning board and the city council determines to be reasonable and appropriate to reflect the purpose of this chapter.

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- (4) Negotiated payment or donation of other acceptable land or facilities may be allowed in lieu of the provisions on-site of amenities required for adjustments to lot density and dimensional standards.

Mixed use residential/commercial development. means a mixture of residential and/or commercial uses which are permitted subject to the following:

- (1) Any use permitted by right in either an R-5 district or a C-1 district as well as any other accessory or special uses as may be permitted under section 19-98 and section 19-171.
- (2) Other uses when provided as an integral part of the overall development which are consistent with the stated purposes and objectives of this article and which are intended primarily to serve the residents of the mixed use residential/commercial development and which are suitable to the proposed development, consistent with the city comprehensive plan, and compatible with the surrounding area as determined by the planning board. No use shall be allowed except in conformity with the mixed use development plan approved in accordance with the procedural and regulatory provisions of this article. Other uses may include, but are not limited to, the following:
 - a. Recreation facilities, clubhouses, and meeting halls;
 - b. Maintenance, storage and utility buildings;
 - c. Parking garage, lots and areas;
 - d. Marinas, boat storage and repair facilities;
 - e. Retail convenience stores;
 - f. Convenience personal services such as hairdressers, laundromats or day care centers;
 - g. Restaurants, as defined in section 19-1, without live entertainment;
 - h. Professional offices or studios;
 - i. Those uses incidental to the sanitation needs and the mechanical operation of the mixed use development including the following uses which shall be covered, housed, or enclosed:
 1. Electric substation and facilities not locatable within residential structures; and
 2. Sewerage treatment, disposal, or pumping facilities.
- (3) Notwithstanding any other provisions of this chapter, the following lot regulations shall apply to all mixed use residential/commercial developments:
 - a. Density for multifamily housing shall be calculated in the manner prescribed in sections 19-216 through 19-218. Areas used or intended to be used for commercial or similar nonresidential purposes, including parking areas for such uses, shall not be included in the computation of residential density.
 - b. Building heights, setback, yard and lot requirements shall be calculated in the manner set forth in sections 19-131 through 19-145 and off-street parking requirements shall be calculated in the manner prescribed by sections 19-276 through 19-284 for the underlying zoning district. All of the zoning requirements shall be calculated in the manner prescribed and regulated by the underlying zoning district.
- (4) In approving a mixed use residential/commercial development, the planning board, subject to the requirements of this chapter, may allow reasonable variations or modifications of certain zoning and land development and subdivision requirements subject to the following:
 - a. An application for a mixed use development shall identify any modifications of use or other standard of the city zoning and land development and subdivision review regulations which

would result from approval of such plans as presented and shall include a written statement explaining the reasons of justification for any such modification as related to the objectives of this chapter.

- b. Except where modification of standards may be approved by the planning board as set forth in the land development and subdivision review regulations, a mixed use residential/commercial development shall meet all requirements set forth in these regulations where applicable.
- c. Each modification under this section shall be conditioned upon exceeding the stated objectives of this chapter beyond that required by existing law or regulations. The purpose of granting modifications to zoning or land development and subdivision requirements is to obtain certain benefits for the prospective residents of the development, the abutting property owners or for the public as a whole.
 - 1. For the development as a whole, a density bonus of eight percent of the maximum density permitted by the zoning ordinance may be allowed for the dedication of each acre of usable open space as defined by this chapter beyond that required to be protected, or unaltered by existing law or regulation.
 - 2. It is the intent of this section that usable open space be primarily for the benefit of the residents of the planned mixed use development with public access assurance provided as necessary. Usable open space may be considered for public donation and maintenance only if it meets a demonstrated public need as identified in the city's adopted comprehensive plan. The city council reserves the right to reject any and all donations of open space as set forth in this section.
 - 3. Modification to the overall building height and location of buildings may be permitted to accommodate the allowable density as provided in this section. However, in no instance may a building in a mixed use development exceed five stories, and five stories shall not exceed 65 feet. The taller buildings in a mixed use development shall be located in such a way as to minimize any adverse impact on adjoining low-rise buildings and shall not invade the privacy of the occupants of such low-rise buildings. However, the distance between buildings and properties adjacent to the mixed use development, between parking areas and streets, and between parking areas and adjacent properties shall not be less than required in the underlying zoning district; including subsection 19-217(a).
 - 4. Negotiated payment or donation of other acceptable land or facilities may be allowed in lieu of the provision on-site of amenities required for adjustments to lot density and dimensional standards.

Usable open space. means, for the purpose of calculating a density bonus, space effectively separate from automobile traffic and parking, and constituting an integral part of the land development project. The term shall not include:

- (1) Areas excluded from the definition of usable lot area in section 19-1.
- (2) Required yards set forth in section 19-145, needed to maintain the distance between the land development project and abutting properties; and
- (3) Other areas required to be left unaltered.

(Rev. Ords. 1987, § 19-364; Ch. 457, § IX, 10-7-97; Ch. 146, § XV, 10-23-00)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 19-365 366. Public/private street standards.

- (a) *Criteria.* The following criteria are designed to establish policy and standards for public and private streets. The city shall only permit the development of privately developed, controlled and maintained roadways under circumstances where the following requirements are met:
- (1) It shall be demonstrated that there is no need for a continuous or harmonious street system to serve the area in question or to provide for present or future access to adjacent land for purposes of establishing a harmonious circulation pattern to the surrounding area, at present or in the future;
 - (2) It shall be demonstrated that public access or travel through the area in question is not necessary, including access or travel by emergency vehicles or personnel. Every development shall have at least two means of public emergency access, one of which may be exclusively reserved for such use, subject to police and fire department approval;
 - (3) Private roadways shall be built to city public street standards for pavement, infrastructure, utilities, and improvements as established in the land development and subdivision review regulations. Any waiver of city standards must receive prior approval of the planning board and shall be specifically requested and justified on the basis of accepted criteria;
 - (4) All utilities shall be built to city standards for construction and improvements as established in the land development and subdivision review regulations;
 - (5) Legal documents shall be submitted for approval by the planning board which shall provide for perpetual maintenance responsibility by the developer and/or successor landowner association, for the establishment of a fund for such perpetual maintenance responsibility, and which will absolve the city from any future claims, obligations, damages, or lawsuits. Such documents shall specifically permit the city to impose a municipal lien on the property if for any reason the city is called upon to correct a problem or conduct any repair to the street or infrastructure in the future;
 - (6) A means of identifying the roadway to the public as a private roadway and/or providing security restricting access to those having business on the premises shall be set forth and shall be a continuing obligation of the developer and/or successor landowner/association;
 - (7) Any development subject to planning board approval shall provide that the developer will post a performance and payment bond to cover all roadway improvements and infrastructure normally public but proposed to be private. In lieu of such a bond, a bond will be required between the developer and contractor which shall be subject to the approval and release of the city;
 - (8) Any private roadway shall meet requirements of the police and fire departments for adequate public emergency access, and shall be maintained and controlled according to such requirements;
 - (9) [*Reserved.*]
- (b) *Waiver.* Under certain conditions, waiver to city street standards and construction requirements may be considered by the planning board provided all of the following criteria are met:
- (1) Any waiver shall be specifically requested by the developer at the time of application with justification set forth in writing which addresses each of the criteria which follow;
 - (2) Any waiver shall be conditioned on meeting the specific stated objective of the land development and subdivision review regulations or ~~development plan review~~ ordinances of the city as may be applicable, and shall be subject to the approval of the planning board;

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- (3) The applicant shall state the rationale for and give assurance that the underlying public interest basis of or purpose for any requirement for which a waiver is requested will be fully met in an alternative manner; and that any substitution of material or method will constitute an equal or better alternative;
 - (4) In requesting waiver of any requirement, the developer and its successors in title shall thereby explicitly agree to indemnify and hold the city harmless from any claim, lawsuit, damages, or other obligations which may result in the future from the granting of any waiver by the city;
 - (5) Waiver of any requirement or obligation shall be conditioned on the developer and/or successor landowner/association providing assurances of perpetual obligations for maintenance, replacement, and upkeep to municipal standards of safety, health, and general welfare.

(Rev. Ords. 1987, § 19-365; Ch. 453, § XV, 7-15-08)

Secs. 19-366 ~~367~~—19-369. Reserved.

Sec. 19-370. Reserve parking area for business/technology development.

- (a) For a business/technology development as defined in section 19-1, up to 15 percent of the total parking spaces required under section 19-284 may be held in reserve only upon review and approval under the provisions of this article. Such reserve parking area shall be maintained as a landscaped area until such time as the zoning officer and/or the property owner, in consultation with the director of planning, deems that construction of the reserve parking spaces is required.
- (b) The applicant for such a parking reduction shall provide a parking management plan (PMP), which shall provide justification that the number of parking spaces to be supplied will exceed peak parking demand. The PMP shall be based upon nationally accepted methodology and standards for estimating parking demand and shall provide an estimate of peak parking generation based upon square footage, proposed uses, number of employees and all other applicable factors. The PMP should describe any factors which the applicant is utilizing to justify lowering of parking generation figures, such as: Any alternative modes of transportation, including carpools or vanpool; varied work shifts; use of company operated buses; and availability of public transit.
- (c) The developer/applicant, and the property owner, where different, shall be required to sign a binding covenant, with the city a party thereto, to construct the reserve spaces when they are deemed required. Such covenant shall run with the land and be binding upon future landowners and shall be recorded in the city's land evidence records. Such covenant shall be subject to review and approval as to form by the city solicitor. The covenant will detail the conditions under which the city may require construction of the reserve parking spaces, including, but not limited to, on-going parking in unauthorized areas of the site, such as in aisles, driveways and in landscaped areas of a site, and unauthorized off-site parking.
- (d) A request for approval of a reserve parking area shall be submitted and reviewed in accordance with the provisions of this article. A site plan meeting the requirements of article VIII shall be submitted which shall show the layout of all required parking spaces, aisles, landscaping and other applicable standards, and further shall show the reserve parking spaces in relation to the buildings which these spaces will serve. The reserve parking area, when constructed, shall be required to comply with all applicable provisions of this chapter.
- (e) Drainage and erosion control plans and drainage calculations prepared by a professional engineer shall be submitted for the entire site and shall address how the stormwater runoff from the reserve parking area will be accommodated at such time as the reserve parking spaces are constructed. Since the reserve parking may be constructed when deemed necessary, this landscaped area shall be considered an interim use and shall be

counted as impervious area for purposes of calculating the maximum impermeable surface permitted for the site as detailed in section 19-455, pertaining to drainage/erosion standards.

(Ch. 457, § X, 10-7-97)

Secs. 19-371—19-410. Reserved.

ARTICLE VI. NONCONFORMING DEVELOPMENT

Sec. 19-411. Purpose.

Buildings, structures or land nonconforming by use and/or nonconforming by dimension as defined in section 19-1, are incompatible with and detrimental to permitted uses in the zoning districts in which they are located, cause disruption of the comprehensive land use pattern of the city, inhibit present and future development of nearby properties and confer upon their owners and users a position of unfair advantage. It is a fundamental principle of this chapter that nonconformities may be continued but shall not be increased, except in circumstances where the findings of section 19-39 can be met, and should be eventually abolished or reduced to conformity according to the fair interests of the parties involved. It is also intended that existing nonconformities shall not cause further departures from this chapter for any properties.

(Rev. Ords. 1987, § 19-411)

Sec. 19-412. Continuation.

The lawful uses of any building, structure, premises or land existing on November 29, 1966, the effective date of the ordinance from which this chapter was derived, or as of any subsequent amendment of this chapter may be continued although such use or structure does not conform with the provisions of this chapter. This shall not be interpreted to prevent the regulation of nuisances.

(Rev. Ords. 1987, § 19-412)

Sec. 19-413. Alteration of nonconforming use.

(a) No addition, enlargement, expansion or intensification in the extent of the nonconforming use of premises or land shall be made, unless a special use permit is authorized in accordance with the provisions of this chapter. The conversion of an accessory porch to living space shall be permitted by right.

(1) Special use permit criteria. In cases where addition, enlargement, expansion or intensification in the extent of a nonconforming use of premises or land is requested, the following criteria shall apply:

- a. The proposed addition, enlargement, expansion or intensification shall be limited to no more than 25% of its existing size. Such expansions shall only be permitted one time; subsequent applications that exceed a total of 25% shall not be permitted.**
- b. The proposed use shall be found by the permitting authority to not have a negative impact on the surrounding area. Factors to be reviewed may include, but are not limited to impacts to area traffic, parking, public safety, environmental quality, stormwater management / flooding, provision of adequate utilities, noise, odor, lighting, historic preservation, and economic development. The zoning board of review or planning board under unified development**

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review may require the submission of professionally prepared studies, reports and plans to inform their decision.

- (b) A use established by variance or special use permit shall not acquire the rights of this section.
- (c) Except as provided in this article, a nonconforming use shall be changed to a permitted use and once changed to a permitted use shall not thereafter be changed to a nonconforming use. A nonconforming use of land or of a structure shall not otherwise be changed to another nonconforming use that is substantially different in nature and purpose unless a variance is granted by the zoning board of review, with the additional finding that the proposed use will have a lesser undesirable impact on the surrounding area than the preceding nonconforming use.

(Rev. Ords. 1987, § 19-413)

Sec. 19-414. Alteration of structure nonconforming by dimension.

No addition, enlargement or expansion to a structure or building nonconforming by dimension shall be made except in conformance with the provisions of this chapter or unless a special use permit is authorized in with the provisions of this chapter. This shall not apply to the conversion of an accessory porch to living space or to second story additions, providing that there is no projection beyond the existing structure. A conforming use within a building or structure which is nonconforming by dimension may be changed to any other conforming use.

(Rev. Ords. 1987, § 19-414)

Sec. 19-415. Moving.

A building or structure nonconforming by use or dimension shall not be moved in whole or in part unless such building or structure is made to conform to all of the regulations of the zone in which it is to be located.

(Rev. Ords. 1987, § 19-415)

Sec. 19-416. Restoration of damaged structures.

A structure nonconforming by dimension which is involuntarily destroyed or damaged in any manner or from any cause may be repaired or rebuilt within the limits of the original dimensions and upon the original location of such structure without conforming to the provisions of this chapter, provided that a reasonable attempt has been made to comply with the provisions of this chapter.

(Rev. Ords. 1987, § 19-416)

Sec. 19-417. Abandonment.

If a nonconforming use is abandoned, it may not be reestablished. Abandonment of a nonconforming use shall consist of some overt act, or failure to act, which would lead one to believe that the owner of the nonconforming use neither claims nor retains any interest in continuing the nonconforming use unless such owner can demonstrate an intent not to abandon the use. An involuntary interruption of nonconforming use, such as by fire and natural catastrophe does not establish the intent to abandon the nonconforming use. However, if any nonconforming use is halted for a period of one year, the owner of such nonconforming use will be presumed to have abandoned such nonconforming use, unless such presumption is rebutted by presentation of sufficient evidence of intent not to abandon the use.

(Rev. Ords. 1987, § 19-417)

Sec. 19-418. Demolition.

If a building or structure nonconforming by dimension or a building or structure housing a nonconforming use, is demolished at the direction of the owner or other authorized parties, except as provided elsewhere in this section, the building or structure or nonconforming use shall not be reestablished, and any future building, structure or use of the lot or premises shall conform to the provisions of this chapter.

(Rev. Ords. 1987, § 19-418)

Sec. 19-419. Prior illegal establishment.

Any nonconforming use or structure nonconforming by dimension illegally established prior to the effective date of the ordinance from which this chapter was derived shall not become legally established by virtue of such enactment or subsequent amendment.

(Rev. Ords. 1987, § 19-419)

Sec. 19-420. Prior building permits.

Any building permit legally issued prior to the effective date of the ordinance from which this chapter was derived or any subsequent amendment of this chapter shall be activated within six months from the date of issuance.

(Rev. Ords. 1987, § 19-420)

Sec. 19-421. Maintenance and repair.

A structure nonconforming by dimension or a building or structure containing a nonconforming use shall be properly maintained in good repair as may be required by any other ordinance or statute, provided that any such work does not enlarge or extend any nonconforming use or otherwise increase any nonconformity.

(Rev. Ords. 1987, § 19-421)

Sec. 19-422. Nonconforming by use and dimension.

A building, structure or land nonconforming by both use and dimension shall comply with all regulations of this section. Where the regulations conflict, the most restrictive regulations shall apply.

(Rev. Ords. 1987, § 19-422)

Sec. 19-423. Governmental uses.

Notwithstanding any provision of this chapter, structures, buildings and land may be erected or used by the city, or any agency or department thereof for governmental purposes in any zoning district; and such structures, buildings and land so erected or used shall be exempt from the provisions of this chapter.

(Rev. Ords. 1987, § 19-423)

Secs. 19-424—19-437. Reserved.

ARTICLE VII. SIGNS

Sec. 19-438. Purpose and intent.

- (a) The purpose of this article is to promote and protect public health, welfare and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs and all outdoor signs of all types. It is intended to protect property values, create a more attractive economic business climate by allowing sufficient freedom to identify and promote the availability of goods and services, enhance and protect the physical appearance of the city and preserve the scenic and natural beauty of designated areas. It is further intended to reduce sign or advertising distraction and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by unsafe signs, curb the deterioration of the natural environment, and enhance community development.
- (b) This article authorizes the regulation of signs with regard to size, lighting, layout, style, typography, and arrangements compatible with their surroundings, appropriate to the identification of individual properties, occupants, or of the community, and as appropriate to traffic safety. Authority for this article is granted under the G.L. 1956, Chapter 45-24. Signs and appurtenances shall be contained within the legal boundaries of the property on which the sign is located.
- (c) This article authorizes the installation and/or replacement and/or alteration to a sign or signs and/or requires the removal of obsolete and abandoned signs in order to provide for the orderly, harmonious and aesthetic display of signs within the city; ensure that signs are an effective means of communication which adequately identifies uses, activities and enterprises for the convenience of the public; avoid the erection of signs which produce deleterious light impacts to adjoining properties and roadways; encourage a positive visual environment; create an attractive environment which is conducive to business, industry and tourism, and improve and maintain the visual quality of commercial areas, which promotes the economic interests of the city, and promote the physical health, safety and welfare of the public.
- (d) No sign shall be erected without the issuance of a building permit having first been approved by the ~~zoning officer and/or the development plan review committee~~ **permitting authority** when subject to **under either** development plan review or **as a** land development project review. For properties located within the located with the East Providence Waterfront Special Development District and seeking permission to erect a sign or signs, applicants shall follow the processes of Article IX, Waterfront Special Development.
- (e) Rhode Island General Laws § 24-7-1 "Sidewalks" grants the city the authority and power to make ordinances and regulations relative to the altering or repairing thereof, to the use, to the removal of posts, steps, and other obstructions therein, and to the maintenance and removal of awnings, signs and other structures projecting over the sidewalk. Signs shall be contained within the legal boundaries of the property on which the sign is located, and shall not be located on the public sidewalk.
- (f) The requirements of this article shall be enforced by the zoning officer in accordance with the rules, regulations and practices of the city.

(Ch. 419, § I, 3-20-07)

Sec. 19-439. Permitted signs and general provisions.

- (a) *Permitted signs.* The following signs are permitted and are exempt from the application process provided that they are not threat to public health, safety or welfare:
- (1) Historical designation plaques for local, state, or national designated properties or structures of historic significance.
 - (2) Church, school or other public use may have one sign, not to exceed a total area of 15 square feet.
 - (3) Real estate signs advertising sale or rent, or signs naming the builder, architect, developer or engineer of a project for which a building permit is in effect and the work is in progress, placed on the premises, not exceeding six square feet. Only one residential real estate sign per lot shall be permitted. Commercial and industrial real estate signs shall be permitted for industrial and commercial properties and shall not exceed 20 square feet in area. All residential, commercial and industrial signs shall be removed within seven days of the sale or lease of the property or unit, or completion of the project for which the sign was placed.
 - (4) Residence signs, not exceeding a total of two square feet, displaying the name and address of the occupant or resident of the premises or pertaining to a permitted accessory use.
 - (5) Signs prohibiting trespass, hunting, and the like, warning signs of danger, such as high voltage, and necessary public utility signs, not to exceed and area of two square feet.
 - (6) Adoptees of Adopt-an-Island Program, sponsor signs sold to advertisers, sponsors or boosters of youth sports teams or leagues which are placed within a field, stadium or arena and otherwise meet all applicable sections of city ordinances and regulations.
 - (7) Temporary signs for nonprofit or charitable organizations, including exterior messages for national and state holidays, provided, however, that no such temporary sign may be erected for a period of more than 30 days. In all residential districts, such signs shall be limited to nine square feet and setback a minimum of ten feet from any property line.
 - (8) Traffic and other governmental signs, erected by any public safety agency in the discharge of any governmental function. Such signs may be illuminated. The city council shall have sole discretion as to the suitability of all signs erected, or to be erected on city-owned property, under lease of private enterprise, or otherwise. Any person wishing to place a sign on or over city property shall make a request to the city council.
- (b) *General provisions.*
- (1) Obsolete, abandoned, or defunct signs. Any sign advertising, an activity, business, product or service no longer produced or conducted on the premises upon which the sign is located and identifying a business or organization which is either defunct or no longer located on the premises must be physically removed, not just covered over, with 30 days of the business or organization closing or moving.
 - (2) Any sign authorized and/or having received prior approvals under this article may contain a noncommercial message constituting a form of expression.
 - (3) Severability. This article and its various parts are hereby declared to be severable. If any section, clause, provision or portion of this article is declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of either this article as a whole or any parts not declared invalid or unconstitutional.

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- (4) Conflict. If any part of this article is found to be in conflict with any other ordinance of the city, the most restrict or highest standard shall prevail.

(Ch. 419, § I, 3-20-07; Ch. 506, § X, 7-20-10; Ch. 576, § I, 4-16-13)

Sec. 19-440. Prohibited signs.

All signs that are not specifically permitted in this article, or exempt from regulation hereunder, including, but not limited to, the following types of signs, are prohibited:

- (a) *Captive balloon and inflatable signs.* This includes signs, or portions thereof, that hold their shape by receiving a one-time or continuous supply of air or gas.
- (b) *Electronic message center signs.* This type of sign includes, but is not limited to, television screens, plasma screens, flat screens, light emitting diode screens, video boards and screens, and holographic displays. This is not intended to prohibit the use of light bulbs, neon tubes, or other such light sources of internal or external illumination, as permitted by this article. This shall not include a digital sign(s) as defined in subsection 19-442(c).
- (c) *Projected signs.* This includes signs that are formed by projecting the sign copy, image, text, and/or message into the sky or onto a surface, including, but not limited to, the ground or the side of a building. This includes signs that [sic] are created using projectors, light beams, lasers, holograms or holographic displays, or other such technologies.
- (d) *Animated signs.* This includes signs, or portions thereof, that blink, flash, or emit, a varying intensity of color or light.
- (e) *Moving, revolving or rotating signs, and banners and pennants.* This includes signs, or portions thereof, having visible moving, revolving, or rotating parts, or visible movement of any kind, or giving the illusion of movement. Such movement can be achieved by wind, electric, electronic, or any other means. This is not intended to prohibit the manual changing of channel letters or numbers when the changing is part of an approved sign or movable hands or analog clocks.
- (f) Billboards, as defined in Sec. 19-1.
- (f g) *Inappropriate signs.* Any sign that constitutes a hazard to the public safety, health or that impedes vision or access to or from public streets, sidewalks or other places of ingress or egress. This includes signs which, because of size, location or manner of illumination, obstruct the vision of a driver or detract from the effectiveness of traffic control devices. With the exception of traffic, regulatory, or informational signs, signs shall not use the words, "stop", "caution", or "danger", and shall not incorporate red, amber, green or blue lights resembling traffic signals or emergency vehicles, and/or shall not resemble "stop" or "yield" signs in shape or color.

(Ch. 419, § I, 3-20-07; Ch. 506, § XI, 7-20-10; Ch. 642, § XIV, 3-15-16)

Sec. 19-441. Residential districts.

Exterior signs in all residential districts and the open space district shall be nonmoving and shall be lighted only by nonflashing, nonanimated illumination so arranged as to reflect light away from adjoining premises and streets and may be located in any required yard, except that the signs shall be set back from any side lot line at least the side distance required in the adjoining lot and shall not project above any roofline or extend over any sidewalk. Permitted are the following exterior signs:

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- (1) One sign for each household residing on the premises indicating the name of the owner or occupant and street address provided, however, that such signs shall not exceed two square feet in area, and one sign for a permitted accessory home occupation or use; provided, however, that such sign shall not exceed two square feet in area.
 - (2) One sign not over nine square feet in area pertaining to permitted buildings, structures and uses of the premises other than dwellings and their accessory buildings.
 - (3) Temporary signs aggregating not over 12 square feet in area pertaining to the sale or lease of the premises on which the signs are located; provided that such sign shall be permitted for a period not exceeding one year.
 - (4) Directional signs not exceeding two square feet in area pertaining to churches, schools, institutions and other public or nonprofit uses.

(Rev. Ords. 1987, § 19-441; Ch. 506, § XII, 7-20-10)

Sec. 19-442. Sign definitions.

- (a) *Building frontage.* The maximum width of a building measured in a straight line parallel with the abutting street, or in cases of buildings perpendicular to the street frontage, the frontage shall be measured where the primary entrance(s) to the building(s) are located. All determinations of building frontage shall be made by the zoning officer.
- (b) *Canopy.* Any sign that is part of or attached to an awning, canopy or other fabric, plastic, or structural protective cover over a door entrance, window, or outdoor service area. The lowest portion of any canopy shall be not less than eight feet above the level of a sidewalk or public right-of-way. No canopy shall extend beyond a point five feet inside the curb line. There shall be no advertising on any canopy, except that the business name and street number may appear on the vertical portion of the street apron which is geometrically parallel to the building front, provided that the maximum amount of permitted signage is not exceeded. A canopy sign shall provide at least eight feet clearance to grade from the bottom edge of the canopy.
- (c) *Digital sign.* This type of sign is a component of either a freestanding, pylon or monument sign that features static images that may change over a period of time not to exceed one message change per ten seconds and are used to advertise to consumers in a public place(s), including in private automobiles.

Digital menu boards associated with a permitted drive through operation shall be exempt from the sign regulations for use purposes only. A digital menu board associated with a permitted drive through shall comply with all other sign requirements.

A digital sign and an electronic message center shall be considered synonymous terms.

- (d) *Directional/informational sign.* An on-premises sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment but no advertising copy (e.g., parking or exit and entrance signs). The logo may not be more than 20 percent of the total sign area.
- (e) *Monument sign.* A monument sign is a freestanding sign for which the sign face is supported by a continuous and solid monolithic base which extends the full length of the sign face or within one foot of the ground and whose bottom is permanently attached to the ground. One monument sign shall be allowed per lot in lieu of a freestanding sign and shall have a maximum area of 50 square feet, shall be set back a minimum of ten feet from all property lines, and the maximum sign height shall be eight feet.
- (f) *Freestanding sign.* A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame or other structure), that is not an integral part of, or attached to a building, also called a pylon

sign. All permanently installed freestanding signs shall be protected from vehicular circulation and parking areas. Such signs shall not exceed 20 feet in height from grade. No freestanding sign or display shall be erected so as to block or obstruct the sight line of automobiles exiting from the premises. For drive-in uses requiring a menu board, one such sign may be permitted in addition to a permitted freestanding sign, said sign shall not be larger than any permitted freestanding sign for such use.

- (g) *Projecting sign.* Projecting signs means a sign erected so as to project approximately perpendicular from the exterior of a building, ceiling or wall. These signs shall be restricted to one per business. Such signs shall have a clear height of eight feet above the sidewalk or other traveled way and be erected and secured in such a manner as to preclude their becoming a safety hazard to the public. Projecting signs may not project over a public sidewalk more than three feet from the building wall.
- (h) *Sign structure.* The support or supports, uprights, bracing and framework which supports the sign face. In the case of a sign structure consisting of two or more sign faces or projections thereof, each side shall be considered a separate sign.
- (i) *Sign area.* The entire area within a single continuous perimeter enclosing all elements of a sign which are intended to be part of the visual image of the sign including spaces between letters and/or pictorial images, but not including supporting structure provided it does not contain advertising text or images. When a sign has two or more faces, the area of all faces shall be included in determining the sign area.
- (j) *Sign height.* No portion of any freestanding on-premises sign shall be more than 20 feet above the highest elevation of the grade immediately adjacent to the sign, grade as being defined by this chapter.
- (k) *Wall sign.* A wall sign is defined as a sign attached parallel to, or painted on, the vertical wall of a building exterior.
- (l) *Credit card signs and customary business signs.* Credit card signs and customary business signs (e.g., open, closed) not exceeding 1.5 square feet in area may be affixed to the building or window and may not be counted towards the calculation of window signage.
- (m) *Window sign.* A window sign is any sign affixed to, in contact with, or within 12 inches of a window thereof. Window signs include paper affixed to window, painted, etched on glass, or some other materials hung inside a window. Window signs permanently erected or maintained in the window of any building shall not occupy more than 25 percent of the window area of a structure, and/or 25 percent of the window area for each individual tenant in a multitenant structure in the C-3, C-4 or C-5 zoning district, or shall not occupy more than ten percent of the window area of a structure, and/or ten percent of the window area for each individual tenant in a multitenant structure in the C-1, and C-2 zoning districts. Normal displays of merchandise in store windows shall not be considered signs.

(Rev. Ords. 1987, § 19-442; Ch. 506, § XIII, 7-20-10; Ch. 642, § XV, 3-15-16; Ch. 823, § II, 11-16-21)

Sec. 19-443. Permitting, signage allowed, and supplemental sign regulations.

- (a) All signs shall meet all applicable local and state building and electrical codes. Application for sign approval, sign relocation, and/or sign alteration shall be made in writing by an owner or an applicant having the legal permission of the owner of the building, structure or land to which or on which the sign is to be erected on forms prescribed and provided by the building division, which shall include the following:
 - (1) A site plan which shall include a scale drawing of the building and lot on which the signage is proposed and shall show the position of all existing and/or proposed signs, including directional signs. Such site plan shall include the distance and relationship to all existing, proposed and/or adjoining structures or premises. The site plan shall show the location of any existing and proposed signs in relation to all property lines, right-of-way lines, and streets. The building official and/or zoning officer may require

any such other information as may be reasonably necessary to administer the provisions of this ordinance relating to signs.

- (2) Scaled drawings of all proposed signs and all specifications. Scaled drawings shall be submitted which shall show each proposed sign, including the area, height, width, thickness, illumination and material of which the sign is proposed to be constructed. This information shall include all sign specifications, including the size of letters and graphics, and a description of the sign and frame materials and colors, and associated construction and electrical specifications and details. The area of the sign shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background, whether open space or enclosed.
- (3) Building permit fee.
- (b) For properties within the East Providence Special Development Waterfront Districts, refer to article IX of this chapter for process, standards and regulations.
- (c) ~~A development plan review committee consisting of the planning director or designee, the director of public works and/or the city engineer, and the fire chief, in consultation with the zoning officer and building official, shall review~~ Signage for developments consisting of one structure with a gross building area of 10,000 square feet or greater, or a multitenant development of gross building area of 10,000 square feet or greater, **shall be reviewed under the development plan review process.** ~~The zoning officer shall submit signage applications meeting this threshold to the development plan review committee, and the review committee shall operate under the processes of article VIII, development plan review, of this chapter.~~ Sign applications may be referred to other city staff as appropriate, including the police chief, for review for safety and access considerations.
- (d) Issuance of permits. If the building official and zoning officer find the proposed sign(s) to be in conformance with this chapter, a building permit shall be issued. If the erection or installation of the sign authorized under any such permit has not been started within six months from the date of the issuance of such permit, the permit shall become null and void.
- (e) Maximum permitted sign area. In all zoning districts but the residential districts, the maximum permitted area for signs on a building shall be based on the building frontage. In buildings with more than one tenant, each tenant's sign shall be based on the building frontage of each individual tenant space, as long as the total area of all signs on the buildings does not exceed the total allowable signage. Where a building fronts on two or more streets, the total area for signs for each building street shall be based on the building frontage for that street.

TABLE 1

Office uses (Commercial 1, Commercial 2, and Business Technology): The maximum total area of all signs on any premises shall not exceed 1.5 square feet per every one foot of building frontage. Window signs shall not be included in this calculation. Such signs may be externally or internally illuminated. The maximum area of any individual sign shall be limited as follows:

Sign Type	Area (Maximum)	Height (Feet)	Setback (Feet)	Projection Over Public Right-of-Way (Feet)
Canopy	1.5 s.f. (square feet) per 1 foot of building frontage	—	—	— ⁽²⁾
Freestanding ⁽¹⁾	30 s.f. per side, not to exceed 60 s.f.	20 Maximum	5 Minimum	—

Projecting	3 s.f. per side, not to exceed 6 s.f.	3	—	Maximum 3 feet over public sidewalk ⁽³⁾
Roof	Not permitted	—	—	—
Wall	60 s.f.	—	—	—
Window	10% of building's window area	—	—	—

⁽¹⁾ Only one freestanding sign is permitted per street frontage. A monument sign may be used in place of a freestanding sign.

⁽²⁾ An awning covering a window or door may extend no more than two feet over a sidewalk or an area of pedestrian activity.

⁽³⁾ A projected sign shall not extend from the exterior of a building, ceiling or wall more than five feet from over any publicly traveled way other than a sidewalk.

TABLE 2

General business, highway business, and heavy business (C-3, C-4, C-5): The maximum area of all signs on any premises shall not exceed two square feet per one foot of building frontage. Window signs shall not be included in this calculation. Such signs may be externally or internally illuminated. The maximum area of any individual sign shall be limited as follows:

Sign Type	Area (Maximum)	Height (Feet)	Setback (Feet)	Projection Over Public Right-of-Way (Feet)
Canopy	2 s.f. per 1 foot of building frontage	—	—	— ⁽²⁾
Freestanding ⁽¹⁾	100 s.f. per side, not to exceed 200 s.f. Digital cannot exceed 50 percent of the overall sign face per side	25	5	—
Projecting	20 s.f.	5	—	1 ⁽³⁾
Roof	Not permitted	—	—	—
Wall	200 s.f.	—	—	—
Window	25% of building's window area	—	—	—

⁽¹⁾ Only one freestanding sign is permitted per street frontage. A monument sign may be used in place of a freestanding sign.

⁽²⁾ An awning covering a window or door may extend no more than two feet over a sidewalk or an area of pedestrian activity.

⁽³⁾ A projected sign shall not extend from the exterior of a building, ceiling or wall more than five feet from over any publicly traveled way other than a sidewalk.

TABLE 3

Industrial 1, Industrial 2, Industrial 3: The maximum area of all signs on any premises shall not exceed one square foot per one foot of building frontage. Window signs shall not be included in this calculation. Such signs may be externally or internally illuminated. The maximum area of any individual sign shall be limited as follows:

Sign Type	Area (Maximum)	Height (Feet)	Setback (Feet)	Projection Over Public Right-of-Way (Feet)
Canopy	2 s.f. per 1 linear foot of building frontage	—	—	— ⁽²⁾
Freestanding ⁽¹⁾	50 s.f. per side, not to exceed 100 s.f.	20	5	—
Projecting	20	10		1 ⁽³⁾
Roof	Not permitted	—	—	—
Wall	100 s.f.	—	—	—
Window	Not permitted	—	—	—

⁽¹⁾ Only one freestanding sign is permitted per street frontage. A monument sign may be used in place of a freestanding sign.

⁽²⁾ An awning covering a window or door may extend no more than two feet over a sidewalk and/or an area of pedestrian activity.

⁽³⁾ A projected sign shall not extend from the exterior of a building, ceiling or wall more than five feet from over any publicly traveled way other than a sidewalk.

(f) Supplemental sign regulations.

- (1) Exterior signs in all commercial and industrial districts shall be lighted only by electrical illumination so arranged as to reflect light away from adjoining residential districts and streets and shall be located 25 feet or more from any residential district boundary line or at least 50 feet from the property lines of any residential use. Such signs shall pertain only to a use or business connected on the premises on which it is located and freestanding signs shall not exceed 20 feet in height. Projecting signs shall not extend more than three feet from the face of any building over any sidewalk, but in any case shall not project within three feet of the curb line.
- (2) In the instance of a lot or parcel containing frontage on more than one street, each street frontage may have one freestanding sign.
- (3) Illumination standards:
 - a. No signs which are internally illuminated shall be located in any designated historic districts.
 - b. Illuminated signs shall not cause off-site glare, nor shall they direct light or shine light off the premises on which the sign is located.
- (4) Sign maintenance. With all zones and districts, all signs shall be constructed of durable materials and shall be maintained in good structural condition and appearance in compliance with this article at all times. All supports, braces, guys and anchors shall be kept in good repair and shall be kept clean, and free from all hazards so as not to endanger public safety.
- (5) For corridors identified in the comprehensive plan for targeted revitalization and/or retention as scenic or residential parkway corridors, the following standards for signs shall be adhered to:
 - a. Willett Avenue: For properties with frontage on Willett Avenue located from the intersection on the north side of Pawtucket Avenue and Willett Avenue to the intersection of the north side of

Park Drive and Willett Avenue, there shall be no internal illumination or backlighting of signs. Any sign illumination shall be external, meaning by a light source located at a distance from the sign and with said light illuminating the sign face, e.g., gooseneck lighting or a spotlight. Signs may be illuminated by a stationary white or off-white steady light only. These lights shall not provide glare, nor shall they direct light or shine off the premises.

- b. Veteran's Memorial Parkway: Only monument signs shall be allowed along the frontage of this State-designated Scenic Roadway and shall be externally lit.

(Ch. 506, § XIV, 7-20-10; Ch. 642, § XVI, 3-15-16)

Sec. 19-444. Religious and educational institution signs.

Notwithstanding any other provisions of this chapter religious and public educational institutions shall be permitted to erect signs in the aggregate of not more than 15 square feet.

(Rev. Ords. 1987, § 19-443; Ch. 506, § XIV, 7-20-10)

Sec. 19-445. Political signs—Generally.

- (a) Political signs are any signs as defined in section 19-1, urging the election or defeat of any candidate seeking public office, election as an official in a private organization, or urging the passage or defeat of any ballot measure.
- (b) In a campaign for public or private office, the candidate for such office shall be deemed responsible for the posting of political signs, unless he first notifies the zoning officer of another person who is responsible. In such case, the candidate shall provide the name, address, telephone number, and signed consent of such other responsible person. In a campaign regarding a ballot measure, the president or chief officer of the committee supporting or opposing such ballot measure shall be deemed responsible, unless he first notifies the zoning officer of some other person responsible, in the manner described in this section. The candidate, or in the case of a ballot measure, the committee president or chief officer or other responsible person if so designated, shall be liable to pay any fees or costs for the removal of illegal signs, as set out in this chapter.

(Rev. Ords. 1987, § 19-445)

Sec. 19-446. Same—Erection.

Political signs may be erected except where prohibited under subsection 9-9(b) providing that they must meet the following requirements:

- (1) *Posting.* Political signs may be erected 90 days prior to the election for which the sign is posted and removed 15 days after the election.
- (2) *Political signs erected on residential premises.* Political signs erected on residential premises are limited to an area of 16 square feet.
- (3) *Traffic hazard.* Political signs are required to be erected in a safe manner subject to section 19-143.

(Rev. Ords. 1987, § 19-446; Ch. 453, § XVII, 7-15-08)

Sec. 19-447. Reserved.

Editor's note(s)—Section XVI of Ch. 506, adopted July 20, 2010, deleted in its entirety § 19-447, enforcement, which had derived from Rev. Ords. 1987, § 19-447.

ARTICLE VIII. DEVELOPMENT PLAN REVIEW

Sec. 19-448. ~~Purpose.~~ Development plan review.

- (a) There shall be development plan review for uses that are permitted by right under the zoning ordinance.**
- (b) Permitting authority. The permitting authority shall be the administrative officer.**
- (c) Specific and objective guidelines. Design of all projects shall be consistent with the provisions of these regulations as well as article 16 of the Land Development and Subdivision Review Regulations.**
- (d) Waivers. The authorized administrative officer may grant waivers of design standards as set forth in the Land Development and Subdivision Review Regulations.**
- (e) Appeal. A rejection of the application shall be an appealable decision pursuant to RIGL §45-23-71.**

It is the purpose of this article to establish procedures pursuant to the permitting process which will enable the city to perform a comprehensive review of certain proposed developments. The development plan review (DPR) procedure, formerly referred to as site plan review (SPR), shall not be used to deny applicant a permitted use of the property as established by the zoning ordinance. The particular uses requiring development plan review are outlined. The development plan review requirements of this article are designed to assure safe, orderly and harmonious development of property in a manner that shall:

- ~~(1) Provide suitable safeguard and consideration for land use and site and architectural design that is compatible with adjacent districts and uses;~~
- ~~(2) Permit development to an extent commensurate with the availability and capacity of public facilities and services and promote the safe circulation of traffic throughout the city;~~
- ~~(3) Preserve and protect natural resources and features and encourage consideration of environmental impacts and mitigative measures;~~
- ~~(4) Encourage the provision of open space and public access and give due consideration to the quality and design of landscaping;~~
- ~~(5) Encourage adequate consideration for the proper control of erosion, surface and subsurface drainage and pollution;~~
- ~~(6) Facilitate orderly and harmonious site development including safe and convenient provision and design of egress and ingress, off-street parking, truck loading, internal circulation, emergency access, refuse disposal, outdoor storage, signage and lighting;~~
- ~~(7) Give developers reasonable assurance of ultimate approval before incurring the cost of final design and engineering while providing assurances to the city and the general public that the approved project will meet with approved objectives and standards;~~
- ~~(8) Preserve natural, historical and cultural resources to the maximum extent feasible;~~

~~(9) — Protect appropriate vistas and environmental qualities of the city;~~

~~(10) — Assure consideration of the various elements of the comprehensive plan of the city.~~

~~(Rev. Ords. 1987, § 19-448; Ch. 453, § XVIII, 7-15-08)~~

Sec. 19-449. Applicability.

(a) No permit to build, alter or expand any of the uses requiring development plan review as outlined below **in the land development and subdivision regulations** shall be issued by the building inspector, until a written statement of final **development plan review** approval in accordance with this article has been received. The applicant is responsible for obtaining a building permit through the department of public works, building inspection division as is required by city ordinances. The ~~petitioner~~ **applicant** must submit all plans and documents normally required for a building permit. ~~The approved final plan shall be part of this submission. The development plan review process will not preclude the need to meet other city requirements as they may apply to a particular development.~~ No alteration to any city ordinance requirements, or any necessity to gain approval by another legal jurisdiction shall be deemed to be authority by virtue of the development plan **review** approval under this article.

~~(b) — Where a project meets the threshold for development plan review, as defined in section 19-451, and constitutes a subdivision, as defined in the land development and subdivision review regulations adopted by the city planning board, the two processes shall proceed concurrently. In the event that the development plan review decision must be made prior to a final decision on the subdivision associated with the development, this decision shall be conditional on the subdivision approval.~~

~~(Rev. Ords. 1987, § 19-449)~~

Sec. 19-450. ~~Coordination with zoning board of review.~~ Review.

~~(a) — The development plan review process (if otherwise applicable) must take place prior to consideration of a variance, or appeal to the zoning board of review. The zoning board of review shall not consider an application for a special use permit until the applicant has received a certificate of completeness as provided for in subsection 19-453(c). In the event a special use permit is granted by the zoning board of review, its decision shall be binding upon the development plan review committee only to the extent that such decision does not impinge upon the ability of the development plan review committee to establish and enforce all standards and objectives of the development plan review ordinance. The findings of the DPR committee shall be considered by the zoning board of review in its decision of the matter before it. In the event of a variance, the decision and findings of the DPR committee are provided as information to the zoning board of review.~~

~~(b) — The development plan review process is intended to complement information to the zoning board of review in its deliberations, and should not require further plan preparation therewith, except as necessary to meet legal requirements set forth under state statute or the city zoning ordinance for the consideration of any special use permit, variance or appeal.~~

Application requirements, review timelines, and other standards are described in the land development and subdivision regulations. The administrative officer shall be the permitting authority in instances of both administrative development plan review, and formal development plan review. Development plan review shall be combined with other pertinent applications, such as modification, special use permit, subdivision, and/or variance as described in the land development and subdivision regulations. In no instance shall a proposed development be subject to development plan review and land development project approval.

~~(Rev. Ords. 1987, § 19-450)~~

Sec. 19-451. Uses requiring development plan approval.

(a) ~~The following activities require development plan approval:~~

- ~~(1) Any exterior additions or changes to buildings or changes of use which require the addition [sic] or deletion of 25 or more parking spaces.~~
- ~~(2) Parking areas for 15 or more motor vehicles.~~
- ~~(3) Any new development with a total building square footage of 15,000 square feet or greater.~~
- ~~(4) Proposed developments in the Riverside Square Mixed Use Downtown Overlay~~
- ~~(5) Any new commercial development with a total building square footage of 10,000 square feet or greater.~~
- ~~(6) The creation of 10—19 residential units.~~

~~(Rev. Ords. 1987, § 19-451; Ch. 146, § XVI, 10-23-00; Ch. 453, § XIX, 7-15-08; Ch. 506, § XVII, 7-20-10; Ch. 867, § IX, 12-20-22)~~

Sec. 19-452. Development plan review committee.

(a) ~~All development plans submitted under the provisions of this article shall be reviewed by a development plan review committee (DPR committee) which shall consist of the planning director, public works director and fire chief or their authorized representatives. The planning director shall serve as the chair of the committee and the planning department shall coordinate the review process. The DPR committee's review shall cover conformity with this article and other applicable ordinances and regulations of the city. Each member of the DPR committee shall rely upon information and review of appropriate members of their staff. Review by each member shall be limited to their area of jurisdiction. Development plan approval shall be by approval of all of the members of the DPR committee. No alteration to any city ordinance requirements, or any necessity to gain approval by another legal jurisdiction shall be deemed to be authorized by virtue of development plan approval under this article.~~

(b) ~~The DPR committee may not grant variances from the provisions of this chapter. The DPR committee has the right to waive any submission requirements of this article or make further requirements as needed to render a decision. Where the DPR committee recognizes the design standards of this article cannot be fully met, the DPR committee has the authority to approve site plans incorporating a balance of the design standards in a manner which maximizes the achievement of the stated objectives of this article. Compensating amenities and features exceeding standards and objectives must be identified within such a site plan. The DPR committee shall address these offsetting features in writing as part of its statement of final decision.~~

~~(Rev. Ords. 1987, § 19-452)~~

Sec. 19-453. ~~451~~ Procedure Standards for Approval.

(a) ~~*Project concept review conference.* At the request of the applicant, the DPR committee shall grant an informal review conference to provide the applicant the opportunity to present alternative development concepts or sketches for a development which the applicant intends to submit for development plan review approval. The purpose of the project concept review conference is to provide DPR committee input in the formative stages of the development process. The applicant shall not be bound by the determination of the project concept review conference, nor shall the DPR committee be bound by any such review.~~

(b) ~~*Preapplication conference.* Before submitting a development plan, the applicant shall meet with the DPR committee, or their designated representatives, to review the proposal and determine the information the applicant must submit for consideration by the DPR committee. The purpose of the preapplication conference is to allow the DPR committee to:~~

- ~~(1) Inform the applicant of the content of the comprehensive plan and any specific plans that apply to the parcel; explain provisions of this chapter and other city ordinances that affect the proposed development;~~
- ~~(2) Suggest improvements to the proposed design on the basis of review of available sketch plan;~~
- ~~(3) Advise the applicant to consult appropriate authorities on the character and placement of public utility services; and~~
- ~~(4) Assist the applicant in understanding the procedures as required by this chapter.~~

The DPR committee may waive certain development plan review submission requirements as outlined below if it finds that the information will not be necessary for the DPR committee to render its decision or the cost of preparing such information would represent an unreasonable burden to the applicant. The DPR committee shall as soon as practicable provide a list of the submission requirements for a particular project. The DPR committee review at the preapplication conference stage is preliminary and further comment may result from substantive review of complete applications. The applicant shall not be obligated to resubmit supporting site plans and documentation which have previously been submitted and reviewed by the DPR committee as part of an approved land development project application to the extent that the same information was previously submitted.

(c) ~~*Preliminary development plan filing.* The applicant must then file with the planning department ten copies each of a preliminary development plan and application along with other supporting documentation and the required filing fee. Such application and development plan shall include the elements upon which the DPR committee is to make a decision as provided in this article, as determined by the preapplication conference. In subsequent applications concerning the same subject matter, the DPR committee may waive the filing of plans and documents to the extent they duplicate those previously filed. The DPR committee has the right to waive any submission requirements of this article or make further requirements as needed to render a decision.~~

A development plan, which shall also be referred to as a site plan for the purposes of this chapter, shall be prepared by a registered engineer, landscape architect or architect except where waived by the planning department. For topographical and boundary survey information, the site plan shall be signed and sealed by a licensed land surveyor. All elements or engineering design shall be signed and sealed by a registered professional engineer.

(d) ~~*Certification of completeness.* Upon filing a complete application for development plan review, the applicant shall receive a certificate of completeness indicating the date of receipt of the application by the planning department and the date by which the DPR committee shall take final action.~~

(e) ~~*Referrals.* Within one week of the issuance of a certificate of completeness, the DPR committee shall transmit copies of the complete development plan application to the city council and other city departments, committees, commissions and boards for review and comment as it may deem necessary. Notice of the receipt of the complete development plan application shall be sent by the department of planning and urban development by registered or certified mail within seven days after the issuance of the certificate of completeness, to all owners of real property within 200 feet of the perimeter of the real property which is the subject of the development plan review application (for the purposes of this section, such property owners are hereinafter referred to as "abutters").~~

(f) ~~*Review conference.* The DPR committee shall hold meetings with the applicant to review the preliminary site plan. The applicant shall be provided the opportunity to supply corrections and/or additions on development~~

proposal particulars, especially those which contain or reveal violations of this article or other applicable municipal regulations.

(g ~~a~~) *General standards for approval.* The DPR committee **permitting authority** shall review preliminary site plans and supporting documentation **submitted in accordance with the requirements in the land development and subdivision regulations** and shall issue development plan **review** approval (including appropriate revisions and conditions) provided that the applicant has proved to the committee **permitting authority** that the following standards will be met:

- (1) The design of the proposed development will be consistent with the goals of the city comprehensive plan, and will implement the purposes of development plan review;
- (2) Erosion will be adequately controlled during and after construction and will not adversely affect adjacent or neighboring property or public facilities and services;
- (3) Provisions have been made for stormwater and drainage facilities, and that increased runoff due to development on the site will not be injurious to any nearby property owners or cause hazardous conditions on any streets;
- (4) The movement of vehicular and pedestrian traffic within the site and in relation to access streets will be safe and convenient and adequate provision has been made for snow removal;
- (5) All utilities, infrastructure, streets, roadways, sidewalks, walkways and parking area improvements will be provided for the development in a manner meeting the applicable requirements and standards of the city. Construction standards for utilities and improvements serving the public, as applicable to a subdivision under chapter 15, shall be applicable to a development under this article;
- (6) The regulation standards as set forth in sections 19-336 through 19-345 be complied with in all respects;
- (7) The location, arrangement, appearance, and sufficiency of off-street parking and loading comply in all respects with the zoning ordinance and are adequate to serve the development;
- (8) The provisions of section 19-175 on open storage be complied with in all respects;
- (9) The proposed development and all uses and structures therein, shall comply in all respects with this chapter. Nothing in this article shall prevent an applicant from seeking a variance or special use permit from the zoning board of review.

(Rev. Ords. 1987, § 19-453; Ch. 198, § VII, 2-19-02)

~~Sec. 19-454. Development and landscaping design standards.~~

(a) ~~*Purpose and objectives.* The purpose of this section is to promote and protect public health, safety, general welfare and amenity. Effective site planning, development design, and landscaping can accomplish the following objectives:~~

- (1) ~~Promote the most desirable use of land and arrangement of development in the city and thus to conserve the value of land and buildings, and thereby protect the city's tax revenues;~~
- (2) ~~Improve the physical environment through the provision of amenities such as open space, street trees, and live vegetation;~~
- (3) ~~Preserve the character and scale of existing development and control new development in conformity with the existing character of the area;~~
- (4) ~~Provide a transition between and a reduction in the environmental, aesthetic, and other impacts of one type of land use upon another;~~

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- ~~(5) Promote safe and efficient pedestrian and traffic circulation patterns;~~
 - ~~(6) Lessen the transmission of noise, dust, pollution and glare from one lot to another;~~
 - ~~(7) Improve air quality through production of oxygen and reduction of dangerous carbon monoxide;~~
 - ~~(8) Through shading, provide cooling of air and land to offset radiational heating;~~
 - ~~(9) Minimize the negative impacts of stormwater runoff to enhance and protect surface and groundwater quality; and promote effective flood management;~~
 - ~~(10) Control damaging impacts of sheet runoff and resultant surface water contamination;~~
 - ~~(11) Through vegetative root systems, stabilize groundwater tables and play an important and effective part in soil conservation, erosion control, flood control, and absorption of pollutants.~~

~~(b) Development standards.~~

- ~~(1) *Compatibility.* Applicants are encouraged to design developments the basic design of which (including proposed style and materials, the relationship between any proposed buildings and the site, and the over all physical appearance), will be consistent with the goals of the city comprehensive plan.~~
- ~~(2) *General residential building design.* Applicants are encouraged to design buildings with varied setbacks and/or varied siting to prevent parallel rows of identical buildings. Principal front or rear walls of a building shall be at least 40 feet from any wall of another building. Any side wall of any building may not be less than 25 feet from any side wall of another building. This requirement shall not apply to accessory buildings. For the purposes of this section, the front, rear or side walls shall be considered the building walls facing or principally facing the front, rear, or side yards respectively. In the case of development in which more than one attached or detached unit is accessible only by a private way or private street, for the purpose of this section only, the front, rear or side yards shall be defined by their relationship to the private street or way irrespective of the definitions and requirements of section 19-1.~~
- ~~(3) *Townhouse development design.* Not more than four contiguous townhouses shall be built in a row with the same or approximately the same front line, and not more than eight townhouses shall be contiguous. Each townhouse should have its own yard containing not less than 400 square feet, reasonably secluded from view from the street or from neighboring property. Such yards may occur in required setbacks, but shall not be used for off street parking, garages, driveways, trash units, or for any accessory building.~~
- ~~(4) *Infill development design.* Any residential, commercial or industrial developments on lots with less than 200 feet of street frontage, shall be considered infill developments. The design of such developments shall take into consideration the prevailing street setbacks and facade heights of abutting developments.~~

~~(c) Landscaping standards.~~

- ~~(1) *General requirements.*
 - ~~a. Landscaping shall be provided as part of site plan design. It shall be conceived in a total pattern throughout the site, integrating the various elements of site design, preserving and enhancing the particular identity of the site where appropriate.~~
 - ~~b. Landscaping may include plant materials such as trees, shrubs, ground covers, perennials, and annuals, and other materials such as rocks, water, sculpture, art, walls, fences, and street furniture.~~~~
- ~~(2) *Site protection and general planting requirements.*~~

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- a. *Topsoil preservation.* Topsoil moved during the course of construction shall be retained and redistributed within the site in accordance with the approved landscape plan. To the maximum extent practicable, the developer shall minimize the areas of the site to be re-graded or disturbed. All disturbed areas of the development site shall be immediately stabilized by seeding or planting landscaping materials.
- b. *Removal of debris.* All organic material, rubbish, deleterious materials or debris shall be removed from the site in a timely fashion. Disposal of cleared, grubbed and stripped materials shall be the responsibility of the developer. All roots, stumps, bush, foliage and other vegetation shall be removed and disposed of by the developer off the project site. This requirement may be modified by the DPR committee for the disposal of organic materials only, where the applicant demonstrates to the satisfaction of the committee that such materials will be disposed of on the site in such a manner that there will be no potential for subsidence to occur on the site in the future, and that such organic material does not harbor disease or pests which may adversely effect plantings or buildings on the site.
- c. *Protection of existing plantings.* Maximum effort should be made to save tree or other plant specimens which are large for their species, rare to the area, or of special horticultural or landscape value. In the event that any such tree or plant specimens are to be removed, they are to be replaced elsewhere on the project site with specimens of a comparable size and type. Such requirement may be waived by the DPR committee where the applicant demonstrates to the satisfaction of the DPR committee that special site and design conditions so warrant. No material or temporary soil deposits shall be placed within the drip line of shrubs or trees designated on the landscape plan to be retained. Protective barriers are to be installed around each plant and/or group of plants that are to remain on the site. Barriers shall not be supported by the plants they are protecting, but shall be self-supporting. They shall be a minimum of four feet in height and constructed of a durable material that will last until construction is completed. Snow fences and silt fences are examples of acceptable barriers.
- d. *Slope plantings.* Landscaping of all cuts and fills and/or terraces shall be sufficient to prevent erosion, and all roadway slopes steeper than one foot vertically to three feet horizontally shall be planted with vegetative ground cover appropriate for the purpose and for soil conditions and environment.
- e. *Additional landscaping.* In residential developments, besides the screening and street trees required, additional plantings or landscaping elements may be required throughout the development to mitigate climatic extremes, to promote effective drainage control, to mitigate water and air quality impacts, provide privacy and enhance the appropriate use of adjacent properties, in accordance with the landscape plan as approved by the DPR committee. In nonresidential developments, all areas of the site not occupied by buildings and required improvements shall be landscaped by the planting of grass or other vegetative ground cover, shrubs, and trees as part of the approved landscape plan.
- f. *Planting specifications.* Deciduous trees shall have at least a 2½ inch caliper at the time of planting. Such requirement may be modified by the DPR committee where the applicant demonstrates to the satisfaction of the DPR committee that the type and groupings of the trees require a smaller caliper at the time of planting. Size of evergreens and shrubs shall be allowed to vary depending on setting and type of shrub. Only nursery grown plant materials shall be acceptable, and all trees, shrubs and ground covers shall be planted according to accepted horticultural standards. Dead and diseased plants and trees shall be removed and replaced by the owner on at least an annual basis. Failure to properly maintain trees shall result in such work being performed by the city at the owner's expense.

g. ~~*Plant species.* The plant species selected should be hardy for the particular climatic zone in which the development is located and appropriate in terms of function and size. The applicant is encouraged to select plant species which have minimal requirements for watering and fertilization. In selection of plant species reference shall be made to the plant types recommended in the land development and subdivision review regulations or of a variety approved by the superintendent of parks.~~

~~(3) *Shade trees.*~~

- a. ~~*Location.* Shade trees shall be either planted or maintained at intervals of no more than 35 feet along both sides of all new or existing streets abutting a development site in accordance with the approved landscape plan. The DPR committee may permit spacing of trees at greater intervals where the applicant demonstrates to the satisfaction of the DPR committee that such a spacing is necessary for the preservation of large existing trees or other planting of large tree specimens.~~
- b. ~~*Tree type.* Tree type may vary depending on overall effect desired, but as a general rule, all trees on a street shall be the same kind except to achieve special effects. In selection of tree types reference should be made to tree types recommended in the land development and subdivision review regulations or of a variety approved by the superintendent of parks.~~
- c. ~~*Planting specifications.* Street trees shall have a minimum caliper of 2½ inches at time of planting, and be nursery grown, of substantially uniform size and shape and have straight trunks. Street trees with the exception of ornamental trees, shall have or will have, when fully mature, a minimum caliper of 12 inches. Trees shall be properly planted and staked and provision made by the developer for regular watering and maintenance until they are established. Dead and diseased trees shall be removed and replaced by the owner on at least an annual basis. Failure to properly maintain street trees shall result in such work being performed by the city at the owner's expense.~~

~~(4) *Buffering.*~~

- a. ~~*Function and materials.* Buffering shall provide a year-round visual screen in order to minimize adverse impacts. The buffer may contain fencing, evergreens, berms, rocks, boulders, mounds, or combinations thereof to achieve the objectives.~~
- b. ~~*When required.* Every development shall provide sufficient buffering when topographical or other barriers do not provide reasonable screening and when the DPR committee determines that there is a need (1) to shield neighboring properties from any adverse external effects of a development; or (2) to shield the development from negative impacts of adjacent uses; or (3) to minimize stormwater impacts on flood management and water quality. In high density developments, when building design and siting do not provide privacy, the DPR committee may require landscaping, fences, or walls to screen dwelling units for privacy. Buffers shall be measured from side and rear property lines, excluding driveways.~~
- c. ~~*Minimum amount required.*~~
 - 1. ~~A five foot buffer strip of grass or other vegetation is required around the entire perimeter of the site, except for any curb cuts.~~
 - 2. ~~Where more intensive land uses abut less intensive uses (including situations where a street or right of way separates the uses), a buffer strip (25 feet) in width shall be required between such uses.~~
 - 3. ~~Parking lots, garbage collection and utility areas, and loading and unloading areas should be screened around their perimeters by a buffer strip a minimum of (five feet) wide.~~

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4. ~~Where residential developments abut both higher order streets (collectors or arterials) and lower order streets, lots shall front on lower order streets, and a landscaped buffer area shall be provided along the property line abutting the higher order street. The buffer strip shall be a minimum of (25 feet wide) or wider where necessary for the health and safety of the residents. It shall include both trees and shrubs.~~
- d. ~~*Design.* Arrangement of plantings in buffers shall provide maximum protection to contiguous properties and avoid damage to existing plant material. Earthen berms may be used in the buffer design, provided side slopes are adequately stabilized by plant materials. Such berms may be used to calculate effective buffer height.~~
- e. ~~*Planting specifications.* Plant materials shall be sufficiently large and planted in such a fashion that a year round effective buffer height at least eight feet in height shall be produced within three growing seasons. All plantings shall be installed according to accepted horticultural standards.~~
- f. ~~*Maintenance.* Plantings shall be watered regularly and in a manner appropriate for the specific plant species through the first growing season, and dead and dying plants shall be replaced by the applicant during the next planting season. No buildings, structures, storage of materials or parking shall be permitted within the buffer area. Buffer areas shall be maintained in a manner commensurate with the approved landscaped plan and kept free of all debris, rubbish, weeds, and tall grass.~~
- (5) ~~*Parking area landscaping requirements.*~~
- a. ~~Trees shall be planted within the planting strip or in sidewalk areas as may be appropriate, at intervals of no more than 35 feet, and shall have a minimum caliper at time of planting of 2½ inches. The DPR committee may permit spacing of trees at greater intervals where the applicant demonstrates to the satisfaction of the DPR committee that such a spacing is necessary for the preservation of large existing trees or the planting of large tree specimens.~~
- b. ~~The interior of parking areas shall be suitably landscaped with trees, shrubs, plants or other live vegetation. In addition to the required buffer strip a minimum of ten square feet of landscaping for each parking space shall be provided within the interior of any off street parking area. Each row of parking spaces shall be terminated by landscaped islands which measure not less than five feet in width and not less than 18 feet in length. The interior of the parking area shall incorporate landscaped areas in appropriate locations in order to prevent long, uninterrupted rows of parking spaces. Such landscaped islands may be included in calculating the required landscaped area. Mandatory terminal islands shall be surrounded with continuous raised curbing. Interior islands and divider medians shall be protected from encroachment of motor vehicles in a manner approved by the DPR committee. Pedestrian paths may be incorporated within the landscaped area provided a minimum dimension of four feet, exclusive of paved areas, is maintained for all landscaped areas.~~
- c. ~~The interior of parking areas shall be shaded by deciduous trees (either retained or planted by the developer) that have or will have when fully mature a trunk at least 12 inches in diameter. The minimum caliper of new trees at time of planting shall be at least 2½ inches. At maturity, each tree shall be presumed to shade a circular area having a radius of 15 feet with the trunk as the center, and there must be sufficient trees so that, using this standard, 20 percent of the parking area will be shaded. Trees shall be located so that they are surrounded by at least 180 square feet of unpaved area, which may be counted towards calculating the required landscaped area. Parking areas shall be laid out and detailed to prevent vehicles from striking trees and to provide for the healthy growth of the selected tree species. Vehicles will be presumed to have a body overhang of three feet six inches.~~

d. The owner shall be responsible for maintaining the landscaping of a parking area in a neat and attractive manner. Only nursery grown plant materials shall be acceptable, and all plantings shall be installed according to accepted horticultural standards. The owner shall be responsible for watering plantings regularly and shall be responsible for removing and replacing all dead or diseased plantings on at least an annual basis. Failure to adequately maintain required plantings may result in the city performing required maintenance at the expense of the landowner.

e. [Reserved.]

(6) *Parking area design standards.*

a. All parking areas shall provide the minimum required widths for traffic aisles and driveways as described in the table below. At the discretion of the city traffic engineer, the width of the aisles and driveways may be required to be greater than the minimum, should traffic and safety considerations so warrant.

*Required Widths of
Parking Area Aisles
and Driveways*

	Parking Angle (in degrees)				
	0	30	45	60	90
Aisle width					
One-way traffic	13'	11'	13'	18'	24'
Two-way traffic	20'	20'	21'	23'	24'

b. *Pedestrian and vehicular circulation.* Pedestrian and vehicle circulation areas shall be designed so as to provide safe and efficient traffic flow patterns. Conflicts between pedestrian and vehicular traffic shall be minimized by providing physical and visual separation between pedestrian ways and traffic lanes or at crossings of the two.

c. *Signage.* The placement of all directional and street level advertising signage shall be subject to the review and approval of the traffic engineer to ensure that safe and efficient traffic circulation patterns and adequate sight distances will be maintained both within the public right of way and the interior site parking area.

d. [Reserved.]

(7) *Paving materials for pedestrian areas.* Design and choice of paving materials used in pedestrian areas shall consider such factors as function, climate, characteristics of users, availability, cost, maintenance, glare, drainage, noise, appearance, and compatibility with surroundings. Acceptable materials shall include, but are not limited to, concrete, brick, asphalt, asphaltic pavers, cement pavers, and stone.

(8) *Walls and fences.* Walls and fences shall be erected where required for privacy, screening, separation, security, erosion control, or to serve other necessary and reasonable functions. The design and materials used shall be functional and compatible with existing and proposed site architecture. No fence or wall shall be so constructed or installed as to constitute a hazard to traffic or safety.

(9) *Street furniture.* Street furniture, such as but not limited to trash receptacles, benches, and phone booths, shall be located and sized in accordance with function. The different street furniture components shall be compatible in form, material, and finish. Design and materials shall be

coordinated with existing and proposed site architecture. Selection of street furniture shall also take into consideration function, durability, maintenance, and long term cost.

(Rev. Ords. 1987, § 19-454; Ch. 453, § XX, 7-15-08; Ch. 642, § XVII, 3-15-16)

Sec. 19-455. Drainage/erosion standards.

- (a) *Purpose and objectives.* The purpose of this section is to promote the design of developments which effectively control the impacts of erosion, inadequate drainage and stormwater runoff. Effective drainage, site design techniques and erosion control can accomplish the following:
- (1) Reduce nonpoint source pollutants generated from erosion of sediments and stormwater runoff;
 - (2) Prevent damage to private and public property from flooding caused by poor drainage system design;
 - (3) Improve surface water and groundwater quality by minimizing runoff volumes and peak discharge rates, and by promoting the overland flow and infiltration of uncontaminated runoff;
 - (4) Minimize the negative impacts of stormwater runoff to enhance and protect surface and groundwater quality, and promote effective flood management;
 - (5) Through vegetative root systems, stabilize groundwater tables and play an important part in soil conservation, erosion control and flood control.
- (b) *Soil erosion and sedimentation.* Soil erosion and sediment runoff shall be adequately controlled during and after construction and shall not adversely affect adjacent or neighboring properties, surface water and groundwater, or public facilities and services.
- (c) *Drainage standards.*
- (1) *Drainage system.* All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:
 - a. The retention results from a technique, practice or device installed as part of an approved sedimentation or stormwater runoff control plan; or
 - b. The retention is not substantially different in location or degree than that experienced by the development site in its predevelopment stage, unless such retention presents a danger to health or safety.
 - (2) No surface water may be channeled or directed into a sanitary sewer.
 - (3) To the maximum extent practicable, all development shall conform to the natural contours of the land and natural and preexisting manmade drainageways shall remain undisturbed.
 - (4) Whenever practicable, the drainage system of development shall coordinate with and connect to the drainage system or drainageways on surrounding properties or streets.
 - (5) In areas where a comprehensive watershed drainage study has been performed, the DPR committee may require, based on preliminary review of plans, that a proposed drainage system be subject to an independent engineering evaluation, performed by a qualified engineering consultant. Such evaluation shall be performed by the developer and results of the evaluation shall be provided to the DPR committee to establish that soil drainage conditions can support the proposed drainage system. The costs of such an evaluation shall be borne by the developer. A written report of such evaluation shall be provided to the developer. The consultant shall be selected upon consultation with the developer and upon the joint review and approval of the proposed scope of work and cost estimate.

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- ~~(6) Drainage systems shall be designed so that there will be no increase in the rate of runoff from the post-development site as compared to the predevelopment site based on an assumption of a predevelopment site condition of vacant land. The DPR committee may modify the requirement for an assumption of a predevelopment site condition of vacant land, provided that the applicant demonstrates to the satisfaction of the DPR committee that special site and drainage conditions so warrant, and that there will be no adverse impacts on off-site drainage or water quality.~~
- ~~(7) Drainage retention and treatment as required by the State of Rhode Island best management practices and further required by the revised ordinances of the City of East Providence shall be required and subject to the approval of the department of public works and city engineer, and may include above-ground or below ground storm water management, and/or a combination of both. Aboveground drainage retention or detention systems shall be permitted where the applicant demonstrates, to the satisfaction of the DPR committee that special site and drainage conditions so warrant, and provided the standards and conditions of the DPR committee regarding such aboveground drainage retention or detention systems are fully met. Such retention or detention systems shall be appropriately landscaped or buffered and maintenance shall be the perpetual responsibility of the property owner. Below-ground storm water structures shall also be the perpetual responsibility of the property owner.~~
- ~~(8) Underground or aboveground detention or retention basins shall be designed to accommodate a minimum 25-year storm. For any detention or retention systems proposed to be located within special flood hazard zones (as defined by the Federal Emergency Management Agency's flood insurance rate map and flood boundary and floodway map, as may be amended), such systems shall be designed to accommodate a minimum 100-year storm.~~
- ~~For all retention or detention basins, whether aboveground or underground, percolation tests and test pits shall be performed at the proposed site of the basin in accordance with the requirements of the city engineer. This information will determine the suitability of the subsurface to accommodate the designed basin. The maximum high groundwater (HGW) level shall also be determined at the location of any proposed detention or retention basins. The HGW level shall be determined between January and April. If the HGW level is not determined between January and April a registered professional engineer shall estimate and certify the maximum HGW.~~
- ~~(9) When retention or detention basins, oil and water separators, or drainage swales are proposed to be incorporated in the drainage system with the approval of the DPR committee, such facilities shall be maintained by the developer or successor property owners in accordance with maintenance guidelines established by the DPR committee upon final approval. Failure to properly maintain such facilities shall result in an expense imposed by the city to be legally established as a lien against the property. If the city agrees to accept maintenance, the developer shall deposit funds with the city in sufficient amount to cover projected maintenance needs for a 20-year period.~~
- ~~(10) *Stormwater management.* All developments shall be constructed and maintained such that adjacent or neighboring properties are not unreasonably burdened with surface waters as a result of such developments. More specifically:~~
- ~~a. No development may be constructed or maintained such that development unreasonably impedes the natural flow of water from higher adjacent or neighboring properties across such development, thereby unreasonably causing substantial damage to such higher adjacent or neighboring properties;~~
- ~~b. No development may be constructed or maintained such that surface waters from the development are unreasonably collected and channeled onto lower adjacent or neighboring properties at such locations or at such volumes as to cause substantial damage to such properties. The drainage plan shall address potential impacts on downstream property based on~~

a 25-year storm. Off-site analysis shall be included in the drainage plan when required by the DPR committee; and

c. Storm drains shall be designed based on a ten-year storm design.

~~(11) Impermeable surface coverage.~~

a. ~~Impermeable surfaces.~~ For the purposes of calculating the amount of impermeable surface coverage, impermeable surfaces shall include all roads, driveways, parking areas, buildings, decking, rooftop landscapes and other impermeable construction covering the natural landscape. Swimming pool surface water areas for pools which discharge to the storm drainage system shall also be included. Water quality and detention basins, swales, and conveyances for drainage purposes only shall be calculated as impervious cover.

b. ~~Amount permitted.~~ The maximum amount of the site that may be covered by an impermeable surface shall be determined by adding 20 percent of the site area to the maximum percent of lot building coverage established in schedules in sections 19-145 and 19-146, as applicable, of the zoning ordinance. For developments located near (within 200 feet of surface waters which are sensitive to runoff impacts, or for any developments from which runoff is discharged into any wetland or coastal feature, as defined by the state department of environmental management or the RI CRMC, the DPR committee may require a reduction of up to ten percent of the maximum allowable area of impermeable surface in order to mitigate the potential impact to the surface waters or wetland system. For developments located near wetlands or coastal features, compliance with requirements imposed by the DPR committee shall not remove the need to obtain appropriate state or federal approvals and to comply with any associated conditions.

c. ~~Design.~~ Applicants shall integrate the location of permeable surfaces with the overall drainage plan for the site. Natural buffer strips should be maintained adjacent to surface waters. Where this is not possible, vegetative filter strips, using seed mixtures recommended for this purpose and which require minimal or no fertilization should be used.

d. ~~Parking areas.~~ For developments located near surface waters, or for any developments from which runoff is discharged into any wetland, the DPR committee may permit the use of permeable paving materials for surfacing parking areas, provided adequate provisions have been made for delineation of parking spaces and for maintenance. It is the intent of this section that permeable surface areas shall be landscaped, and use of permeable paving materials for parking areas shall be permitted only where warranted by water quality and drainage enhancement considerations.

(Rev. Ords. 1987, § 19-455; Ch. 642, § XVIII, 3-15-16)

Sec. 19-456. Affordable housing.

(a) ~~Purpose and objectives.~~ The purpose of this section is to increase the supply of affordably priced housing by providing incentives for developers to provide affordable units within market rate residential or mixed-use developments.

(b) ~~Standards.~~ An increase in maximum development density of up to ten percent may be permitted commensurate to the number of affordable housing units provided such units meet the definition of "affordable housing" over time as referenced in the city housing action plan.

(Rev. Ords. 1987, § 19-456)

Sec. 19-457 452. Final action Appeals.

Appeals of a final decision from the permitting authority regarding development plan review may be taken in accordance with §19-55

(a) *Generally.* The DPR committee shall take final action within 30 days of issuance of a certificate of completeness. Such final action shall be one of the following:

(1) A written statement of approval indicating that the DPR committee has determined that the applicant has demonstrated or proved to the satisfaction of the DPR committee that each of the standards of development plan review have been met, and that any other applicable requirements and standards of the city have been met;

a. *Modifications.* An applicant may request modification(s) from the following minimum requirements of chapter 19, zoning and DPR: the dimensional requirements of section 19-145, off-street loading, trash storage areas, open storage, and off-street parking (up to a 25 percent reduction permitted if findings can be met and parking provided is shown to be adequate for the proposed use(s)). Approval of a requested reduction in off-street parking shall be shown in a parking study provided the DPR committee by the applicant.

Such waiver shall be reviewed by the zoning officer in conjunction with the other members of the DPR committee. Findings for granting a requested waiver or waivers shall be made in writing by the zoning officer with the concurrence of the DPR committee and positive findings shall be made in accordance with the following:

1. The modification(s) requested is reasonably necessary for the full enjoyment of the permitted use;
2. If the modification is granted, neighboring property will neither be substantially injured nor its appropriate use substantially impaired;
3. The modification(s) requested is in full harmony with the purposes and intent of the comprehensive plan and zoning ordinance; and
4. The modification does not require a variance of a flood plain requirement.

(2) A written statement of conditional approval, subject to such reasonable conditions, modifications and restrictions as the DPR committee may deem necessary so that the proposed activities meet each of the standards of development plan review and any other applicable requirements and standards of the city;

(3) A written statement of denial of the application.

In the event of a denial of an application or an approval where conditions, modifications or restrictions are imposed, the DPR committee shall issue written findings of fact, and, where applicable, conclusions of law, explaining the reason why any standard or standards have not been met and setting forth the basis for either the denial of the application or the imposition of any condition, modification or restriction.

(b) *Final site plan filing.* Following approval by the DPR committee, and subject to the satisfaction of any conditions of approval, the applicant must submit to the DPR committee a reproducible mylar and three blueprint copies of a final site plan for endorsement by the committee. Digitized map data on computer storage mediums (if available) may be submitted in addition to the final site plan. Such final site plan shall be revised to show any minor changes approved by the building inspector or planning director. The planning department shall file a record of approval with the city clerk on behalf of the DPR committee.

(c) ~~Revisions to plan.~~ All construction, alteration or expansion shall be carried out only in conformity with any conditions, modifications and restrictions set by the DPR committee, and only in conformity with the application and site plan upon which the committee based its decision. Minor changes to the site plan must be approved by the building inspector in consultation with the planning director. Changes deemed to be significant or major by the building inspector or planning director shall be resubmitted to the DPR committee in the form of a new or revised site plan. Any work carried out in violation of this provision shall be ordered halted and fully removed. The building inspector shall enforce the fulfillment of any conditions or revisions which the DPR committee may impose.

(d) ~~Time limit on approval.~~ The approval of a site plan, or modification or amendment thereof, shall remain effective for a period of one year only from the date of such approval (either directly or by inaction) unless, prior to the expiration of such one-year period, the applicant makes substantial efforts to build in accordance with the approved development plan, or unless the DPR committee approves an extension the time for a period not to exceed one additional year. The initial period of one year shall not begin to run until the applicant has received all approvals from local, state, and federal agencies for the construction of the project envisioned by the approved site plan, provided the applicant demonstrates to the DPR committee that due diligence is being exercised in obtaining such approvals. The applicant shall provide letters of status to the DPR committee at intervals of no more than six months, commencing at the date of development plan approval.

In the event of any appeal from development plan approval by the DPR committee, and final development plan approval shall be deemed effective and the applicable time limit on approval shall commence, only after all appellate rights are exhausted and a final determination is made to grant approval.

(e) ~~Appeals.~~ Appeals to the zoning board of review may be taken by a person aggrieved by any final action of the DPR committee pursuant to the provisions of this section. Such appeal shall be taken within 20 days of such final action by filing with the zoning board of review a written notice of appeal specifying the grounds for appeal and the specific finding or findings of the DPR committee in its final action which are challenged, if any. The lack of particularity of specific grounds for an appeal shall constitute cause for dismissal of any appeal. Only the grounds for appeal so specified will be reviewed by the zoning board of review on appeal. Such appeal shall be accompanied by copies of the original site plans submission and the written findings of the DPR committee with respect to the final action appealed from. Copies of the site plan and the findings of the DPR committee shall be made available by the planning department for review by any party.

On such review, the zoning board of review shall not substitute its judgment for that of the DPR committee as to the weight of the evidence on questions of fact. The zoning board of review may affirm the decision of the DPR committee or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of findings, interferences, conclusions or decisions which are: In violation of statutory or ordinance provisions; in excess of the authority granted to the DPR committee by ordinance; made upon unlawful procedure; affected by other error of law; clearly erroneous in view of the reliable, and substantial evidence; or arbitrary, or capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion. The zoning board of review decision on appeal shall be rendered within 45 days of the date of appeal. The decision by the zoning board of review on appeal shall be by a majority vote.

Judicial review of any determination by the zoning board of review on such appeal may be sought by any person aggrieved by the zoning board of review's decision pursuant to G.L. 1956, § 45-24-1 et seq.

(Rev. Ords. 1987, § 19-457; Ch. 453, § XXI, 7-15-08; Ch. 642, § XIX, 3-15-16)

Sec. 19-458. Application requirements.

(a) ~~Generally.~~ The applicant for development plan approval shall file with the planning department ten copies each of the application and the preliminary site plan. The application and plans must be accompanied by the

required filing fee and any supporting documentation as determined in the preapplication conference. The application shall be accompanied by a list of the names and addresses of all radius property owners, being owners of real property within 200 feet of the perimeter of the real property which is the subject of the DPR application as shown on the current real estate tax assessment records.

(b) ~~Fee.~~ A filing fee, as set and reviewed annually by the city council, shall accompany the application.

(c) ~~Required contents of preliminary site plan.~~

- (1) ~~All site plans shall be drawn to a scale of one inch equals 20 feet, one inch equals 40 feet or one inch equals 80 feet, whichever is appropriate to the size of the proposal. All distances shall be in feet and decimals of a foot and all bearings shall be given to the nearest ten seconds. The error of closure shall not exceed one to 10,000. Digitized map data on computer storage mediums (if available) may be submitted in addition to the site plans.~~
- (2) ~~A key map, drawn to scale of no less than one inch equals 200 feet, showing the location of the tract with reference to surrounding areas and existing street intersections, and all zoning district boundaries within 500 feet.~~
- (3) ~~North arrow, scale of map, assessor's plat information (map, block and parcel), and name, address, license number and seal of the person preparing the site plan.~~
- (4) ~~Date of site plan. All revisions must be noted and dated.~~
- (5) ~~Name of the proposed development, and the name and address of both the record owner and applicant. (If the owner of record is a corporation, the name and address of the president and secretary shall be submitted with the application.)~~
- (6) ~~The assessor's plat information (map, block and parcel) and names of all owners of record of all properties within 200 feet of the subject property.~~
- (7) ~~Boundaries of the property and lines of existing streets, lots, reservation, easements and areas dedicated to public use, including grants, restrictions and rights-of-way. The boundaries of the property shall also be marked in the field by survey flags, or some other means acceptable to the DPR committee, to identify limits of the property.~~
- (8) ~~Acreage of parcel to the nearest tenth of an acre.~~
- (9) ~~Zoning district boundaries must be shown on the site plan.~~
- (10) ~~Zoning data block showing all calculations necessary to determine conformance to zoning regulations.~~
- (11) ~~All distances as measured along the right-of-way lines of existing streets abutting the property to the nearest intersection with any other public street.~~
- (12) ~~Existing contours (with intervals of two feet where slopes are more than three percent but less than 15 percent, and five feet where slopes are 15 percent or more) referred to city datum, are to be indicated by a dashed line. Where any changes in contours are proposed, finished grades must be shown as solid lines. Spot evaluations must also be shown.~~
- (13) ~~Location of existing environmental features including general soil types, rock outcrops, wooded areas and major trees (12 inch caliper and over), watercourses, depressions, ponds, marshes, wetlands, floodplains, and other significant environmental features including previous flood elevation of watercourses, ponds and marsh areas as determined by survey. If any portion of the proposed development is located within a flood hazard area as defined in section 19-306, base flood elevation data must be provided.~~

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- (14) ~~Location and spot elevations of existing buildings, which shall remain and all other existing structures such as walls, fences, culverts, bridges, roadways, etc. Structures to be removed shall be indicated by dashed lines.~~
- (15) ~~A place for the signature of the DPR committee members must be provided on all plans and/or documents to be approved by the DPR committee.~~
- (16) ~~The proposed use or uses of land, buildings, structures, and equipment and the proposed location of buildings, structures and equipment including proposed grades. Such features must be indicated on a separate drawing where required by the building inspector. Floor space of all buildings shall also be indicated.~~
- (17) ~~The location, type and density of land use to be allocated to parts of the site to be developed.~~
- (18) ~~Layout, floor plans, architectural elevations, (with measurements as needed for each interpretation) and height (including relationship to existing and proposed grades) of proposed buildings, structures or equipment.~~
- (19) ~~Sketches as needed to illustrate the visual impact on the community.~~
- (20) ~~Location, size, sketch and illumination, if any, of proposed signs.~~
- (21) ~~—~~
- a. ~~A drainage plan that incorporates the change in land use and routes stormflow through the site to meet requirements set by the city shall be submitted. The drainage plan shall consist of a plan showing existing and proposed drainage structures, drainage basin areas and drainage flow paths. Also included shall be a report summarizing drainage calculations. The rational method, SCS TR55 or method approved by the city engineer shall be used for runoff calculations. The design storm condition shall be one with a 25-year return period. Where use of aboveground or underground retention or detention basins is proposed, the 25-year design storm shall be used in design calculations, unless such detention or retention system is located in a special flood hazard zone, in which case a 100-year design storm shall be used. Calculations shall include predevelopment and postdevelopment conditions. Redevelopment runoff rates based on assumption of vacant land site conditions from the proposed site shall be maintained unless approved by the DPR committee. The drainage plan shall address potential impacts on downstream properties based on a 25-year storm.~~
- ~~Off-site analysis of runoff shall be included in the drainage plan when applicable. All drainage structures shall conform to the standard specification of the city and subject to approval of the city engineer.~~
- ~~For all retention or detention basins, whether aboveground or underground, percolation tests or test pits shall be performed at the proposed site of the basin. This information will determine the suitability of the subsurface to accommodate the designed basin.~~
- b. ~~Location of all existing and proposed sanitary sewers, water mains and other utilities, whether publicly or privately owned, above or underground showing pipe sizes, grades and directions of flow. All proposed sanitary sewers, water mains and other utilities shall conform with the applicable requirements and standards of the city and the appropriate utility.~~
- (22) ~~The proposed location, direction of illumination, power and time of proposed outdoor lighting, and the location of any outdoor storage areas and dumpsters.~~
- (23) ~~The proposed screening and landscaping plan, as well as all other landscaping materials and treatments such as paving, lighting and street furniture. Such plan shall indicate the location, type and size of all~~

plantings, both at time of planting and at maturity. The plan shall be prepared by a registered landscape architect unless such requirement is specifically waived by the DPR committee.

- (24) All means of vehicular access to and from the site onto public streets showing the size and location of driveways, curb cuts, parking and loading areas, and other off-site traffic improvements necessary to ensure public safety.
- (25) All proposed streets with profiles indicating grading, and cross-sections showing width of roadway and location and width of sidewalks. All proposed improvements must be designed and constructed according to the standards and specifications of the city.
- (26) Such other information as may be required to show that the details of the site plan are in accordance with this section and all applicable requirements and standards of this chapter.
- (27) A written waiver or modification request shall be made by the applicant along with all other requirements for application submission. This request shall be in letter form and shall be signed by the property owner and applicant (if different) and dated. The request shall state each requested waiver or modification and its extent of deviation from the standard(s). The request shall also state how each of the requested modifications meets the purpose of section 19-448 (DPR), and meets the general purposes of zoning, section 19-1.

(Rev. Ords. 1987, § 19-458; Ch. 453, § XXII, 7-15-08; Ch. 642, § XX, 3-15-16)

Sec. 19-459. Supporting documentation.

- (a) *Impact assessment.* An impact assessment shall be prepared in support of all applications for development plan review, except that the DPR committee, as part of a preapplication review, may decide that the project is not of a size or nature requiring an impact assessment or may scope an impact assessment focusing on one or more significant impacts. Such a decision regarding the scope of the impact assessment shall be rendered within one week of the preapplication conference. The DPR committee shall provide the applicant with written justification as to why each element of the impact assessment is being required.

The impact assessment must be prepared by recognized professionals; the names, education, disciplines and experience of whom shall be included in the report.

The assessment will include an evaluation of all influences, both positive and negative, which can be expected to affect the natural and manmade environment in the vicinity of the proposed project, or will demonstrate the lack of any such impact. Both direct and indirect impacts shall be evaluated. A traffic impact study, as described below, must be included as part of the impact assessment. Other impact which shall be considered as part of the impact assessment are environmental scenic, use compatibility, noise and similar such items.

Methods designed to mitigate, and where appropriate, monitor the impacts shall be proposed; the party responsible for implementing the mitigation and monitoring shall be identified. The DPR committee may require the applicant to pay the reasonable costs of such consultants as the DPR committee may deem reasonably necessary to assist it in the evaluation of the impact assessment. The consultant shall be selected only after consultation with the applicant, and only upon the joint review and approval of the experience and qualification of the consultant, and joint review and approval of the proposed scope of work and cost estimate. A written report of such consultant review shall be provided to the DPR committee and the applicant.

To provide assurances that performance standards pursuant to article IV, division 14 of this chapter are not to be exceeded, the DPR committee may require, as a condition of the development plan approval, that independent environmental monitoring be conducted periodically; the DPR committee shall approve the monitoring firm and such monitoring will be supervised by the DPR committee and carried out at the expense of the applicant for

development plan approval. The applicant, as part of its application, shall propose appropriate monitoring activities consistent with the foregoing.

It is suggested that an outline of the impact assessment be submitted for review during the preapplication meeting.

- (b) ~~Traffic impact study.~~ A traffic impact study analyzing both on-site and off-site conditions as they affect surrounding areas. The traffic impact study should include, but not be limited to:
- (1) ~~Analyses of the roadways which may be influenced by the project; including adjacent roads and major intersections.~~
 - (2) ~~Safety (accident data, sight distance, roadway conditions, etc.)~~
 - (3) ~~Capacity analysis utilizing Transportation Research Board Special Report 209 or other document as specified by the city traffic engineer.~~
 - (4) ~~Existing volumes (traffic counting).~~
 - (5) ~~Site generated and future traffic.~~
 - (6) ~~Planned transportation improvements, if any.~~
- (c) ~~Open space.~~ The location and size of any common or public open space and the form of organization proposed to own and maintain any common or public open space. The proposed organization shall include provisions which recognize the right of the city to enforce the maintenance of common open space in reasonable order and condition and to assess the property owners for the cost of such maintenance in the event of the failure of the organization to maintain the common open space. Such assessment shall become a lien on the properties.

A copy of any covenants, deed restrictions or exceptions that are intended to cover all or any part of the tract.

- (d) ~~All proposed easements.~~ A survey by a licensed surveyor of the state shall accompany the site plan and shall show the boundaries of the parcel and the limits of all proposed streets, recreation areas, and other property to be dedicated to public use. Appropriate assurances shall be provided by the applicant to the DPR committee indicating that all private roads and other applicable facilities will be maintained, and other supplementary services will be provided by the applicant or successors and assigns.

(Rev. Ords. 1987, § 19-459)

Sec. 19-460. Special provisions for phased developments.

- (a) ~~In the case of plans which call for development over a period of years, a schedule shall be prepared showing the proposed time frames within each section of the development may be started. The proponents of a phased development shall include suitable provisions for assurance that each phase could be brought to completion in a manner which would not result in an adverse effect upon the city as a result of the termination at that point.~~
- (b) ~~All preliminary site plans and general site plans previously approved by the DPR committee shall be submitted each time a new part or section is submitted for approval.~~

(Rev. Ords. 1987, § 19-460)

Sec. 19-461 453. Interpretation, conflict, and severability.

- (a) In their interpretation and application, the provisions of this article shall be held to be the minimum requirements. More stringent provisions may be required if it is demonstrated that different standards are necessary to promote the public health, safety and welfare.
- (b) Where the ~~DPR committee~~ **permitting authority** recognizes the ~~design standards of this article~~ **approval and/or procedural requirements for development plan review approval outlined in this article and the land development and subdivision regulations** cannot be fully met, the ~~DPR committee~~ **permitting authority** has the authority to approve site plans incorporating a balance of the design standards in a manner which maximizes the achievement of the stated objectives of this article. Compensating amenities and features exceeding standards and objectives must be identified within such a site plan. The ~~DPR committee~~ **permitting authority** shall address these offsetting features in writing as part of its statement of final decision.
- (c) Where the conditions imposed by any provisions of this article are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this article or of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.
- (d) The provisions of this article are severable. If a section, sentence, clause, or phrase of this article is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the remaining portions of this article.

(Rev. Ords. 1987, § 19-461)

Sec. 19-462. Drive through facilities.

~~Notwithstanding any other provisions of this chapter, the regulations and design standards in this division shall apply to all drive through facilities as defined in section 19-1. Such uses may include drive through facilities that are ancillary to a principal building where business is conducted indoors, or businesses that operate principally by means of drive through facilities. For those developments also coming under article VIII, Development Plan Review, the site standards of sections 19-463—19-469, shall apply, but a separate review and application process will not be required. The development plan review committee shall incorporate its decision on the drive through facility within its action on the DPR application.~~

~~(Ch. 53, § VII, 2-3-99)~~

Sec. 19-463. Same—Site standards and plan review.

~~All applications for a drive through facility shall be subject to the review of the development plan review committee, subject to the design standards of sections 19-462—19-469.~~

~~In the event a proposal for a drive through facility does not meet applicable design standards, the applicant shall petition the zoning board of review for the required variances.~~

~~The regulations of this division shall apply to the portions of the site development which comprise the drive through facility. The regulations apply to new developments, the addition of drive throughs to existing developments, a change of use with a drive through and the relocation of an existing drive through facility. For sites involving multiple buildings or a multiple tenant building, the plans submitted shall address the relationship of the parking, driveways, stacking lane(s) and other applicable aspects of the drive through facility with the other~~

buildings or tenants. The purpose of this section is to reduce the negative impacts associated with drive-through facilities including noise, traffic and litter.

(Ch. 53, § VII, 2-3-99)

Sec. 19-464. Same—Stacking lanes/traffic circulation.

- (1) Vehicular stacking capacity of the drive-through facility and the internal circulation of the site shall be reviewed and approved by the development plan review committee. The petitioner shall submit information addressing the following issues with the application:
- a. Nature of the product or service being offered;
 - b. Method by which the order is processed;
 - c. Time required to serve typical customer;
 - d. Anticipated arrival rate of customers;
 - e. Peak demand hour;
 - f. Anticipated vehicular stacking required;
 - g. Site plan reflecting all elements of internal circulation including parking, loading, stacking, traffic aisles and means to be used to delineate between these areas, e.g., striping, change of materials, landscaping etc.;
 - h. Location and size of signs (including order boards);
 - i. Location of trash storage areas and consumer trash receptacles;
 - j. Location, direction, power and timing of outdoor lighting; and
 - k. Areas for snow storage.
- (2) Stacking spaces for vehicles waiting to complete a transaction shall be provided in addition to the off-street parking spaces required under article IV, division II, Off-Street Parking. The following are guidelines for numbers of stacking spaces by type of use. The required amount is to be calculated by the development plan review committee based on these guidelines and information provided by the applicant:

Restaurant	7 per station
Bank	5 for the first station, plus 2 for each additional station
Use with no order board	4 per station

In addition there shall be at least one stacking space after the service window, before entrance to a traffic aisle.

- (3) Each stacking space shall be a minimum of ten feet in width and 20 feet in length. Stacking lanes shall be a minimum of ten feet in width along straight portions and a minimum of 12 feet in width at curved segments. Stacking lanes shall be clearly designated by signs and delineated from traffic aisles, other stacking lanes and parking areas with striping, curbing, landscaping, the use of alternative paving material or raised medians.
- (4) Stacking lanes shall be designated to prevent circulation congestion, both on-site and on adjacent public streets. The site circulation shall:
- a. Separate drive-through traffic from site circulation;

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- b. ~~Not impede or impair vehicular or pedestrian traffic movement; and~~
 - c. ~~Minimize conflicts between pedestrian and vehicular traffic by providing physical and visual separation between pedestrian ways and stacking lanes and driveways, or at the crossing of the two. Stacking lanes shall not interfere with required loading and trash storage areas. No drive-through lane shall exit onto a street.~~
- (5) ~~Walk-in customer access should not intersect the drive-through lanes, but where it does, clearly marked pedestrian crosswalks shall be provided. These crosswalks must be emphasized by enriched paving or striping and include signage aimed at drivers in the drive-through lane.~~
- (6) ~~Entrances to drive-through facilities shall be off-set at least 50 feet from an intersection. The distance shall be measured along the property line from the junction of the two sued right-of-way lines to the nearest edge of the entrance. Where a choice is possible, exits from facilities with a drive-through shall be onto collector or arterial streets rather than minor streets. Curb-cut design shall be consistent with the additional provisions of section 19-283.~~

(Ch. 53, § VII, 2-3-99)

Sec. 19-465. Same—Signage and lighting.

~~Menu boards or other informational boards at the window area, shall face away from public rights-of-way. Adequate directional signs shall be provided to assure smooth traffic circulation and pedestrian safety including marking entrances, exits and one-way path of drive-through areas. The placement of all directional and street-level advertising signage shall be subject to the review and approval of the development plan review committee to ensure that safe and efficient traffic circulation patterns and adequate sight distances will be maintained both within the street and them interior site parking area. The facility is subject to the signage standards of article VII, section 19-442. All lighting associated with the menu boards, window service area or site security, shall be directed and shielded to prevent any glare or reflection on adjoining streets or property.~~

(Ch. 53, § VII, 2-3-99)

Sec. 19-466. Same—Litter and noise control,

- (a) ~~Drive-through facilities are subject to the requirements of article IV, division 10, Solid Waste Facilities, with regard to trash storage areas. The business shall be operated so that the premises, adjacent properties, and public areas or rights-of-way nearby are free of litter and trash originating from the site. In addition refuse receptacles for customer use shall be placed at appropriate locations along the end of drive-through areas.~~
- (b) ~~Exterior loudspeakers shall not be used for advertising or entertainment. No outside loudspeaker system shall be installed within 50 feet of a residential use or district. Limitations on the hours of operation for the outdoor speaker system may be necessary in order to be compatible with neighboring residential uses. Outdoor speakers with a night time lower volume control are preferred.~~

(Ch. 53, § VII, 2-3-99)

Sec. 19-467. Same—Landscaping.

~~Drive-through facilities are subject to the landscaping requirements of section 19-283. In addition the facility shall provide landscaping to:~~

- (1) ~~Screen drive-through lanes from public rights-of-way;~~

~~(2) Minimize the visual impact of reader boards and headlights of stacked cars; and~~

~~(3) If applicable be part of the additional buffer requirements of section 19-137.~~

~~(Ch. 53, § VII, 2-3-99)~~

~~Sec. 19-468. Same—Storage of flammable and hazardous materials.~~

~~Flammable and hazardous materials used in the conduct of a drive-through business shall be stored within the building or outside the building in accordance with section 5-28 of the revised East Providence ordinances. Proper care shall be exercised in the location of fuel storage containers to protect public safety.~~

~~(Ch. 53, § VII, 2-3-99)~~

~~Sec. 19-469. Same—Protection of gas meters.~~

~~Every business which utilizes drive-through service lanes must install a six-inch steel pipe, concrete filled, to be placed within two feet of the property's gas meter to protect such meters from being accidentally struck while vehicles are moving through the drive-through lane.~~

~~(Ch. 53, § VII, 2-3-99)~~

ARTICLE IX. WATERFRONT SPECIAL DEVELOPMENT DISTRICTS

Sec. 19-470. Purpose.

The purpose of this article is to provide for appropriate mixed use development within the context of protecting the important scenic and recreational resources along the East Providence Waterfront. The properties along the Providence and Seekonk Rivers are viewed by the city to hold great potential to generate year-round activity with linkages to surrounding neighborhoods, downtown amenities, labor, regional access, and the recreational and scenic attributes of the waterfront location. The intent of the waterfront development district is to provide for a diverse mix of compatible land uses and densities that promote high quality development in a manner consistent with the intent of the 2003 East Providence Waterfront Special Development District Plan. The objective of the waterfront development district is to attract new businesses and jobs, create housing opportunities for a wide range of income levels, provide recreational, civic and cultural opportunities, and ensure protection of and public access to and along the valuable environmental resources found along the East Providence Waterfront.

The provisions of this article shall not preclude an applicant, developer, and/or property owner from the requirement to meet other provisions of chapter 19, zoning, and/or other city requirement and ordinances, as applicable.

All projects are required to conform to the policies, standards and regulations of the Rhode Island Coastal Resources Management Council ("CRMC"), including, but not limited to, the Coastal Resources Management Program (Red Book) and the Metro Bay Region Special Area Management Plan.

(Ch. 317, § I, 3-2-04; Ch. 738, § I, 5-21-19)

Sec. 19-471. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Additionally, the definitions set forth in article I of the city zoning ordinance shall also apply to any words, terms or phrases included herein. In the event of any conflict or discrepancy between these definitions and those in article I, the following definitions shall apply.

Accessory use. A use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building, which shall be located on the same lot as the principal use. An accessory use shall not be permitted without the principal use to which it is related. An accessory use shall be subordinate in area, extent, or purpose to the principal use served.

Adaptive reuse. The conversion of an existing structure from the use for which it was constructed to a new use by maintaining elements of the structure and adapting such elements to a new use.

Advanced manufacturing. Use of innovative technologies to manufacture, fabricate, or produce existing products and the invention and design of new products. Advanced manufacturing can include the use of computer systems to plan, manage, and control the operations of a manufacturing plant through either direct or indirect computer interface with the plant's production resources.

Applicant. An owner or authorized agent of the owner submitting an application or appealing an action of any official, board or agency.

Application. The completed form or forms and all accompanying documents, exhibits, and fees required of an applicant by an approving authority for development review, approval or permitting purposes.

Building stories. The portion of a building between the upper surface of any floor and the upper surface of any floor next above having no more than one-half its height above the average elevation of the finished lot grade adjoining the building, and any portion of a building used for human occupancy between the topmost floor and the roof. In any building not divided into customary stories, each ten feet of building height shall be counted as one story.

Coastal Resources Management Program (650-RICR-20-00-01), also known as the "Red Book." A program administered by CRMC, and contains the policies and regulations for uses in tidal waters, shoreline features and contiguous areas. See also Metro Bay Region Special Area Management Plan.

Commission. The East Providence Waterfront special development district commission enabled by state statutes and charged with overseeing, planning, implementing and administering the development of areas within the East Providence Waterfront special development district.

Conditional use provisions. A use permitted pursuant to and in accordance with the conditions and/or circumstances issued by the East Providence Waterfront special development district commission pursuant to state statutes.

Continuing care. An age restricted development that provides a continuum of accommodations and care, consisting of a mix of independent and/or assisted living accommodations and long-term bed care together with a variety of ancillary uses. Permitted ancillary uses which are subordinate and incidental to a continuing care facility include: community facilities and meeting rooms for social civic, cultural and educational activities; recreational facilities for residents and their guests; common living, dining, laundry security and housekeeping facilities; central kitchen for food served in dining areas or for distribution to resident living units; medical and dental services for residents; retail shops for sale of goods or rendering of personal services to residents and guests; and sales offices.

Development. The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any change in use, or alteration or extension of the use, of land.

Developer. Any land owner, agent of a land owner or tenant with permission of such land owner, who makes an application for development.

Deviations. Permission to deviate from the area and performance standards of these regulations which regulate the manner in which a use permitted may be implemented by the owner as approved by the commission.

Entertainment/clubs. An establishment dispensing liquor and meals and in which live music, dancing, or entertainment is conducted.

Executive director. The primary liaison between the developer and each of the reviewing bodies within the waterfront development district, responsible for coordinating review of development projects and coordination of activities of the commission.

Flex tech. A mixed-use office/warehouse which is designed to accommodate users with flexible space needs. Primary uses include general business, office, artisan and technological development, as well as low-scale light manufacturing uses, including warehouse distribution centers. The design of the building includes potential for expansion or consolidation, and shared common space between tenants for services such as reception, restrooms or other accessory uses.

Food stores. A single store which offers for sale, primarily, most of the following articles: Bread, milk, cheese, canned and bottled foods and drinks, tobacco products, candy, papers and magazines and general hardware articles. Does not include sales of gasoline or other fuels.

Light manufacturing. The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales and distribution of such products, but excluding raw materials industrial processing. These activities do not necessitate the storage of large volumes of hazardous, flammable, toxic matter or explosive materials needed for the manufacturing process. These activities do not include manufacturing processes predominantly comprised of hazardous, flammable, toxic or explosive materials. These activities shall take place within a wholly enclosed building.

Marina. A complex of boating facilities designed as a unit, including such facilities as permanent slips, launching ramps, ships' stores, minor repairs and accommodations for eating, and excluding major overhaul and repair, winter storage and boat sales.

Massage therapy. The practice of massage by a licensed massage therapist using a scientific system of activity to the muscular structure of the human body by means of stroking, kneading, tapping and vibrating with the hands or vibrators for the purpose of improving muscle tone and circulation.

Massage therapy establishment. An establishment approved and otherwise regulated by the licensing agency, which is the State of Rhode Island Department of Health, operating in conformance with all pertinent rules and regulations of the State of Rhode Island and all city ordinances and license requirements. Proof of a current license issued by the department of health shall be posted on the premises in a location visible to customers.

Metro Bay Region Special Area Management Plan (650-RICR-20-00-5), as amended. A planning and regulatory document administered by CRMC to guide and facilitate waterfront redevelopment with the Urban Coastal Greenways Policy for Providence Harbor and Seekonk River areas, and used in conjunction with the Coastal Resources Management Program, as amended.

Nonconforming structure. A building or structure, or parcel of land not in compliance with the performance standards or site development criteria of this chapter.

Nonconforming use. A lawfully established use of land, building or structure which is not a permitted use in that zoning district. A building or structure containing more dwelling units than are permitted by the use regulations of a zoning ordinance shall be a nonconforming use.

Parking structure. A structure or portion of a structure of one or more levels or floors associated with a permitted or conditional use and used exclusively for the parking of vehicles and which may be totally below grade (as in an underground garage) or either partially or totally above grade with those levels being either open or enclosed.

Performance standards. A system of development regulations that promotes flexibility in site design through prescribed standards for building placement and coverage, open space, density, parking provisions and impervious surfaces.

Permitted use. A use by right which is specifically authorized in a particular zoning district.

Prohibited use. A use of land which is specifically unauthorized in a particular zoning district due to incompatibility with surrounding uses or negative impacts to the public well being.

Special Area Management Plan, also known as the "Green Book," is a planning and regulatory document adopted by the Rhode Island Coastal Resources Management Council, CRMC, to guide and facilitate waterfront redevelopment in the Providence Harbor area, and used in conjunction with the Coastal Resources Management Program, as amended.

Sub-districts. Areas within the East Providence Waterfront district that due to geographical or surrounding physical context have been identified as being better suited for particular land uses and densities.

Waterfront development district. An independent public instrumentality and body corporate and politic for the purposes set forth in this chapter with a separate legal existence from the city and from the state and the exercise by the district of the powers conferred by this chapter shall be deemed and held to be the performance of an essential public function. The boundaries of the district have been established by ordinance of the city council. The district shall oversee, plan, implement, and administer the development of areas within the district.

(Ch. 317, § I, 3-2-04; Ch. 470A, § VIII, 10-7-08; Ch. 738, § II, 5-21-19)

Sec. 19-472. Sub-districts defined.

The waterfront development district consists of a series of sub-districts that due to geographical or surrounding physical context have been identified by the city in the comprehensive plan and the East Providence Waterfront special development district plan as being suitable for various land uses and densities. Notwithstanding to other provisions of this article, the following sub-districts are herein defined:

- (1) *Kettle Point.* The Kettle Point sub-district generally extends from the Watchemoket Cove southerly to the Squantum Woods Reservation, which, along with a portion of Veterans Memorial Parkway, also borders this district to the east. The district extends down to the Providence River as the western boundary.
- (2) *Veterans Memorial Parkway.* The Veterans Memorial Parkway sub-district generally extends from Teofila Braga Way to Watchemoket Cove. Properties on the westerly side of the Veteran's Memorial Parkway are included in this sub-district from the beginning of the Parkway to Watchemoket Cove.
- (3) *Bold Point Harbor.* The Bold Point Harbor sub-district generally extends from the Washington Bridge (I-195) southerly to the Providence and Worcester South Quay, and extends from the waterfront inland easterly to include portions of Warren Avenue (the historic area of the former Watchemoket Square), and First Street (from Warren Avenue to Mauran Avenue).
- (4) *Crook Point.* The Crook Point sub-district generally extends along the Seekonk River from the Washington Bridge (Interstate 195) northerly to the Henderson Bridge, bordered on the east by Valley Street, North Brow Street, and a small portion of South Brow Street.

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- (5) *Dexter Road.* The Dexter Road sub-district generally extends from the Henderson Bridge northerly to Omega Pond. This sub-district includes all those properties fronting on, or gaining access from, Dexter Road. This sub-district is bordered on the east in part by Massasoit Avenue and by a Providence and Worcester rail corridor. The western boundary of the sub-district extends to the Seekonk River.
 - (6) *Phillipsdale.* The Phillipsdale sub-district extends from Roger Williams Avenue northerly to the Narragansett Bay Commission Bucklin Point Water Pollution Control facility, including properties located off Bourne Avenue (west of Roger Williams Avenue) and Noyes Avenue. The westerly boundary of this sub-district extends to the Seekonk River. The Roger Williams Avenue corridor (including properties on both sides of the street) from Magnolia Avenue northerly to approximately Ruth Avenue is included within this sub-district.
 - (7) *Pawtucket Avenue.* The Pawtucket Avenue sub-district is located at 10 New Road and Pawtucket Avenue, and 105 Pawtucket Avenue, the property is the former Fram Automotive property.
 - (8) *Taunton Avenue.* The Taunton Avenue sub-district consists of properties which are impacted by the proposed transportation improvements for the Interstate 195 highway ramping changes, and three vacant and deteriorating properties along Taunton Avenue.
 - (9) *Metacomet.* The Metacomet sub-district is located at 500 Veterans Memorial Parkway.

(Ch. 317, § I, 3-2-04; Ch. 810, § I, 7-20-21)

Sec. 19-473. Administration.

The East Providence Waterfront special development district commission was created under Rhode Island Public Law 2003, Chapter 345. The commission consists of 17 members: five members shall be appointed by the city council; five members shall be appointed by the governor with the advice and consent of the senate; the mayor and the governor shall jointly appoint a member who shall serve as the chairperson; and there shall be six ex officio non-voting members, including the mayor, the city planning director, the public works director, the executive director of the RI Economic Development Corporation, the director of the department of transportation, and the director of the department of environmental management or an associate director designated by the director.

All development in the East Providence Waterfront special development district shall be subject to review and approval by the East Providence Waterfront special development district commission. To assist in the design review of projects the East Providence Waterfront special development district commission has created two committees: the design review committee (DRC) and the hearing panel (HP), Members on the committees are appointed by the commission.

- (1) *Reviewing body roles and responsibilities.*
 - a. Administration for the East Providence Waterfront special development district commission shall be coordinated by an executive director. Initial review of all projects shall be made by the executive director who shall also serve as the primary liaison between the development and each of the reviewing bodies. The primary role of the executive director shall be to determine whether the application package is complete. The executive director may use technical support from the state and the city and depending upon need and budgetary constraints, the executive director may retain outside consultants with the approval of the commission. The resources available to the executive director may include expertise in architecture/urban design, real estate development, planning and law.
 - b. The design review committee shall review all applications for the development of parcels in the waterfront district, including conformance with the city land development and subdivision review

regulations, conformance with or proposed amendments to the performance standards and site development criteria, plans for public improvements, and requests for deviations or conditional use provisions. It shall evaluate each application presented by the executive director for conformance with the reviewing criteria set forth in section 19-483 herein and make recommendations to the hearing panel and the commission for their action as set forth in these procedures.

The design review committee shall distribute copies of pertinent portions of the application under the planning board's purview to the planning board for review for conformance with the purposes and intent of the city comprehensive plan. The planning board shall respond with comments on applications within 30 days from the date of receipt.

Any meetings or actions of the design review committee shall be conducted in accordance with section 19-477 of this article. The design review committee shall hold one public hearing on each application pursuant to and in accordance with the procedures set forth in section 19-477, including the procedures for public notice set forth in section 19-479.

- c. The commission may designate a hearing panel to which the executive director may refer applications for deviations, or conditional use provisions. Such review by the hearing panel shall take place after the review and recommendation of the design review committee. Standards for instances where deviations or conditional use provisions shall be reviewed by the hearing panel are set forth in section 19-477.

In the case of any application for a deviation or conditional use provision approval to the performance standards or the site development criteria referred to the hearing panel, the hearing panel shall hold a public hearing on each such application pursuant to and set forth in section 19-477, including the procedures for public notices set forth in section 19-477.

- d. The recommendations of the design review committee, the transcript of any public hearing(s), and, where reference to the hearing panel established pursuant to section 19-477 has been made, the finding of fact of the hearing panel shall be forwarded to the commission, the only body authorized to make a decision of the merits of the application.

Any meetings or actions of the East Providence Waterfront special development district commission shall be conducted in accordance with section 19-477. The commission shall review the record and hold a public hearing on each application, for which notice shall be given in accordance with the procedures set forth in section 19-477.

In each case where no reference to the hearing panel has been made, the commission shall receive such evidence as the parties may present on questions of fact and may approve, modify or reject the recommendations of the design review committee. Where reference to the hearing panel has been made, the commission shall not hear new evidence and shall not substitute its judgment for that of the hearing panel as to the weight of the evidence of questions of fact, but may approve, modify or reject the recommendations of the design review committee and the hearing panel. The commission may remand the matter to the design review committee, or, where an initial reference has been made to the hearing panel, to the hearing panel for further findings or other action.

If after a public hearing or at any step of the review process, the commission approves a project in a form materially different than the form in which the project was submitted to the public hearing, the commission shall determine whether a hearing on the project as approved is required. If so, a subsequent hearing shall be held in accordance with section 19-477.

A majority of the appointed voting commissioners shall constitute a quorum for the transaction of business at a meeting. The affirmative vote of a majority of the members of the commission at a meeting which a quorum is present shall be necessary to render a decision.

(Ch. 317, § I, 3-2-04; Ch. 738, § III, 5-21-19)

Sec. 19-474. Design review committee.

- (a) The design review committee shall consist of three commissioners (the "commission members"), the city planning director or his/her designee, the public works director or his/her designee, and four other individuals having the following qualifications:
- (1) One member shall be an architect licensed as such under the laws of the state who is presently engaged in practice and is familiar with principles and practices of urban design.
 - (2) One member shall be a landscape architect licensed as such under the laws of the state who is presently engaged in practice and is familiar with context sensitive site design, sustainable site practices, and local and regional hardscape and plant materials.
 - (3) One member shall be familiar with the financial aspects of real estate development, with experience in implementing large scale construction or land development projects.
 - (4) One member shall be a professional engaged in other design trades as determined feasible and appropriate by the commission. The non-board members of the design review committee are hereinafter referred to as the "advisory members."
- (b) Members of the design review committee shall serve initial staggered terms of one, two, and three years, as follows:
- (1) One commission member and one advisory member shall each serve for a term of one year or until his/her death or resignation or until his/her successor is appointed and shall have qualified.
 - (2) One commission member and one advisory member shall serve for a term of two years or until his/her death or resignation or until his or her successor is appointed and shall have qualified.
 - (3) The chairman of the design review committee, one commission member, and one advisory member shall each serve for a term of three years or until his/her death or resignation or until his/her successor is appointed and shall have qualified.
 - (4) The city planning director and the public works director shall serve as ongoing members of the design review committee until his/her death or resignation or until his/her successor is appointed and shall have qualified.
- The terms of each member of the design review committee shall be for three years. Each member of the design review committee shall be appointed by the board of commissioners, and a chairman of the design review committee shall be selected from among the commission members by the board of commissioners.
- (c) The chairman shall invite the following individuals or their designees to attend each meeting of the design review committee. However, these individuals shall have no authority to vote on committee matters:
- (1) The city manager;
 - (2) The executive director of the Rhode Island Economic Development Corporation;
 - (3) The director of the department of transportation;
 - (4) The director of the department of environmental management;
 - (5) The director of the Rhode Island Coastal Resources Management Council.

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- (d) A majority of the design review committee shall constitute a quorum for the transaction of business at a meeting. The affirmative vote of a majority of the members of the design review committee at a meeting at which a quorum is present shall be necessary to adopt recommendations to be made to the hearing panel (if required) and to the board of commissioners.

(Ch. 317, § 1, 3-2-04)

Sec. 19-475. Hearing panel.

The commission shall designate from among its members a hearing panel consisting of five members, none of whom shall be serving a concurrent term on the design review committee. The members of the hearing panel shall serve a one-year term commencing on January of each year until such member's death, resignation or removal from the board of commissioners or until his or her successor shall have been appointed or shall have qualified. The board of commissioners shall appoint a chairperson from among the hearing panel members and said members shall constitute a committee of the board of commissioners.

(Ch. 317, § 1, 3-2-04)

Sec. 19-476. Procedure and applications.

- (a) Prior to the submission of a formal application for the development and design of a parcel or parcels, developers are encouraged to meet with the executive director on an informal basis to discuss the submittal requirements, performance standards for the waterfront district, the site development criteria and the commission's review process. Pre-application workshops are required, and shall include the review of the city zoning officer.
- (b) Process.
- (1) Before any structure may be erected, constructed, altered, repaired or demolished within the waterfront district, and prior to submitting an application, the person proposing such construction or other alteration shall meet with the executive director and city staff, including the planning director, DPW director, and fire chief for a pre-application meeting. This staff-level meeting shall be held prior to meeting with the design review committee of the commission in a series of design workshops to review and revise the project for conformance to these regulations.
 - (2) Before any structure may be erected, constructed, altered, repaired or demolished within the waterfront district, and following the design workshops, the person proposing such construction or other alteration shall file with the commission such application for permission to erect, construct, alter, repair or demolish such structure, together with such plans and specifications as the commission may reasonably require as a result of the design review process.
 - (3) The application for a permit shall be submitted in a format required by the commission and containing such information, drawings, plans and specifications as specifically requested and any additional information that the commission may reasonably request. Each application shall specifically include a statement describing how the proposed site plan and building design meet the spirit and intent of these regulations and the East Providence Waterfront Special Development District Plan. All plans submitted as part of the application package shall be stamped by the appropriate licensed professional in accordance with state law.
 - (4) If the commission shall fail to act on an application, which is complete in form and substance, within 40 days from the date of filing, the application shall be deemed to constitute approval unless the commission and the applicant shall mutually agree upon an extension of time in which the commission may make its decision, or unless the commission shall make a finding of fact that circumstances require

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additional time for study, in either case up to a maximum of 90 days. Said mutual extension of time or said finding of fact shall be in writing and signed by a designated representative of the commission and by the party in interest. Such presumptive approval, should it occur, shall not, however, automatically also be deemed in conformance with applicable municipal, state and/or federal agency requirements, i.e., CRMC, ACO, etc. if in their respective jurisdiction(s). Additional approvals may be required from these agencies.

- (5) The design review committee shall to the extent practicable incorporate the findings, policies and regulations of the Coastal Resources Management Program in order to foster the best design and the smoothest decision-making process. Applicants shall be advised of the likely need for a CRMC assent and strongly encouraged to address the respective requirements.

(c) Submittal requirements.

- (1) The applicant shall file with the commission (number to be determined) copies each of the application and documentation related to the project. The application and plans must be accompanied by the required filing fee, as approved by the commission and may be amended from time to time. The application should also include any supporting documentation as determined in the preapplication conference with the executive director or the workshops with the design review committee.
- (2) The applicant shall include a brief description of the project, including the project names, a summary of uses, size of buildings, square footage by use, total number of parking spaces, and a listing of public amenities. The description must include certification from the applicant's architect that the project complies with the intent of these regulations. If the project does not comply with the site development criteria contained within these regulations, or with the city zoning ordinance, a fully documented explanation of the requested deviations and/or conditional use provisions must be provided.
- (3) A phasing plan, if phasing is required, that includes, in part, the proposed schedule for completion of the development of the entire parcel and justification for the phasing request.
- (4) A rendering, showing the project and its relationship to surrounding structures and context shall be included.
- (5) A site plan containing the following information:
 - a. All site plans shall be drawn to a scale of one inch equals 20 feet, one inch equals 40 feet or one inch equals 80 feet, whichever is appropriate to the size of the proposal. All distances shall be in feet and decimals of a foot and all bearings shall be given to the nearest ten seconds. The error of closure shall not exceed one to 10,000. Digitized map data on computer storage mediums (if available) may be submitted in addition to the site plans.
 - b. A key map, drawn to scale of no less than one inch equals 200 feet, showing the location of the tract with reference to surrounding areas and existing street intersections, and all zoning district boundaries within 500 feet.
 - c. North arrow, scale of map, assessor's plat information (map, block and parcel), and name, address, license number and seal of the person preparing the site plan.
 - d. Date of site plan. All revisions must be noted and dated.
 - e. Name of the proposed development, and the name and address of both the record owner and applicant. If the owner of record is a corporation, the name and address of the president and secretary shall be submitted with the application.
 - f. The assessor's plat information (map, block and parcel) and names of all owners of record of all properties within 200 feet of the subject property.

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- g. Boundaries of the property and lines of existing streets, lots, reservation, easements and areas dedicated to public use, including grants, restrictions and rights-of-way. The boundaries of the property shall also be marked in the field by survey flags or some other means acceptable to the commission, to identify limits of the property.
 - h. Acreage of parcel to the nearest tenth of an acre.
 - i. The waterfront district zoning boundaries must be shown on the site plan.
 - j. Zoning data block showing all calculations necessary to develop site and building dimensions based upon the performance standards.
 - k. All distances as measured along the right-of-way lines of existing streets abutting the property to the nearest intersection with any other public street.
 - l. Existing contours (with intervals of two feet where slopes are more than three percent but less than 15 percent, and five feet where slopes are 15 percent or more) referred to city datum, are to be indicated by a dashed line. Where any changes in contours are proposed, finished grades must be shown as solid lines. Spot evaluations must also be shown.
 - m. Location of existing environmental features including general soil types, rock outcrops, wooded areas and major trees (12-inch caliper and over), watercourses, depressions, ponds, marshes, wetlands, floodplains, and other significant environmental features including previous flood elevation of watercourses, ponds and marsh areas as determined by survey. If any portion of the proposed development is located within a flood hazard area as defined in section 19-306 of the city zoning ordinance, base flood elevation data must be provided.
 - n. Location and spot elevations of existing buildings, which shall remain and all other existing structures such as walls, fences, culverts, bridges, roadways, etc. Structures to be removed shall be indicated by dashed lines.
 - o. A place for the signature of the commission members must be provided on all plans and/or documents to be approved by the commission.
 - p. The proposed use or uses of land, buildings, structures, and equipment and the proposed location of buildings, structures and equipment including proposed grades. Such features must be indicated on a separate drawing where required by the building inspector. Floor space of all buildings shall also be indicated.
 - q. The location, type and density of land use to be allocated to parts of the site to be developed.
 - r. Layout, floor plans, architectural elevations, (with measurements as needed for each interpretation) and height (including relationship to existing and proposed grades) of proposed buildings, structures or equipment. Exterior elevations must include articulation of entries and rooflines and any roof structures.
 - s. Samples and descriptions of building materials to be used for all facades, roofs and architectural elements.
 - t. Sketches as needed to illustrate the visual impact on the community, with emphasis given to preserving and protecting view corridors to and from the waterfront.
 - u. Location, size, sketch and illumination, if any, of proposed signs.
 - v. 1. A drainage plan that incorporates the change in land use and routes stormflow through the site to meet requirements set by the city shall be submitted. The drainage plan shall consist of a plan showing existing and proposed drainage structures, drainage basin areas and drainage flow paths. Also included shall be a report summarizing drainage calculations. The rational method,

SCS TR55 or method approved by the city engineer shall be used for runoff calculations. The design storm condition shall be one with a 25-year return period. Where use of aboveground or underground retention or detention basin is proposed, the 25-year design storm shall be used in design calculations, unless such detention or retention system is located in a special flood hazard zone, in which case a 100-year design storm shall be used. Calculations shall include predevelopment and post development conditions. Redevelopment runoff rates based on assumption of vacant land site conditions from the proposed site shall be maintained unless approved by the commission. The drainage plan shall address potential impacts on downstream properties based on a 25-year storm.

Off-site analysis of runoff shall be included in the drainage plan when applicable. All drainage structures shall conform to the standard specification of the city and subject to approval of the city engineer.

For all retention or detention basins, whether aboveground or underground, percolation tests or test pits shall be performed at the proposed site of the basin. This information will determine the suitability of the subsurface to accommodate the designed basin.

2. Location of all existing and proposed sanitary sewers, water mains and other utilities, whether publicly or privately owned, above or underground showing pipe sizes, grades and directions of flow. All proposed sanitary sewers, water mains and other utilities shall conform to the applicable requirements and standards of the city and the appropriate utility.
 - w. The proposed location, direction of illumination, power and time of proposed outdoor lighting, and the location of any outdoor storage areas and dumpsters.
 - x. The proposed screening and landscaping plan, as well as all other landscaping materials and treatments such as paving, lighting and street furniture. Such plan shall indicate the location, type and size of all plantings, both at time of planting and at maturity. The plan shall be prepared by a registered landscape architect unless such requirement is specifically waived by the commission.
 - y. All means of vehicular access to and from the site onto public streets showing the size and location of driveways, curb cuts, parking and loading areas, and other off-site traffic improvements necessary to ensure public safety.
 - z. All proposed streets with profiles indicating grading, and cross sections showing width of roadway and location and width of sidewalks. All proposed improvements must be designed and constructed according to the standards and specifications of the city.
 - aa. Such other information as may be required to show that the details of the site plan are in accordance with this section and all applicable requirements and standards of this article.
- (d) Supporting documentation.
- (1) An impact assessment shall be prepared in support of all applications, except that the commission, as part of a preapplication review, may decide that the project is not of a size or nature requiring an impact assessment or may scope an impact assessment focusing on one or more significant impacts. Where the project will involve obtaining a CRMC assent, the applicant will be encouraged to integrate documentation. Such a decision regarding the scope of the impact assessment shall be rendered within one week of the preapplication conference. The commission shall provide the applicant with written justification as to why each element of the impact assessment is being required and will coordinate with the CRMC to consolidate information requirements to the greatest practicable extent.

The impact assessment must be prepared by recognized professionals; the names, education, disciplines and experience of whom shall be included in the report.

The assessment will include an evaluation of all influences, both positive and negative, which can be expected to affect the natural and manmade environment in the vicinity of the proposed project, or will demonstrate the lack of any such impact. Both direct and indirect impacts shall be evaluated. A traffic impact study, as described below, must be included as part of the impact assessment. Other impacts which shall be considered as part of the impact assessment are environmental, waterfront protection and access, scenic, view corridor protection, use-compatibility, noise, air quality and similar such items.

Methods designed to mitigate, and where appropriate, monitor the impacts shall be proposed; the party responsible for implementing the mitigation and monitoring shall be identified. The commission may require the applicant to pay the reasonable costs of such consultants as the commission may deem reasonably necessary to assist in the evaluation of the impact assessment. The consultant shall be selected only after consultation with the applicant, and only upon the joint review and approval of the experience and qualification of the consultant, and joint review and approval of the proposed scope of work and cost estimate. A written report of such consultant review shall be provided to the commission and the applicant.

To provide assurances that performance standards are not to be exceeded, the commission may require, as a condition of the plan approval, that independent environmental monitoring be conducted periodically; the commission shall approve the monitoring firm and such monitoring will be supervised by the commission and carried out at the expense of the applicant. The applicant, as part of its application, shall propose appropriate monitoring activities consistent with the foregoing.

It is suggested that an outline of the impact assessment be submitted for review during the preapplication meeting.

- (2) A traffic impact study (TIS) analyzing both on-site and off-site conditions as they affect surrounding areas. The TIS shall be prepared by a firm that is licensed to do work as an engineer in the state. The purpose of a TIS is to review impacts of the proposed development on the local and state highways system. The evaluation should consider traffic capacity, signalization and safety issues. This report will be used to determine the needed improvements in the vicinity of the site access and provide data to the commission, the city and RIDOT on what off-site improvements need to be considered.

The following are intended as guidelines for preparing a traffic impact report for developments within the waterfront development districts.

A TIS may be required for any development that generates more than 50 peak hour trips. For any TIS prepared as a requirement of these guidelines, with a lower threshold, the report will conform to these guidelines.

Once it is determined that an impact study is required, a scoping meeting may be held with the developer or his consultant and the appropriate representatives of the city and or commission. It will be the responsibility of the consultant to initiate this meeting, working through these development requirements. The purpose of this meeting is to discuss site specific information concerning the development. All interested parties should receive copies of the minutes from this meeting.

The study area should generally be in accordance with generally accepted practices for traffic impact studies; however, in all cases the network should be analyzed to the nearest signalized public street intersection in all directions from each access point; generally not greater than one mile from the access point(s).

An impact study report should include the following information:

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- a. Table of contents.
 - b. Introduction with and explanation of the project, purpose of the report, and an area map showing site location.
 - c. A description of existing conditions, including traffic counts and analysis, and sketches of existing roadway configurations.
 - d. Background conditions without site development, including annual growth in traffic to build year, if appropriate, Traffic generated by other approved developments, and a background analysis (with background traffic equal to existing traffic plus growth in existing traffic and that of other approved developments in the area), and background analysis with approved/funded highway projects.
 - e. Projected conditions, with development of the site, including: traffic generated by the proposed development (i.e. site generated traffic) at build out, and/or at any significant stage of development, total traffic analysis (where total traffic is equal to existing traffic plus background growth plus additional approved development in the area and proposed site generated traffic; and, an analysis of total traffic with improvements.
 - f. Conclusions/Recommendations that explain the results of analysis, and consultant/developer or RIDOT suggestions for reasonable improvements to mitigate the site traffic impacts (The level-of-service (LOS) standard that should be achieved at state intersections is "D.")
 - g. Appendix, including all work sheets, traffic counts and pertinent correspondence.

The following is a more detailed explanation of the various aspects involved in preparing the report:

- a. Existing traffic shall include traffic counts performed at each intersection to be analyzed, if current turning movement counts are not available. The most recent traffic volume counts, whether by RIDOT, consultant or the city, may be used for the study. Counts should, as a rule, not be more than one year old from when the report is prepared. Counts between one and three years old may be used if factored to the current year. Counts older than three years will not be accepted.

Peak hour counts are acceptable at intersections, generally from 7:00 to 9:00 a.m. and from 4:00 to 6:00 p.m.

Counts are not to be taken on state or federal holidays.

The presence of schools in the area must be considered when determining the date of counts.
- b. Analysis of all intersections will be analyzed using the Highway Capacity Manual (HCM) at the most up to date version at the time.
- c. Trip generation and distribution should use local trip generation rates. If local rates are not available, the latest ITE trip generation rates should be used. In the event ITE does not address the development, or is of a limited sample size, studies of similar uses may be used. Documentation of these studies should be submitted for verification. There must be some discussion of the assumptions behind the distribution of generated trips (both for the site and other approved developments in the area). The methodology to be used should be discussed at the scoping meeting.
- d. Growth in existing traffic. Growth in existing traffic is described as a factor representative of travel growth outside the study area. This factor should be applied to the existing through traffic, and appropriate turning movements, before approved development traffic is applied. The volume should be compounded to the reasonable build out years, typically 3—10 years, depending on the build out schedule. For developments with a build out of less than 3 years,

growth in existing traffic need not be applied. If the city does not require growth in existing traffic, then this factor should not be applied.

- e. Approved development traffic. Approved development traffic is described as traffic generated by all approved developments within the area at the time of the report preparation. These sites can be obtained from the city and should be documented in the TIS.
- f. Background analysis. Background analysis includes existing traffic, plus growth in existing traffic, plus approved development. This analysis should take into consideration all transportation improvements expected to be in place within the study area. These improvements should include those which are already programmed or bonded by the state, the city or developer(s). These improvements should be documented in the TIS.
- g. Projected conditions shall include traffic which will be generated by the development and total traffic calculated after the site traffic is projected. After total traffic is developed, an analysis of traffic operations, with projected future roadway improvements in place (i.e. improvements addressed in the background analysis), is to be performed.

After the analysis of total traffic is completed, all intersections and/or links within the study area resulting in a level-of-service worse than "D" must be identified and improvement(s) recommended.

- h. Conclusions/recommendations should identify any improvement suggested as being implemented by "others" and should indicate by whom. If the improvements are funded by a public agency (i.e. the RIDOT), then a copy of the page from the appropriate document should be included in the report. If funded by another developer, then documentation should likewise be included.

There must be some discussion of the feasibility of constructing any recommended improvements. While detailed construction plans are not expected, some discussion of any obvious constraints is necessary.

Consideration should be given to providing improvements at locations that experience a significant decrease in capacity due to the proposed development. A final analysis of the study area must be performed to include any recommended improvements. If a traffic signal is to be proposed, then a signal warrant analysis must be performed in accordance with RIDOT's warrant analysis procedures, and included in the report. After review of this analysis, RIDOT may require additional study, including exploring other alternatives to signalization, before reaching a final determination on the need for a signal.

The report should include a discussion of the improvements that the developer will construct and/or fund as part of the, development proposal.

- (3) The location and size of any common or public open space, including public access to and along the waterfront, and the form of organization proposed to own and maintain any common or public open space areas. The proposed organization shall include provisions which recognize the right of the commission or the city to enforce the maintenance of common open space in reasonable order and condition and to assess the property owners for the cost of such maintenance in the event of the failure of the organization to maintain the common open space. Such assessment shall become a lien on the properties. This will be carried out in conjunction with Rhode Island Coastal Resources Management Council policies and decisions on public access and rights-of-way to the shore.
- (4) A copy of any covenants, deed restrictions or conditional provisions that are intended to cover all or any part of the tract.

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- (5) A survey prepared by a licensed professional land surveyor in accordance with the Procedural and Technical Standards for the Practice of Land Surveying in the State of Rhode Island and Providence Plantations shall accompany the site plan and shall show the boundaries of the parcel and the limits of all proposed streets, recreation areas, and other property to be dedicated to public use. Appropriate assurances shall be provided by the applicant to the commission indicating that all private roads and other applicable facilities will be maintained, and other supplementary services will be provided by the applicant or successors and assigns.

(Ch. 317, § I, 3-2-04; Ch. 738, § IV, 5-21-19)

Sec. 19-477. Public hearings and notice requirements.

- (a) *Public hearings.* Public hearings shall be held on the initial application and on requests for deviations and conditional use provisions. The commission shall also have the authority to call and conduct public hearings, in accordance with established procedures, on any matters which the commission determines would benefit from a public hearing.
- (1) *Design review committee.* The design review committee shall evaluate each application for conformance with the regulations and reviewing criteria and shall make recommendations to the hearing panel and/or the East Providence Waterfront special development district commission for their action.
- (2) *Hearing panel.* Public hearings before the hearing panel shall be set within a reasonable time not to exceed 30 days from the date of the design review committee public hearing. It is the role of the hearing panel, if required, to summarize the facts brought out at the public hearings and submit its findings to the East Providence Waterfront special development district commission.
- (3) *East Providence waterfront special development district commission.* Public hearings before the commission shall be set within a reasonable time not to exceed 30 days from the date of the design review committee public hearing or not to exceed 30 days from the date of any required public hearing before the hearing panel. At its public hearing, the commission will receive such evidence as the parties may present and may approve, modify or reject the recommendations of the design review committee and the hearing panel. Decisions of the commission shall be in writing and shall state the facts upon which the decision is based.
- (b) *Public notice.* Public hearings shall be noticed in accordance with the Open Meetings Act (100-RICR-4 0-15-2).
- (1) Published at least 14 days prior to the date of such hearing in a newspaper of general circulation in the city.
- (2) Sent by first class mail to the applicant.
- (3) Sent registered or certified mail to all owners of real property whose property is located at or within a 200-foot radius of the perimeter of the subject property. The applicant shall submit to the commission two (2) lists of names and mailing addresses (including zip codes) of the property owners within the 200-foot radius at least 14 days prior to the public hearing. The list of property owners must be in accordance with the latest listing available in the office of the city tax assessor, and such names and address shall be listed by plat and lot numbers. At least two days prior to the hearing date, the applicant shall file with the commission a certification under oath that notice was mailed in accordance with this regulation. Within 30 days of mailing of notice, the applicant shall file with the commission all return receipts for the certified mailing notice. Any notices which were not deliverable for any reason shall also be filed with the commission by the applicant.

The costs associated with any notice and advertising required under this section shall be borne by the applicant.

- (4) Sent by first class mail to the city or town council, of any city or town that is located at or within 200 feet of the boundary of the subject area.
 - (5) Sent first class mail to the city or town of any city or town where there is a public or quasi-public water source or private water source that is used or is suitable for use as a public water source, at or within 2,000 feet of the subject property, regardless of the municipal boundaries.
 - (6) Sent to the governing body of any state or municipal water department or agency, special district, or private water company that has riparian rights to a surface water resource and/or surface watershed that is used or is suitable for use as a public water source and that is at or within 2,000 feet of the subject property, provided however, that the governing body of any state or municipal water department or agency, special water district or private water company has filed with the building inspector in the city with a map survey which shall be kept as a public record, showing areas of surface water resources and/or watersheds and parcels of land at or within 2,000 feet thereof.
 - (7) The newspaper notice shall use a type size at least as large as the normal type size used by the newspaper in its news articles, and shall specify the place of the hearing and the date and time of its commencement; indicate that an application for new development and/or for a deviation, conditional use provision is under consideration; contain a statement or summary describing the matter under consideration; advise those interested when a copy of the matter under consideration may be obtained or examined and copied; and, state that the proposals shown thereon may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any alteration or amendment must be presented for comment in the course of the hearing.
- (c) Any party may appear at the public hearing in person, or by agent or attorney. The hearing held by the commission is a public meeting and all decisions reached by the commission shall be made and voted upon at a public meeting. The commission shall hear all evidence on the request, and consider the written reports by commission staff or other relevant agencies when reaching a decision on the findings.

(Ch. 317, § I, 3-2-04; Ch. 738, § V, 5-21-19)

Sec. 19-478. Issuance of permits.

- (a) Upon making a decision, the commission shall file with the building inspector, or such other duly delegated authority, a certificate of approval or certificate of rejection of all plans submitted to it for review. No construction and/or demolition shall begin until a certificate of approval has been filed. In the event the commission issues a certificate of rejection, such certificate of rejection shall be binding upon the building inspector or other duly delegated authority, and no permit shall be issued in such case.
- (b) In the event that a certificate of approval is issued, the applicant must then file the certificate of approval with the building inspector when requesting a permit. The applicant shall make no changes to the plans after issuance of a certificate of approval without the written consent of the commission or a duly authorized commission official, in accordance with written procedures established by the commission and applicable in a uniform and non-discriminatory manner to all applicants who have received certificate of approval for plans.
- (c) No permit shall be granted by the city building inspector until the commission has acted thereon and is hereinafter provided, and no construction or alteration of a structure may be undertaken without such permit.

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- (d) Follow-up review. At the completion of design development and at other times as the commission may deem appropriate, the developer shall submit additional design materials to the commission for the purpose of determining whether the developer is proceeding in accordance with the certificate of approval. The developer shall notify the commission of any design changes subsequent to the date of the certificate of approval on a follow-up review form provided by the commission.
 - (e) Time limit on approval. The approval of a plan, or modification or amendment thereof, shall remain effective for a period of two years from the date of the recorded notice of decision. Vesting may be extended for a subsequent one-year period, for good cause shown, if requested in writing by the applicant prior to the expiration of the initial two-year period, and approved by the East Providence Waterfront special development district commission. Vesting shall include all general and specific conditions as shown on the recorded notice of decision and/or plan. No more than three one-year extensions shall be considered. At the termination of the extension period, submission and approval of a new application shall be required. Requests for extension of time shall be made to the executive director and accompanied by a check payable to the East Providence Waterfront Commission in the amount of \$500.00.

(Ch. 317, § I, 3-2-04; Ch. 738, § VI, 5-21-19)

Sec. 19-479. Deviations and conditional use provisions.

- (a) Pursuant to and in accordance with G.L. 1956, § 45-24.4-13, the commission may entertain applications for, and in its discretion, grant or deny, deviations and conditional use provisions from these regulations.
- (b) As provided herein, "deviations" shall mean permission to deviate from the area and performance standards of these regulations which regulate the manner in which a use permitted under the terms of these regulations may be implemented by the owner.
- (c) As used herein, "conditional use provisions" shall mean a use permitted in these regulations pursuant to and in accordance with the conditions and/or circumstances established in these regulations.
- (d) Deviations to the terms of these regulations may be granted by the commission when literal enforcement of the regulations relating to setbacks, building heights, parking requirements and other area and dimensional restrictions set forth in the performance standards as outlined in section (g) would preclude the full enjoyment of the owner of a permitted use and would amount to more than a mere inconvenience.
- (e) Conditional use provisions may be granted by the commission in those cases where the use permitted specifies a conditional use. The conditions provided, and the use granted shall be limited to those which ensure the convenience and welfare of the public and do not substantially or permanently injure the value of neighboring property. The applicant must demonstrate to the satisfaction of the commission that neither the proposed use nor its location on the site would have a detrimental effect on the public health, safety, welfare or morals.
- (f) In granting a deviation or conditional use provision, the commission may impose such special conditions as are deemed necessary to maintain harmony with other parcels or subdivisions thereof within the waterfront district and to promote the objectives and intent of these regulations and of the development plan.
- (g) In reviewing any application for a deviation or conditional use provision on any site, the commission may consider, among other factors, the following:
 - (1) Protection of adjoining properties and other parcels in the waterfront district from any detrimental use on the site.
 - (2) Convenience and safety of vehicular and pedestrian movement within the site in relation to adjacent streets, properties, improvements and in conformance with the express design intent.

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- (3) Adequacy of the methods of disposal for sewage, refuse and other wastes, and methods of drainage of surface water.
 - (4) Provisions of off-street loading and unloading of vehicles incidental to the servicing of the buildings and related uses on the site.
 - (5) Adequacy of all other municipal facilities and services to meet the needs of the site.
 - (6) Achievement of overall design objectives of the development plan.
- (h) Any person desiring approval for a deviation or conditional use provision shall make an application to the commission on a form prescribed by the commission, which shall describe the relief sought and shall contain such information as may be required by these regulations and by the rules of the commission.
 - (i) Any deviation or conditional use provision granted by the commission shall expire within one year from the date of granting by the commission unless the applicant exercises the permission granted, or receives a building permit to do so, or seeks an extension from the commission, which extension may be granted for good cause shown. The applicant may petition the commission for up to six six-month extensions. No additional extensions will be permitted and the certificate will expire. However, at the expiration of all the extensions, the developer may chose to refile the existing, or a revised application. This refiled and/or revised application is subject to all the design review workshops, public hearing and notice requirements described herein.

(Ch. 317, § 1, 3-2-04)

Sec. 19-480. Uses permitted.

- (a) The following table lists the sub-districts within the waterfront district, and the uses permitted within each sub-district. The purpose of these regulations is to ensure compatibility and efficient, economical use of land within the waterfront district. These regulations are also intended to encourage development projects and use of land which is functional, and to protect the city's residences, businesses, and infrastructure in a manner that is consistent with the comprehensive plan.

This article is intended to enable the development of the waterfront district in keeping with the scale and character set forth in the East Providence Waterfront Special Development District Plan. It provides a framework to allow higher land use densities in a context that promotes mixing land uses and building types, provides larger common open space areas and contiguous public access to and along the waterfront, lowers street and utility costs because of reduced frontage, and promotes a concentration of uses within a pedestrian friendly environment. Waterfront development is guided by a development plan review process in which the East Providence Waterfront special development district commission has significant involvement in determining the scale of the development and the character of the uses.

- (1) Permitted uses are any use allowed in the waterfront district by this article IX, subject to the provisions applicable to that sub-district contained within this article.
- (2) Accessory uses are uses which are considered to be subordinate to, and serve the main building or principal use; contribute to the comfort, convenience or necessity of the occupants of the main building or principal use served; are subordinate in area, extent and purpose to the main building or principal use served; are located within or external to the main building or principal use, but on the same lot.
- (3) Conditional uses are a discretionary entitlement which may be granted under the provisions of this article, and which, when granted, authorize a specific use to be made of a specific property, subject to compliance with all terms and conditions imposed on the entitlement by the East Providence Waterfront special development district commission.

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- (b) Any change in the principal use of a property, or within the buildings or structures located on a property, shall be required to be reviewed by the executive director for compliance with the district regulations set forth for the zoning of said property, prior to the occurrence of the proposed change in use.
- (c) Unnamed uses, or uses not specifically defined in this article, are not allowed except as follows:
- (1) Upon application therefore, the executive director may determine whether a proposed use which is not specifically named within any zone district created by this article, and is not an accessory use, is similar to and compatible with uses otherwise allowed within a specific zone district and may, upon making a determination of similar and compatible uses, allow the proposed use within that district.
 - (2) In making the determination of similarity and compatibility, the executive director shall consider, among other relevant matters, traffic generation, density of population, and hours of operation of the proposed use in comparison to specifically named uses within the district in question, and with named uses permitted in other zone districts.
- (d) The waterfront district encourages mixed land uses which may include, but are not limited to, any combination of housing, offices, retail and service businesses, and public and civic uses. Land uses may be mixed by floor (vertically within a building) or horizontally on a parcel of land. Office and residential uses are encouraged above ground level retail spaces. The scale of mixed use may range from a single stand-alone retail use with residential uses on upper stories, to a major development that integrates housing, offices, shops, streets and public spaces.

The intent of the waterfront district is to provide uses in conformance with the East Providence Waterfront Special Development District Plan. The plan identifies a range of general land uses within each of the waterfront sub-districts, as described in the following subsections:

- (1) *Kettle Point*: Medium density residential, with ancillary commercial uses including restaurants, clubhouses, marinas and limited retail geared toward residents.
- (2) *Veterans Memorial Parkway*: Medium density multi-family residential along the Veterans Memorial Parkway frontage, with commercial and retail uses at the lower levels of the site, and marina uses at the waterfront.
- (3) *Bold Point Harbor*: A mixed-use high density area of commercial, office, retail and high density multi-family residential uses. Hospitality uses, including hotels and lodging, cafes, restaurants, bars and entertainment venues are also encouraged. Marinas, with limited support services, and water-transit related services are also permitted. Heavy commercial or industrial land uses are not permitted.
- (4) *Crook Point*: Retail and hospitality uses are encouraged closer to the Washington Bridge, with commercial office, retail and high density residential uses transitioning north toward the Henderson Bridge.
- (5) *Dexter Road*: Technology-oriented light manufacturing, including offices, research and development, commercial education institutions and supportive commercial retail uses. Heavy commercial, mini-storage or industrial land uses are not permitted.
- (6) *Phillipsdale*: A mix of commercial office, retail, mixed-density residential (single-family, townhouses and multifamily condominiums), light manufacturing (in selected areas) and artisan live/work studio space.
- (7) *Pawtucket Avenue*: Commercial office, light manufacturing and research and development, with medium density multifamily residential in selected areas.
- (8) *Metacomet*: A mix of commercial office, retail, mixed-density residential (single-family, townhouses and multifamily condominiums), continuing care, fast food, conference centers, hotel, pharmacies, recreation and outdoor uses.

Sec. 19-481. Schedule of use regulations.

The following is a schedule of use regulations:

Y = Yes, permitted use

N = No, prohibited use

C = Conditional use

Use	Northern Waterfront Districts			Southern Waterfront Districts			
	Phillipsdale Subdistrict	Dexter Rd. and Pawtucket Ave. Subdistricts	Crook Pt. and Taunton Ave. Subdistricts	Bold Pt. Subdistrict	Veterans Subdistrict	Kettle Pt. Subdistrict	Metacomet Sub-district
RESIDENTIAL AND RELATED USES							
One-family	C	N	N	N	C	C	C
Two-family	Y	N	N	N	Y	Y	Y
Three-family	Y	N	C	N	Y	Y	Y
Apartment/condominium	Y	C	Y	Y	Y	Y	Y
Community residences	Y	N	Y	Y	Y	Y	Y
Artisan live/work	Y	Y	Y	Y	Y	Y	Y
Continuing care	N	N	C	C	C	N	Y
Adaptive reuse	Y	Y	Y	Y	Y	Y	Y
RETAIL BUSINESS							
Apparel and accessory stores	Y	Y	Y	Y	Y	C	Y
Art galleries	Y	Y	Y	Y	Y	Y	Y
Café	Y	Y	Y	Y	Y	Y	Y
Cigar Lounge	Y	Y	Y	Y	Y	Y	Y
Funeral home, mortuary	C	Y	C	C	N	N	N
Furniture, home furnishings and appliances	Y	Y	Y	Y	N	N	C
Gasoline dispensing facilities	C	C	N	C	N	N	N
General merchandise	Y	Y	Y	Y	N	C	Y
Grocery stores	Y	Y	Y	Y	C	C	Y
Microbrewery/distillery	Y	Y	Y	Y	Y	C	Y
Office supplies and equipment	Y	Y	Y	Y	N	N	C
Printing or publishing	Y	Y	Y	Y	N	N	C
Package liquor stores	Y	Y	Y	Y	Y	Y	Y
Specialty stores	Y	Y	Y	Y	Y	Y	Y
Drive-through facilities	N	N	N	N	N	N	C
EATING AND DRINKING ESTABLISHMENTS							

Restaurants, coffee shops, delicatessens, and ice cream parlors, with indoor and/or outdoor seating	Y	Y	Y	Y	C	C	Y
Fast food restaurants	N	C	C	C	N	N	C
Taverns, bars, lounges, pubs and similar establishments	Y	Y	Y	Y	C	C	C
Entertainment/clubs	Y	Y	Y	Y	C	C	N
LODGING							
Bed and breakfast	C	N	C	C	C	C	C
Conference center	C	N	Y	Y	C	N	Y
Hotel	C	N	C	C	C	N	N
Motel	N	N	C	C	N	N	N
OFFICE USES							
Banks	Y	Y	Y	Y	Y	Y	Y
Business offices	Y	Y	Y	Y	C	C	Y
Corporate headquarters	Y	Y	Y	Y	C	C	Y
Call-in center	Y	Y	C	N	N	N	N
Government offices	Y	Y	C	Y	N	N	Y
Post offices	Y	Y	Y	Y	C	C	Y
HEALTH SERVICES							
Medical offices, outpatient services	Y	Y	Y	Y	Y	Y	Y
Medical research, engineering or testing laboratory	Y	Y	C	C	N	N	Y
Nursing, congregate care, assisted living and convalescence homes	C	N	C	C	N	N	Y
Veterinary offices/clinics	C	Y	C	C	N	N	C
PERSONAL SERVICES							
Child day care centers, nursery schools	Y	N	Y	Y	Y	Y	Y
Dry cleaners	Y	Y	Y	Y	C	C	Y
Family child care homes	Y	N	N	N	Y	Y	Y
Hair salon/barber shop	Y	Y	Y	Y	Y	Y	Y
Laundromats	Y	Y	Y	Y	C	C	N
Massage therapy and/or massage therapy establishment	C	C	C	C	C	C	C
Personal services	Y	Y	Y	Y	Y	Y	Y
Pharmacies	C	N	C	C	C	C	Y
RECREATION AND CULTURE							
Auditoriums and places of assembly	Y	C	Y	Y	Y	C	Y
Boat and yacht clubs	Y	C	Y	Y	Y	Y	Y

Bowling alley	Y	N	Y	Y	N	N	C
Business and trade schools	Y	Y	Y	N	N	N	Y
Dance studio, yoga, martial arts	Y	Y	Y	Y	C	C	Y
Farmers market	C	C	Y	C	N	N	C
Film Studio	Y	Y	Y	Y	C	C	Y
Health fitness centers	Y	Y	Y	Y	C	C	Y
Libraries	Y	Y	Y	Y	Y	Y	Y
Marinas/boat launching facilities	Y	Y	Y	Y	Y	Y	N
Municipal facility	Y	Y	Y	Y	Y	Y	Y
Museums	Y	Y	Y	Y	C	C	Y
Non-profit clubs; civic, social or fraternal	Y	N	Y	Y	C	C	C
Park, playground or playfield	Y	N	Y	Y	Y	Y	Y
Photography Studio	Y	Y	Y	Y	Y	C	Y
Places of worship	Y	C	C	C	C	N	Y
Public or private elementary, junior high or high school	Y	N	Y	Y	Y	Y	Y
Recreation, indoor	Y	C	Y	Y	N	N	Y
Recreation, outdoor	C	N	C	C	C	C	Y
Theater, indoor	Y	N	C	Y	N	N	Y
Watershed protection or supply	Y	Y	Y	Y	Y	Y	Y
LIGHT INDUSTRIAL/FLEX TECH USES							
Accessory retail industry	C	C	N	N	N	N	C
Agriculture and aquiculture, indoor (excluding plants with THC)	C	N	N	N	N	N	C
Artisan design and fabrication	Y	Y	Y	Y	C	C	Y
Business accelerator, incubator	Y	Y	Y	Y	N	N	Y
Distribution center	N	Y	C	N	N	N	N
Flex tech, less than 20,000 sf	Y	Y	C	N	N	N	C
Flex tech, 20,000 sf or greater	C	C	N	N	N	N	C
Industrial or manufacturing related office	Y	Y	N	N	N	N	C
Light manufacturing	Y	Y	N	N	N	N	N
Open storage	N	C	N	N	N	N	N

Printing and publishing, bulk	Y	Y	C	C	N	N	N
Research and development	Y	Y	Y	Y	Y	Y	Y
Sale of business and/or industrial equipment and supplies	Y	Y	N	N	N	N	Y
Software design and advanced manufacturing	Y	Y	Y	Y	C	N	Y
Storage, interior only (excluding mini/self storage units with separate exterior accesses)	Y	C	N	N	N	N	N
Warehouse	C	Y	N	N	N	N	N
Wholesale showroom with storage and repair facilities	C	C	N	N	N	N	N
OTHER USES							
Parking structure	Y	Y	Y	Y	C	C	Y
Marine transport	C	C	C	C	C	C	N
Transit shelters	Y	Y	Y	Y	Y	Y	Y
UTILITIES							
Communication services and broadcasting offices	C	C	N	N	N	N	C
Public utilities not otherwise mentioned	C	C	C	C	C	C	C
Radio, television or wireless telecommunication antennas	C	C	C	C	C	C	C
ACCESSORY USES AND STRUCTURES							
Bank ATM machines	Y	Y	Y	Y	Y	Y	Y
Boat, kayak, canoe rental	C	C	C	C	C	C	C
Commercial satellite dishes	C	C	C	C	C	C	C
Construction trailer	C	C	C	C	C	C	C
Home occupation	C	N	C	C	C	C	C
Fences and walls	Y	Y	Y	Y	Y	Y	Y
Indoor rack boat storage	Y	C	C	C	C	C	Y
Off-street parking areas	Y	Y	Y	Y	Y	Y	Y
PROHIBITED USES The specific prohibited uses enumerated herein and in section 19-96 are in addition to any and all other uses which are prohibited in accordance with sections 19-4 and 19-98.							
Adult oriented businesses							
Automobile rental agencies							
Billboards							
Bulk storage of chemicals							

Car wash
Cemetery
Drive-through facilities
Dumps and sanitary fills
Farming, except for indoor agriculture and aquaculture
Indoor agriculture with plants with THC (tetrahydrocannabinol)
Heavy industry
Hospitals
Junk and salvage yards
Mini/self-storage with separate exterior accesses
Mobile homes
Motor vehicle sales
Motor vehicle supply stores
Motor vehicle repair
Radio, television or wireless communication towers

(Ch. 317, § I, 3-2-04; Ch. 470A, § IX, 10-7-08; Ch. 489A, § IV, 10-6-09; Ch. 641, § I, 3-1-16; Ch. 738, § VII, 5-21-19; Ch. 810, § III, 7-20-21)

Sec. 19-482. Performance standards.

(a) Flexible and creative lot layout and site design is encouraged to promote a mix of residential, commercial, office and public uses in a vibrant pedestrian oriented environment. The following performance standards delineate provisions for site development for uses permitted in the various sub-districts in the waterfront district. **Performance standards for adaptive reuse projects are contained within subsection (b) following the table below.**

The intent of the performance standards is to control the location of buildings to define and contain the street space, and to concentrate and reinforce pedestrian activity. Buildings in the waterfront district should reinforce the characteristics consistent with urban waterfront areas, with "build to" lines maintained for most of their frontage at the edge of the public right-of-way.

(A) Land Use	(B) Land Allocation	(C) Lots and Buildings	(D) Streets and Ways	(E) Off-Street Parking
1. General: Land within the waterfront district shall be available for uses as provided below.	1. Similar land uses should front each other. 2. Dissimilar land use categories may abut along rear lot lines or across streets.	1. All lots shall front on a street or public open space. 2. All buildings except outbuildings shall have their main entrance opening on a street or public open space. 3. Attics and raised basements/covered parking shall not count against story height limitations. 4. Stoops, open porches and outdoor seating areas may encroach into the front setback.	1. All lots/tracts shall have access to a public street or way. 2. Rear alleys are encouraged and when utilized shall be a minimum width of 24 feet. 3. No block shall have a length greater than 400 feet unless an alley or other means of public access is provided for through access. 4. Street lamps shall be provided at intervals of no more than 100 feet. 5. Street trees shall be provided at a maximum of 60 feet on center.	1. On street parking adjacent to a lot shall count toward meeting parking requirements for the lot's uses. 2. Parking lots shall generally be located at the rear of the buildings to the maximum extent practicable, and shall be screened from public ways. 3. Parking lots/decks shall not terminate public street vistas to the waterfront.
2. Public land use includes land designated for parks, squares, streets and ways, and public open space. Civic uses may be located within public use lots.	1. A minimum of five percent of residential tracts (gross area) shall be designated public open space. 2. Parks, squares and waterfront open space shall	1. Balconies may encroach up to four feet into public ways and open space, and shall be protected by easements.		1. Shared parking is encouraged for public uses. Parking lots for public use shall be landscaped, but may be unpaved where determined appropriate.

	<p>have at least 50 percent of their perimeter abutting a public right-of-way.</p> <p>3. Waterfront properties must maintain a minimum of a 50-foot setback for contiguous waterfront access.</p> <p>4. Such allocation will count toward the provisions for designated open space.</p>			
<p>3. Civic land use contains community buildings including libraries, post offices, schools, museums, religious buildings, performing arts, municipal and cultural buildings and others by conditional use provision approval.</p>	<p>1. Civic lots should be located on public parks, squares or on lots terminating at a street vista.</p>	<p>1. There shall be no height restriction for buildings designated for civic use.</p>		<p>1. Shared parking shall be utilized for civic uses where feasible.</p> <p>2. Generally, parking shall be located at the rear of the building and screened from public ways.</p>
<p>4. Commercial land use includes lots/tracts containing buildings primarily for business uses including retail, office, medical office, entertainment, restaurant, lodging, artisan, and those buildings or developments mixed with a residential component.</p>	<p>1. Retail lots shall have a maximum street frontage of 175 feet.</p>	<p>1. Buildings shall be setback between zero to 15 feet from the front yard right-of-way.</p> <p>Commercial buildings shall have their front facade built within five feet of the setback line or right-of-way along a minimum of 70 percent of their frontage.</p> <p>2. Side setbacks, if provided, shall be at least five feet from the property line.</p> <p>3. Building coverage shall not exceed 70 percent of the</p>	<p>1. Commercial lots/tracts shall front on public streets/ways which have a minimum right-of-way of 50 feet, with two travel lanes, parallel parking on both sides, and six foot sidewalks.</p> <p>2. Street trees shall be planted-a maximum of 60 feet on both sides of streets.</p> <p>3. Service alleys at the rear of commercial lots are encouraged.</p>	<p>1. There shall be one parking space per 300 square feet of building area for office, retail, and entertainment uses.</p> <p>2. There shall be one parking space per 250 square feet for medical offices.</p> <p>3. There shall be one parking space for every four seats of restaurant uses.</p> <p>4. There shall be one parking space per room of lodging.</p> <p>5. There shall be one parking space per unit for senior</p>

		<p>lot area.</p> <p>4. A 100 percent coverage is allowed if parking is under the building. Commercial buildings shall have no required side yard setbacks.</p> <p>5. Buildings shall not exceed four stories in height except in special designated areas as approved by the commission; a minimum of two stories is encouraged.</p> <p>6. When fronting on public open space buildings should be stepped with a setback of six feet for levels over the first two stories.</p>		<p>housing.</p> <p>6. There shall be two parking spaces per unit of residential and artisan live/work uses.</p> <p>7. Shared parking will be utilized for mixed-use areas where feasible.</p> <p>85 percent of the parking must be provided on the site.</p> <p>8. There shall be a limit of two parking bays on one side of a lot, or one bay on each side.</p> <p>9. General parking is not permitted in the front of a building lot.</p>
<p>5. High density residential includes land designated for residential and a mix of limited business use including limited office, lodging, retail, artisan, community, recreational and other uses by conditional use provision approval.</p>	<p>1. A maximum of ten percent of the total parcel area devoted to a mixed residential project may be single-family lots.</p> <p>2. Single-family lots shall have a maximum size of 7,260 square feet.</p> <p>3. Single-family lots shall have a minimum of 50 to a maximum of 75 feet of frontage.</p>	<p>1. High density residential shall be limited to designated areas in the waterfront district.</p> <p>2. Within such areas, building height limits shall be evaluated on a case by case basis by the commission with regard to view corridor assessments from within and outside of the waterfront district.</p> <p>3. Building coverage shall not exceed 70 percent of the lot area.</p> <p>4. A 100% coverage is allowed if parking is under the building.</p>	<p>1. High density lots should front on streets having a minimum right-of-way of 50 feet with two travel lanes, parallel parking on both sides, and six-foot sidewalks.</p> <p>2. Street trees shall be planted-a maximum of 60 feet on both sides of streets containing high density residential uses.</p>	<p>1. There shall be two parking spaces per unit of residential and artisan live/work uses.</p> <p>2. There shall be one parking space per unit for senior housing.</p> <p>3. There shall be one parking space per 300 square feet of building area for office, retail, and entertainment uses.</p> <p>4. There shall be one parking space for every four seats of restaurant uses.</p> <p>5. There shall be one parking space per room of lodging.</p> <p>6. Shared parking will be utilized for mixed-use areas</p>

		<p>5. Front yard setback shall be a minimum of five feet.</p> <p>6. There shall be no required side yard setback. Side setbacks, if provided, shall be at least five feet from the property line.</p>		<p>where feasible.</p> <p>7. All off-street parking shall be at the rear of the building to the maximum extent practicable and screened from public ways.</p>
<p>6. Medium density residential is land designated for residential and limited commercial uses, including townhomes, apartments and other attached housing, artist live/work studios, home offices and smaller scale neighborhood oriented retail establishments.</p>	<p>1. A maximum of fifteen percent of the total parcel area devoted to a mixed residential project may be single-family lots.</p> <p>2. Single-family lots shall have a maximum size of 7,260 square feet.</p> <p>3. Single-family lots shall have a minimum of 50 to a maximum of 75 feet of frontage.</p>	<p>1. Buildings shall be setback between zero to 25 feet from the front yard right-of-way.</p> <p>2. Buildings shall be setback from side lot lines equivalent to no less than 20 percent of the lot width.</p> <p>3. The entire side yard setback may be allocated to one side.</p> <p>4. Building coverage shall not exceed 70 percent of the lot area.</p> <p>5. Building height shall not exceed five stories.</p>	<p>1. Lots shall front on streets with a minimum right-of-way of 50 feet with at least two ten-foot travel lanes, parallel parking and six-foot sidewalks on both sides.</p> <p>2. Where minimum setback is utilized, building height at the street shall be no more than three stories; stories above this must be setback an additional ten feet.</p> <p>3. The use of rear alleys is encouraged; the width of such alleys shall be 24 feet.</p>	<p>1. There shall be a minimum of one space per two bedrooms of residential uses.</p> <p>2. On-street parking may be used to meet the requirements of non-residential uses within a mixed-use building or in a stand-alone facility.</p> <p>3. All off-street parking shall be located to the rear or side of the building to the maximum extent practicable and screened from public ways.</p>
<p>7. Low density residential land shall be in lots containing buildings for residential uses including single-family homes, artist studios, guest cottages, home offices and others by conditional use provision approval. All of the building area above the ground floor shall be for residential use,</p>	<p>1. Low density residential may be included where a mix of housing types and densities is desired.</p> <p>2. A maximum of 25 percent of the total parcel area devoted to a mixed residential project may be single-family lots.</p> <p>3. Single-family lots shall have a maximum size of 7,260 square feet.</p>	<p>1. Buildings shall be set back from zero to 25 feet from the frontage line.</p> <p>2. Buildings shall be set back from side lot lines no less than 20 percent of the lot width.</p> <p>3. The entire setback can be allocated to one side of the lot.</p> <p>Primary buildings shall be set back no less than 30 feet</p>	<p>1. Single-family lots shall front on streets with a minimum of 40 feet of right-of-way.</p> <p>2. Street trees shall be installed on both sides at no more than 60 foot intervals.</p> <p>3. Lots may have their rear lot lines coincide with a minimum 24-foot alley.</p>	<p>1. One off street parking space should be provided per two bedrooms of residential uses.</p> <p>2. Parking and garages for all residential uses shall be prohibited in front yard setback areas. Garages facing a front yard property line shall not be located closer to the front lot line than the foremost facade of</p>

with accessory uses permitted on each lot.	4. Single-family lots shall have a minimum of 50 to a maximum of 75 feet of frontage.	from the rear lot line except for outbuildings. 4. Building coverage shall not exceed more than 70 percent of the lot area. 5. Buildings shall not exceed more than two stories in height.		the principle building facing the front property line.
8. Business uses includes land designated for office, medical offices, light industry, artisan, warehousing, instructional and other uses by conditional use provision approval.	1. Business use lots shall have a minimum of 100 feet of frontage.	1. There shall be no front yard setback requirement. 2. Building coverage shall not exceed 70 percent of the lot area. 3. Building height shall not exceed three stories.	1. Business lots/tracts shall front on public streets/ways which have a minimum right-of-way of 50 feet, with two travel lanes, parallel parking on both sides, and six-foot sidewalks. 2. Street trees shall be planted—a maximum of 60 feet on both sides of streets. 3. Service alleys at the rear of commercial lots are encouraged.	1. There shall be one parking space per 250 square feet for office and medical office uses. 2. There shall be one space per 500 square feet for all other uses except uses identified in 7, below. 3. Off street parking may be to the side or rear of the building. 85 percent of the parking must be provided on the site. 4. There shall be a limit of two parking bays on one side of a lot, or one bay or each side. 5. To the maximum extent practicable, general parking is not permitted in the front of a building lot. 6. Where a business use abuts a residential use parking must be screened. 7. For light industry, artisan, warehousing, one space per 500 sf or 0.5 spaces per

				employee on the largest shift if located within 1,000 feet of a bus stop and 0.8 spaces per employee if located more than 1,000 feet from a bus stop (with a minimum of two spaces per unit).
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(b) Standards for adaptive reuse projects. Adaptive reuse for the conversion of any commercial building, including offices, schools, religious facilities, medical buildings, and malls into residential units or mixed-use developments is a permitted use, under the criteria described below under Eligibility.

(1) Eligibility. Adaptive reuse development must include at least 50% of existing gross floor area developed into residential units. The property must have no environmental land use restrictions recorded by the RIDEM or United States Environmental Protection Agency preventing conversion to residential use.

(2) Density calculations. For projects that meet the following criteria, the maximum residential density permitted shall be no less than fifteen (15) dwelling units per acre:

- i. Where the project is limited to the existing footprint, except that the footprint is allowed to be expanded to accommodate upgrades related to the building fire code, and utility requirements.**
- ii. The development includes at least twenty percent (20%) low- and moderate-income housing onsite.**
- iii. The development has access to public sewer and water service or has access to adequate private water, such as well and/or wastewater treatment systems approved by the relevant state agency for the entire development as applicable.**

For all other adaptive reuse projects, the residential density permitted in the converted structure shall be the maximum allowed that otherwise meets all standards of minimum housing and has access to public sewer and water services or has access to adequate private water, such as well and wastewater treatment systems approved by the relevant state agency for the entire development, as applicable. The density proposed for any adaptive reuse project shall be determined to meet all public health and safety standards.

(3) Dimensional requirements.

- I. Notwithstanding any other provisions of this section, existing building setbacks shall remain and are considered legal nonconforming.**
- II. No additional encroachments shall be permitted into any nonconforming setback unless relief is granted by the permitting authority.**
- III. Notwithstanding other provisions of this section, the height of the structure shall be considered legal nonconforming if it exceeds the maximum height of the zoning district in which the structure is located.**

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- i. Any rooftop construction necessary for building or fire code compliance, or utility infrastructure is included in the height exemption.

(4) Parking requirements. Adaptive reuse developments shall provide one parking space per dwelling unit. The applicant may propose additional parking in excess of one space per dwelling unit. The parking requirements and design standards in Sec. 19-482 and 19-483 shall apply to all uses proposed as part of the project unless otherwise approved by the commission. The number of parking spaces required shall apply for uses other than residential.

(5) Allowed uses. Residential dwelling units are a permitted use in an adaptive reuse project regardless of the zoning district in which the structure is located, in accordance with the provisions of this section. Any nonresidential uses proposed as part of an adaptive reuse project must comply with the provisions of Sec. 19-481 for the zoning district in which the structure is located.

(Ch. 317, § I, 3-2-04; Ch. 642, § XXI, 3-15-16; Ch. 738, § VIII, 5-21-19)

Sec. 19-483. Site development criteria.

- (a) Applicants are encouraged to design developments to coincide with the goals and intent of the East Providence Waterfront special development district plan, including proposed building styles and materials, the relationships between any proposed buildings and the site, and the overall physical appearance of the waterfront district.

The following site development criteria will be evaluated by the design review committee in its review of all development in the waterfront district. Applications for project review shall include a certification for the applicant's architect that the project complies with the intent of these regulations. If the project does not comply, a fully documented explanation of the requested. Deviations and/or conditional use provisions must be provided.

- (b) Architectural standards.
- (1) The architectural design of buildings, structures and site layout shall be visually compatible with a traditional New England waterfront sale and character, including building materials, massing, density, scale and roof lines.
 - (2) Where practical, buildings should be placed at the sidewalk or near to the front property line, with their primary entrances oriented to the street. Treatment of the sides and rear of all buildings shall be comparable in appearance and amenities of the treatment given to street frontages. Except for single-family development, buildings on waterfront sites will have their primary facades facing the river. Buildings will orient their required open space to the waterfront. However, care must also be taken to create a pleasing facade to the street-side frontage and entrance of such sites.
 - (3) Integration of all properties within the waterfront district is critical to promote vitality and sustain the mixed use character of the area. Interconnectivity is encouraged through the use of street design and pedestrian connections. Private roads are discouraged, unless they are designed to provide connections to service areas within the property. Campus like developments, such as suburban style office parks or "gated" residential communities, are highly discouraged.
 - (4) Building placement and design should work with varying site grades and topographical elements to incorporate covered/structured parking at lower levels of the building or below grade. Lower level covered parking should be accessed from the side or the rear of the lot, with efforts made to ensure that the primary facade of the building reflects the internal uses and include inviting entrances.
 - (5) Parking structures should be compatible with adjacent uses and architecture, including use of similar facade materials and design. Parking uses and the appearance of parking structures should not dominate the public streetscapes. The design of all above grade parking structures should include usable retail, commercial and/or residential uses as appropriate along first floor and street frontages.
 - (6) The height of buildings should be compatible with surrounding development and neighborhoods. Only low-scale buildings shall be located along the water's edge and adjacent to residential neighborhoods. Scenic view corridors of the water should be preserved.
 - (7) A diversity of roof heights, gable orientations and volumes in new buildings shall be provided. Buildings shall be designed with traditional roof forms that are compatible with the character of the surroundings, including but not limited to gambrel, gable and hipped roofs commonly found in New England cities and towns.
 - (8) Architectural elements such as dormers should be in proportion with the overall building and should also be in keeping with the context of surrounding buildings. Exaggerated or excessively large architectural elements should be avoided. Traditional and contemporary architectural detailing which creates variety, interest and texture on new buildings and additions is encouraged.

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- (9) Traditional building materials such as shingles, wood clapboards, brick and stone should be used for the exterior of new construction and additions. Additional materials, such as precast concrete, prefabricated panels or architectural metals, may be used if they are of a high quality finish and are in a design consistent with a traditional waterfront or New England town character. These materials shall be considered for all buildings or portions of buildings facing public or private streets. Buildings of entirely glass and/or mirrored exterior finishes shall not be permitted.
 - (10) Developers and designers are encouraged to incorporate sustainable design practices and environmentally friendly building materials. Efforts should be made to include elements into the site and building design process that conserve energy and minimize pollution from demolition/construction through building occupancy. Building design should incorporate elements that take full advantage of solar energy for lighting and warming; embrace techniques that optimize water conservation and protect water quality; and implement measures to improve air quality and ventilation.
 - (11) Building facades at lower levels should be a masonry-like material of a high quality and level of finish. Detail and ornamentation should enhance street level facades with entrance points denoted through front porches, columns, differential ceiling heights, lighting and variation of materials to accentuate lobby areas.
 - (12) Primary building entrances should be oriented to the public sidewalks along the primary street frontage. Development along new or existing public streets should provide open and inviting facades and should foster a walkable and enjoyable pedestrian environment. New development should avoid large expanses of blank walls and should provide frequent street level entries. At least 50 percent of the ground floor facade of non-residential buildings shall be constructed of transparent materials, or otherwise designed to allow pedestrians to view activities inside the building. For retail uses, buildings sited along primary streets should utilize traditional storefront design principles along the ground floor, and provide appealing displays and clear glazing to allow views into store windows and building interiors to enhance the pedestrian experience.
 - (13) In sub-districts designated for mixed-uses or commercial and office environments, the ground floor of buildings should primarily entail uses geared toward pedestrians, such as retail stores, cafes and restaurants, or civic and cultural uses such as a museum, galleries or community facilities.
 - (14) Upper levels of building facades should be clad in lighter color materials, with a presentation that responds to a waterfront character. For second floors and above, between 25 percent and 60 percent of the facade should be windows or transparent glazing. Emphasis should be given to using materials and ornamentation to provide a sense of depth and relief to enrich the wall surfaces, including materials that provide a sense of scale and texture, and that reinforce a vertical orientation.
 - (15) The construction of buildings which are designed according to themes or architectural styles associated with chain stores or restaurants shall be reviewed by the East Providence Waterfront special development district commission, and may be modified or prohibited if found to be inconsistent with the intent of this chapter.
 - (16) Residential buildings should be clustered or located in such a manner that provides a distinctive and traditional urban neighborhood character. Buildings shall be oriented to the street, with front yards and entryways that provide easy and inviting access to pedestrian connections.
 - (17) Large scale development shall take the form of village-like groupings of small scale buildings, rather than a large individual structures or box-like buildings set back on a large expanse of paved parking. New buildings shall not be large bulky horizontal masses, but shall be scaled down into groupings of smaller attached or detached structures with a vertical orientation.
 - (18) Infill development and/or redevelopment within existing built areas shall require a "build-to" line to re-establish continuity of the street wall. Likewise, small-scale development without a directly abutting

neighbor should be guided by adjacent development patterns as a means to incrementally fill empty portions of the streetscape and achieve compatibility with surrounding neighborhoods.

- (19) New public and civic structures should use the highest quality materials and design to assign a sense of permanence and importance to their role in the community. Design of the buildings should reflect an inviting appearance, and incorporate plazas or open space areas to encourage public gathering. Additionally, these structures should relate strongly to the streets and open spaces where they are located.
 - (20) Where feasible, emphasis shall be given to protect historic structures from demolition and carefully rehabilitate them in a way that is consistent with their original architectural intent. New additions to historically significant buildings should be designed for compatibility with the original structure in size, composition and material and should result in the minimum necessary loss of original architectural material. Consultation with the state historic preservation and heritage commission shall occur when historic properties are considered for rehabilitation or redevelopment.
 - (21) Service areas, mechanical equipment, dumpsters and loading areas shall be placed to the rear or side of buildings in visually unobtrusive locations and shall not impede on-site vehicular and pedestrian circulation. On waterfront locations the service and loading facilities shall not be located on the water side of the structure and shall be placed in a manner to minimize and screen such uses from public view. Service areas and loading areas shall be screened through landscaping or structural elements to prevent direct views from adjacent properties or from public or private streets used by the general public. Mechanical equipment and dumpsters should be screened through walled units or integrated into architectural features of the buildings.
 - (22) The East Providence Waterfront special development district commission shall require schematic architectural drawings of the exteriors of all proposed new buildings to be submitted as part of review process. The commission shall review these drawings for conformity with the design guidelines set forth herein. The commission may permit specific written or graphic architectural standards or codes for building appearance and design to be submitted by the applicant for review and approval.
- (c) Open space and public areas.
- (1) Site design and layout in the waterfront district should incorporate elements such as plazas and usable open spaces, especially adjacent to buildings next to the waterfront or in mixed-use and retail areas. To ensure that open space is well-used, the space should be visible, easily accessible and barrier free, with multiple points of entry from public areas (streets, sidewalks, and walkways or bike paths). Open spaces should be oriented to maximize exposure to the water and scenic views. East-west streets should be designed as boulevards with landscaped medians and wide corridor views towards the water. Community entries should be identified by maintaining them as large open spaces within the streetscape.
 - (2) Public greens and common areas should be provided within residential areas to provide useable open space and park like settings within a neighborhood context.
 - (3) Open space areas should be well buffered from moving vehicles so that users can enjoy and relax in the space. The space may be visible from streets or internal drives but should not be wholly exposed to them. "Outdoor rooms" that are partially enclosed with building walls, freestanding walls, landscaping, raised planters, or on-street parking buffers are encouraged.
 - (4) Public spaces should abut active uses to encourage pedestrian traffic between such uses. Public use of the waterfront, such as through passenger ferry, marinas, retail activities, cafes and restaurants, and recreational uses, should all provide context for open space.
 - (5) Plants used in landscaped areas should be native species and of the highest quality and of sufficient quantity and sale to make a visual impact. Plantings should be selected and located so that their

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- functional and aesthetic qualities can be maximized. Public open space should provide shade areas wherever possible.
- (6) Open space areas should provide adequate amenities for comfort and convenience, such as seating, lighting, directional signage, bicycle racks, drinking fountains, shelters, trash receptacles and public restrooms.
 - (7) Open spaces and plazas should be built with high quality, durable materials that reflect detailing consistent and compatible with the architectural character of nearby buildings and the waterfront location. Paving materials should be selected according to the intended use of the space. Designers are encouraged to utilize permeable paving materials wherever practicable to reduce stormwater runoff.
 - (8) Open spaces within private developments should contribute to public spaces with linkages that reinforce the pedestrian environment. Private developments should take the "indoors" outdoors by incorporating interior space (e.g. dining areas, merchandise displays) onto walkways and plazas connected to the public sidewalk system. Similarly, developments should bring the "outdoors" into the building by opening interior spaces through elements such as atriums connected to the public sidewalk system.
 - (9) Sites of historic interest or sites providing an opportunity and context for historical interpretation along the waterfront should be incorporated into open space areas and appropriately commemorated and marked with interpretative signage. The state historical preservation commission or other appropriate agency should assist in developing an appropriate context for commemoration initiatives.
 - (10) Development in the waterfront district should integrate artwork into public and private settings. Artwork may consist of freestanding pieces (e.g. sculptures or water fountains) or may be integrated with its surroundings (e.g. relief sculpture imbedded into the pavement or a wall, mosaics or murals, sound effects, decorative railings or lighting) to create a stronger sense of place. Artwork should be appropriate, and ideally, custom-made and should complement and reinforce the character of the site in terms of subject, scale, style, and materials. Art may be used to reveal historical facts about the site, or draw attention to a unique physical quality of the site. Public spaces should be designed to accommodate live performing arts and public gatherings.
 - (11) For higher density non-residential uses in the waterfront district that abut lower density residential properties, a minimum 100-foot open space setback is required. Landscaping in this open space setback shall include planting elements to ensure an effective visual and audio screen and buffer between residential and non-residential uses.
 - (12) Street-trees should be provided along all pedestrian corridors along with the planting of ground cover. The street tree canopy should appear tight, formal and planted in clusters at entry nodes and plazas. Ground cover planting materials should be natural and soft, and remain low, well below sight lines of pedestrians. Tree and shrub plantings shall be selected as suitable for their use in the interest of creating an aesthetically pleasing environment.
- (d) Waterfront resources.
- (1) Properties adjacent to the waterfront shall maintain an appropriate contiguous area, to the maximum extent possible, to include setbacks for public waterfront access and buffer zones for maintenance and preservation of natural areas. The buffer zone is to preserve the value and utility of the water's edge, including enhanced measures to protect and restore natural habitat areas and environmental resources. The Rhode Island Coastal Resources Management Program should be referred to for its specific findings, policies, guidelines and regulations for projects within the coastal zone requiring an assent. Early consultation with CRMC program staff is strongly encouraged to identify coastal features and address setback, hazard mitigation, shoreline protection, storm water run-off and other requirements. Public access to and along the waterfront and recreational amenities shall be provided

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- within the contiguous area, including connections and coordination with adjacent properties as part of an integrated public waterfront facility.
- (2) Public access to and along the water's edge shall be provided in the most generous and integrated way that is compatible with the function of the land, water uses and activities. Interest in water for active and passive purposes is widespread and should be accommodated to the maximum extent feasible. Public access in the coastal zone, both vertical and perpendicular, must conform with state policies and regulations, including the Rhode Island Coastal Resources Management Program.
 - (3) Recreation and excursion access to and along the waterfront are desirable and should be fully integrated into the site design. Waterfront facilities should be oriented towards providing multi-modal transportation opportunities for boating, pedestrians, bicyclists, and public bus or ferry users, and accommodations made for such transportation needs. Comfort and convenience amenities such as like racks, benches, trash receptacles, shelters, ticket kiosks and restroom facilities should be provided.
 - (4) Design details for such features as lighting, paving, bollards, benches, or other amenities should be carefully selected to reflect the waterfront heritage of the area. Such features should be coordinated as much as possible between public and private improvements. For waterfront locations, the quality and durability of these amenities should be of the highest standards, and of timeless aesthetic character to withstand many years of use and exposure to weather.
 - (5) Only low-scale commercial or public buildings shall be located near the water's edge, except for in designated areas in the sub-districts as determined by the commission. Views to the water should be preserved from critical public vantage points. Massing and placement of buildings should be designed to minimize impacts on water views and retain value for upland development potential.
 - (6) Parking shall not be located directly on the water's edge.
- (e) Parking and circulation standards.
- (1) Structured parking within the waterfront development district is encouraged where feasible, either beneath or within commercial and higher density residential buildings, in order to maximize the use of valuable land for principal uses and to reduce the appearance of excessive amounts of surface parking within the district.
 - (2) Parking structures should be compatible with adjacent uses and architecture. Parking uses and the appearance of parking structures should not dominate public streetscapes. The design of all above-grade parking structures should include usable retail, commercial, and/or residential uses as appropriate to their location along first floor and street frontages.
 - (3) Surface parking lots shall be located to the side or rear of buildings or in the interior of a block, except for waterfront lots, in which case the parking shall not be located on the water-side of such buildings. Parking lots and driveways should not dominate the frontage of streets, interrupt pedestrian routes, or negatively impact the environment or surrounding developments. Parking lots should be sufficiently screened with natural landscape, decorative fencing or walls to minimize visual impacts.
 - (4) Surface parking areas should be designed to include internal landscaped islands and exterior landscaped buffer areas to soften the visual impacts of automobiles and asphalt. Shade tree location should buffer pedestrian circulation routes and should respect view corridors to the water. All parking lots should be planted with sufficient trees so that at full growth a significant majority of the surface area of the lot is shaded. At a minimum, developments should comply with the development plan review provisions of chapter 19, zoning, article VIII, section 19-454.
 - (5) On-site pedestrian circulation networks should be designed to provide safe access through the site, especially between buildings and parking areas. Paving and ground surface treatments should reinforce

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- and define pedestrian circulation direction and patterns. Materials may be simple, but should have a level of patterning and detail through change in materials, color or scoring patterns.
- (6) Stormwater management facilities shall be provided in conjunction with parking areas for flood control purposes and to treat stormwater to effectuate pollutant removal in accordance with city and state standards and regulations. Permeable paving materials, vegetated buffers and infiltration systems should be used wherever possible and practical to reduce the volume and improve the quality of stormwater.
 - (7) Pedestrian lighting should be incorporated into the design of parking areas and along pedestrian walkways. Additional lighting should be used to reinforce architectural edges as well as highlight special site elements. Nighttime illumination should provide for safety and security of residents and visitors. Lighting for parking and vehicle queuing areas should provide adequate illumination for vehicle and pedestrian safety and security while shielding surrounding areas from excessive light trespass and glare.
 - (8) Parking areas shall include provisions for the "parking" of bicycles in locations that are safely segregated from automobile traffic and parking.
 - (9) Shared access driveways and parking areas should be encouraged where ever possible for mixed use developments and/or adjacent uses which have different hours, days and/or seasons of peak parking demand.
 - (10) Design of internal parking and roadways should be looped rather than dead ended to allow for efficient circulation and movement through the waterfront district and shared parking areas.
 - (11) Design of parking lots should include measures to reduce the number of curb-cuts along roadways. Properties should be limited to one curb-cut per parking area, or at least be located a minimum of 100 feet from curb-cuts either on site or on adjacent properties. Where feasible, access and parking lot entryways to abutting properties across roadways should be aligned to create direct intersections, providing efficiency and safety for vehicles entering and exiting the sites.
 - (12) Roadways and internal vehicle circulation corridors should be designed to accommodate the type and volume of vehicles that are expected to enter during the peak design period, with minimal impacts to levels of service on- and off-site.
 - (13) Parking and garages for all residential uses shall be prohibited in front yard setback areas. Garages facing a front yard property line shall not be located closer to the front lot line than the foremost facade of the principle building facing the front property line.
 - (14) On-street parking may be permitted by the East Providence Waterfront special development district commission, and may be added to the number of off-street spaces for the purpose of calculating minimum parking requirements.
- (f) Streetscape standards.
- (1) New streets, as well as existing streets that are rehabilitated or reconstructed, should be designed to accommodate expected vehicles and pedestrians safely while encouraging appropriate speeds.
 - (2) Street placement and design should provide for views to and from the water. Streets that connect to the waterfront shall be designed and developed to pedestrian-scale with a high-level of amenities. Distinctive architectural and landscape features should be encouraged at intersections to enliven the space, including permanent installations of landscaped gateways, public art and/or flag displays in key locations. Where possible, gateway access to the waterfront, and east-west oriented streets, shall be wide boulevard-type roadways with divided travel lanes and landscaped medians. Additionally, for certain streets, unique destination and gateway treatments should be implemented. Community name

and directional signs should be placed at gateways and should be compatible with the architectural themes and character of the neighborhood.

- (3) Sidewalks shall be provided on both sides of all roadways, with curbing, grassed landscape strips between the sidewalk and the curb, street trees and other plantings to soften roadway edges. Sidewalks should be wide enough to accommodate pedestrians comfortably and safely. Textured paving within the street should be utilized to distinguish crosswalks. The pedestrian environment should be further enhanced through the use of fixed street furniture, compatible and consistent lighting, trash receptacles, and shade trees.
- (g) Street and site furnishings.
- (1) Consistency in the form and quality of street and site furniture is essential to the ambiance of the public areas. A standard design shall be used in public areas throughout the waterfront district, with recommended types and styles provided by the design review committee. Variations and additions should be considered for unique situations along waterfront areas. It is also essential that a program of regular care and maintenance be provided.
 - (2) Furnishings within individual development sites shall be chosen to complement the specific architectural and site design. Inclusion of furnishings to enrich the setting and provide amenities is strongly encouraged.
 - (3) Furnishings such as flagpoles, kiosks and public art should be considered and selected in part based on their compatibility with other furnishings and the building architecture. In general, furnishings should be understated and should not detract from the overall character of the site either through their appearance, siting or proliferation. The materials used for receptacles, seating and light poles should be consistent within the development site.
 - (4) The provision of benches is encouraged within development sites. In addition to free standing benches, options for integral seating such as broad steps and cheek walls should be considered in the design of open spaces and building entries. Benches shall be located based on a practical consideration of where people would like to sit and the demand for seating in a particular area. Areas closely associated with employees going outdoors for lunch or break time and areas where drop-off and pick-ups, such as building entries, should be considered for locating seating.
 - (5) Seating along sidewalks or trails shall be placed on a hard surface and immediately adjacent to the walkway to allow for free circulation on the sidewalk or trail. Along the walkway, the layout should have a perceivable order, such as placing benches or other furnishings along the same side or in a consistent manner. Clustering or paring benches is recommended as a means of offering seating for groups and creating a rhythm of furnishings.
 - (6) Benches shall be placed on a hard surface and surface mounted.
 - (7) Trash receptacles shall be of the designated design and will be used along the public sidewalks and trail system. Site developers will be responsible for providing receptacles in public areas. Trash and ash receptacles within the building zone should be chosen to complement the architectural and site design of a particular development.

The receptacles should be durable and in keeping with the other materials selected for the site including lighting and benches. Plastic, aggregate surfaced concrete and fiberglass receptacles are not permitted. Removable trash liners are recommended for easy disposal. If refuse is to be sorted for recycling, receptacles with three-holed recycling tops are recommended. The divided recycling top allows the number of receptacles to be kept to a minimum.

Trash receptacles shall be sited along heavily trafficked walks, in close proximity to building entries, and in areas where people gather for eating or break time. Ash receptacles shall be placed to minimize

cigarette litter, for example, near building entries and designated smoking areas. Receptacles shall be conveniently located for use, but shall not impede circulation or interrupt the view of the building entry. Receptacles shall be surface-mounted to maintain their designated locations.

- (8) Daily newspapers and printed materials, such as free real estate and employment guides, shall be incorporated into a unified newspaper kiosk placed in or adjacent to the right-of-way provided by the city and/or private developers in convenient locations. Separate boxes for all these various printed materials, typically found chained to utility poles and traffic signs shall be prohibited.
- (9) Inclusion and placement of mailboxes, overnight delivery and newspaper boxes shall be considered as part of the overall site design. For all commercial and office buildings, these amenities shall be incorporated within the building, and shall not exist outside of the building in any location other than one specifically designated for such service areas. For other building types, such as hotel and retail uses, the boxes shall be located for the convenience of the building users and mail delivery systems used within the development. Boxes shall be accessible to pedestrians and relatively convenient to vehicles associated with their use. Their placement must not impede circulation or interrupt the view toward the building entry. In all cases boxes shall be grouped together in an area that is visible but unobtrusive. All boxes must be located on a hard surface and be surface mounted.
- (10) Lighting standards.
 - a. The character and brightness of exterior lighting on different development sites shall remain relatively constant. This consistency is important in establishing the overall visual quality of the night time environment of the waterfront district and providing a sense of security. Lighting shall illuminate driveways, sidewalks and bikepaths, define outdoor spaces at night, and provide orientation to building entries.
 - b. Lighting shall be organized in simple patterns which are sympathetic to the spatial form of the site design. The pattern of light fixtures and poles shall reinforce the pattern of drives, walks and open space. Lighting of open spaces shall be along the perimeter to emphasize the form of the space.
 - c. In general, roadways and site drives shall be lit from both sides. Exceptions to this standard may include instances where the drive forms one edge of a large contiguous space, for example, where an entry drive may encircle an entry court landscape. When placed on both sides, lights shall be located opposite one another rather than in an alternating or staggered pattern. Driveway and walkway lighting shall be placed parallel to the pavement edge with a recommended uniform setback of two to six feet. Lighting shall be located in rhythm with related tree plantings.
 - d. The use of a consistent light source, a family of fixtures and poles, and a hierarchy of lighting levels shall unify development parcels and connect the various waterfront sub-districts with each other. A designated family of fixtures shall be used along public roadways, site driveways, public sidewalks and bikeways, and parking lots in order to reinforce a unified image.
 - e. Within parking lots a pole height of 25 feet is required. The pole height has been established to balance a desire to maintain a mounting height compatible with the scale of adjacent buildings and trees and to minimize the number of poles. Exceptions to this requirement may be considered on an individual basis.
 - f. Poles should be located behind raised curbs either within a raised median or along curbed sidewalks. Poles within paved areas (not behind a raised curb) are strongly discouraged.
 - g. All fixtures shall employ shielding and glare control devices to make the night time environment more pedestrian friendly, and to direct light downward rather than upward. Lights intended to

provide a lantern effect, such as might be used to define the edge of an entry drive, shall utilize a shielding device that allows the fixture to be lit while continuing to minimize light loss to the sky.

- h. Driver and pedestrian orientation shall be provided through a hierarchy of lighting effects that correspond to different zones and uses within development sites. Height of poles shall be scaled according to function, for example, poles along driveways shall be 20—25 feet, and in pedestrian areas lighting shall be 10—15 feet. Driveway and pedestrian lights may be used along circulation drives and sidewalks within parking lots to clarify movement and provide a hierarchy of lighting associated with use.
 - i. The housing for uplighting and architectural lighting placed in the landscape shall not be conspicuously visible. Flush ground mounted fixtures are recommended, where practical. In situations where this is not practical, lighting sources and mounting fixtures shall be located to minimize visibility by day and by night.
 - j. An increased sense of security shall be provided by using light to define the edges of the space, such as the outer edge of open spaces, parking lots and driveway corridors. Brighter lights shall be provided at the destination edge, such as the building entry. The lowest levels of light should appear within the parking lot and not at its edges.
 - k. Intersections, decision points, crossings, steps, arrival points, etc. should be articulated in a manner that signals their presence, shape and nature. The illumination pattern should provide visual clues as to what conditions may lie ahead.
 - l. The relationship between plant material and lighting shall be considered when determining the spacing, height and distribution pattern of lighting. Lighting design shall avoid foliage shadows and provide good uniformity and vertical surface illumination.
- (h) Landscaping.
- (1) Landscaping shall be used as a unifying design element and a cost-effective long-term aesthetic and environmental enhancement for public and private spaces. Primary landscape treatment shall consist of three tiers, ground cover, shrubs, and trees, and shall be combined with appropriate walks and street surfaces to provide an attractive development pattern. Landscaping can be in the form of planting beds, raised planters, berms, containers or window boxes. Landscape materials selected should be appropriate to the local growing conditions.
 - (2) Streets and parking lots shall be planted with deciduous trees that will over time bring the canopy together, provide shade and visual relief from automobile clutter. Guard plane plantings should be selected for hardiness, maintenance requirements, and water consumption.
 - (3) Loading and receiving areas, and trash storage areas shall be screened from the public view by landscaping treatment and by appropriate screening. Plantings and walls may be used to screen outdoor areas from wind and unsightly views.
 - (4) Specimen trees shall be used as accents and focal points in locations such as community and neighborhood entries. Colorful flowering shrubs, groundcovers and annual flower plantings should also be used to accent entries.
 - (5) Planting of ground surface materials should remain low, well below sight lines of pedestrians. The tree canopy should appear tight, formal and planted in clusters at entry nodes and plazas. Natural soft planting should be used in public areas adjacent to the waterfront.
 - (6) Plant materials along the river should be native species or improved horticultural varieties of the same.

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- (7) All plantings should be irrigated using latent drip technologies to maximize efficiency and preservation of resources. A strong landscape maintenance program by a licensed professional shall be required of any development program.
- (i) Signage standards.
- (1) Signage and graphics within the waterfront district shall introduce visitors and motorists to the area, direct them, and provide a means for orientation and wayfinding. Use of high quality graphics is essential to the overall visual experience. Informational and directional signs should serve as gateway elements and complement the landscape and architectural style of the overall development. Signs should be simple in form and color, and be clearly legible.
 - (2) Mixed-use buildings shall provide locations on the commercial areas of the building facade that are specifically designed to accommodate changeable tenant signage including wall signs, projecting signs and window signs. Structure, materials, detailing and power sources shall be designed with consideration of signage installation requirements and shall be readily adaptable and repairable as tenant sign needs change.
 - (3) Sign locations shall be oriented to the public right-of-way and shall avoid facing residential uses wherever possible.
 - (4) Direct exposure of light sources and internally illuminated signage shall be avoided in residential areas. Indirect and external light sources shall be the preferred option where lighting is required. Orientation of any illuminated sign or light source shall be directed to avoid visibility, spill light or glare into residential uses.
 - (5) Small scale signs projecting from the building face, perpendicular to the right-of-way, shall be considered appropriate in pedestrian oriented contexts. Tenant identification signs may also be incorporated into canopies above primary building entrances or storefronts.
 - (6) Signs should be traditional in design and easy to read, with proportion and balance in mind. Signs with dark background and light letters provide better visibility. Letterform, logos and artwork should look comfortable within the sign perimeter. Long, narrow and odd shaped signs should be avoided, as they tend to distract the balance ratio.
 - (7) Signs should creatively use two and three dimensional form, profile and iconographic representation: lighting, typography, color and materials in expressing the character of the use, the identity of the development, the character of the neighborhood, and the architecture of the building are encouraged.
 - (8) Signage shall be limited to one business identification per frontage and shall include only tenant identification text and logos. Product advertisement on signage or in display windows is prohibited.
 - (9) Pole signs and monuments are not permitted in the waterfront district. Signage for multiple uses in a single building or complex should be incorporated into decorative wall signs mounted onto the building or incorporated into decorative screening elements or walls to screen parking areas.
 - (10) Signs should fit within the architectural features of the facade and complement the buildings architecture. Signs should not overlap and conceal architectural elements.
 - (11) Support structures, hangers and brackets should be proportional to the sign face and remain dark in color as not to compete with the sign itself.
 - (12) Temporary signs are permitted for a period not to exceed 12 months. Up to one temporary sign may be permitted off-premises with the written approval of the property owner. Temporary signs may not be placed within a public right-of-way. Signage shall meet the standards of section 19-483(i)(1)—(11). Banners or flags may be permitted for up to two months and must be replaced or removed when tattered, faded, or torn. All temporary signage or banners shall be removed at the end of the permitted

period at the owner's expense. Application and fee for a temporary sign permit shall be made to the East Providence waterfront special development district commission.

(j) Fencing.

- (1) In instances where security and safety relating to certain land uses and activities require fencing, such fencing should be no higher or more extensive than needed to provide general safety or security needs and it shall be constructed of ornamental materials or some other appropriate material.
- (2) For properties along the waterfront, fencing shall not be used to deter public access to and along the waterfront or to inhibit migration of wildlife between natural areas.

(k) Utilities.

- (1) On-site utilities shall be located underground unless otherwise recommended by the utility company. At a minimum, the utilities feeding the site shall be placed underground in the access right-of-way. The East Providence Waterfront special development district commission may waive, upon good cause shown at the public hearing, a portion of or this entire requirement.
- (2) Service areas and mechanical equipment should be screened through walled units or integrated into architectural features of the buildings.

(Ch. 317, § I, 3-2-04; Ch. 738, § IX, 5-21-19)

Sec. 19-484. Nonconformances.

Within the waterfront districts established herein, or by amendments which may later be adopted, there may exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this article was passed or amended, but which would be prohibited, regulated or restricted under the terms of this article or future amendments. It is the intent of this article to permit these non-conformities to continue until they are removed, but not to encourage their survival. Nonconforming uses are declared by this article to be incompatible with permitted uses in the districts involved. It is further the intent of this article that nonconformities shall not be enlarged, expanded or extended, reconstructed, or used as grounds for adding other structures or uses prohibited elsewhere in the same district.

- (1) All work performed on a nonconforming structure shall be pursuant to a building permit, meet all the requirements of this article and all city codes, and conform to any other health or safety regulations of laws imposed by local, county, state, regional or federal agencies in effect at the time of the work and shall not expand any nonconformity.
- (2) Ordinary maintenance and minor repair of nonconforming structures is permitted if the aggregate cost of the work done in any period of 12 consecutive months does not exceed 25 percent of the replacement value of the structure, as determined by the building inspector and if the size of the structure or the number of building units is not increased.
- (3) A damaged nonconforming structure, restoration of which will cost 50 percent or less of its full replacement cost immediately prior to such damage, as determined by the building inspector, may be restored to its previous nonconforming state but must otherwise comply with all provisions of this article. A damaged nonconforming structure, restoration of which costs more than 50 percent of its full replacement cost, shall not be restored.
- (4) Repairs and alterations may be made to nonconforming residential structures, including multi-family structures, without replacement cost limitations, if located in a district permitting residential dwellings and if the requirements of subsection (1) above are met, including the limitation therein that the

repairs and alterations shall not expand the nonconformity. New construction on property with a nonconforming residential structure shall comply with the current applicable standards of this article.

- (5) Repairs, interior modifications, and alterations to nonconforming nonresidential structures may be made only if none of the structural alterations prolong the life of the supporting members of the structure, including without limitation bearing walls, columns, beams or girders. Structural elements may be modified or repaired only if the building inspector determines that such modification or repair is immediately necessary to protect the public health, safety and welfare of occupants of the nonconforming structures or adjacent property, and the cost of all repairs or alterations does not exceed 50 percent of the replacement cost of the nonconforming structure immediately before such repairs or alterations, as determined by the building inspector. New construction on property with a nonconforming nonresidential structure shall comply with the current applicable standards of this article. No expansion, intensification, or modification of a nonconforming nonresidential structure shall be permitted without the permission of the executive director and/or commission, as appropriate. Modifications may be made to a nonconforming nonresidential use for the addition of new employees, provided that alterations are limited to the interior of the structure and are in compliance with subsection 19-477, and that sufficient parking can be provided on the site and in compliance with the parking and circulation standards contained herein. Such modifications shall be reviewed by the executive director through a preapplication consultation prior to issuance of any permits, and may be subject to review by the commission in accordance with section 19-477.
- (6) If the use of a nonconforming structure is discontinued, the structure shall lose its nonconforming structure status, and shall be removed or altered to conform to the provisions of this article. Such removal or alteration to conform to the provisions of this article shall occur within 12 months of the date that loss of nonconforming structure status is determined or within such other date that the commission decides pursuant to public hearing outlined in section 19-477. Failure to remove or alter the structure beyond that period without written approval of the executive director on behalf of the commission due to unusual circumstances constitutes a violation of this article and a public nuisance. A use of a nonconforming structure shall be considered abandoned or discontinued whenever any of the following apply:
- a. The use of a nonconforming structure is discontinued for a period of six or more calendar months.
 - b. The actual removal of characteristic furnishings, equipment, structures, machinery, or other components of the use occurs during the 12 month period.
 - c. No business receipts or records are available for the 12 month period.
 - d. Utility bills indicate that no use has occurred during the 12-month period.
- (7) The change of ownership, tenancy, or management of a nonconforming use shall not affect its nonconforming status, but only if the use, extent, and intensity of use does not change.
- (8) A nonconforming residential use in a nonconforming residential structure may continue to be used as a residence until such time as the building is amortized, condemned, removed, converted to a conforming use, or destroyed such that restoration would cost more than 50 percent of its full replacement value before it was damaged.
- (9) If a nonconforming use is discontinued for a period of six or more calendar months, the use shall lose its nonconforming status, and all rights to reestablish or continue the nonconforming use shall terminate regardless of any reservation of an intent not to abandon or of an intent to resume active operations. Abandonment or discontinuance of use shall be deemed to have occurred whenever any of the following apply:
- a. The nonconforming use is discontinued to a period of six or more consecutive calendar months.

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- b. A nonconforming use is replaced by a conforming use.
 - c. The actual removal of characteristic furnishings, equipment, structures, machinery, or other components of the use occurs during the six-month period.
 - d. No business receipts or records are available for the six-month period.
 - e. Utility bills indicate that no use has occurred during the six-month period.
- (10) Replacement of a nonconforming use with another nonconforming use is prohibited.
- (11) Expansion or intensification of a nonconforming use is prohibited without the permission of the executive director and/or the commission, as appropriate. Modifications may be made to a nonconforming nonresidential use for the addition of new employees, provided that alterations are limited to the interior of the structure and are in compliance with subsection 19-477, and that sufficient parking can be provided on the site and in compliance with the parking and circulation standards contained herein. Such modifications shall be reviewed by the executive director through a preapplication consultation prior to issuance of any permits, and may be subject to review by the commission in accordance with section 19-477.
- (12) When any nonconforming structure or use is no longer permitted pursuant to the provisions of this article (loss of nonconforming status, or at the end of an amortization period (as outlined below) determined by the commission), no building permit or certificate of occupancy shall thereafter be issued for further continuance, alteration or expansion of the use or structure. Any building permit or certificate of occupancy issued in error shall not be construed as allowing the continuation of the structure or use.
- (13) The commission may adopt amortization schedules for nonconforming structures, uses of land and structures, and characteristics of use within the waterfront district, pursuant to the procedures outlined for public hearings as provided in section 19-477. At the public hearing, the commission shall hear a report by the executive director on the issue and shall determine if the use or structure should be amortized and over what period. The nonconforming structure or use shall be discontinued within the amortization period determined by the commission. In determining a reasonable amortization period for a nonconforming use or structure, the commission shall consider the following factors:
- a. The amount of original investment in or original cost of the structure or use.
 - b. The present actual or depreciated value of the structure or use.
 - c. The remaining time period, if any, to amortize the costs of the structure or facilities associated with the use under the provisions of the Internal Revenue Code.
 - d. The salvage value of the structure or facilities associated with the use.
 - e. The remaining useful life of the structure or facilities associated with the use.
 - f. The remaining term of any lease for the property on which the structure or use is located.
 - g. The harm to the public that will result if the structure or use remains beyond the time period recommended by the executive director for amortizing the structure or use.

The executive director shall provide estimates of all costs and valuations required by this section. The owner or operator of a nonconforming structure or use shall have the burden of proving that the amortization period recommended by the executive director is unreasonable.

(Ch. 317, § I, 3-2-04)

Sec. 19-485. Affordable/inclusionary housing.

Developers of new market rate single- and/or multi-family housing developments within the waterfront district are required to provide affordable housing units for low- and moderate-income households in order to ensure safe, decent and affordable housing to families, elderly and people with special needs.

- ~~(1) The provisions of this article shall apply to all new residential development or property conversions resulting in five or more parcels or new dwelling units intended and designed for permanent occupancy which receives subdivision, conditional use or design review committee approval after the effective date of this article.~~
- ~~(2) In projects of five or more dwelling units, a ten percent minimum inclusionary requirement shall apply for low- to moderate-income households. If, in the applications of the requirements of this article, a decimal fraction unit requirement is obtained, an in-lieu fee shall be provided equal to the applicable decimal fraction cost of a full housing unit.~~
- ~~(3) The applicant may request that the commission allow the applicant to make a payment of an in-lieu fee for constructing affordable housing units with submission of the complete application for project approval. The commission shall not consider any subsequent application for in-lieu funding. The commission shall consider the following issues, among others, in making this determination: the reasons the applicant desires to pay the in-lieu fee; the types of housing proposed for the development; the difference in price between the affordable units and the market priced units; and the public benefit that would be obtained by not building the units on-site. The applicant shall pay for the number of affordable dwelling units, or partial units that subsection (2) above would otherwise require, according to the following fee schedule.~~
- ~~(4) The commission shall promulgate rules and regulations regarding calculation of the housing in-lieu fee in accordance with G.L. § 45-24-46.1, said fee to be commensurate with the value that would have been provided through the actual construction of the affordable units. The housing in-lieu fee shall be reviewed by the commission every three years. The commission shall use money received under this subsection only for the construction and promotion of affordable housing.
 - ~~a. Fifty percent of any fee required pursuant to this section shall be paid prior to the issuance of a building permit for the project. The remaining 50 percent shall be paid in full before a certificate of occupancy is issued for any unit in the housing project.~~
 - ~~b. Any fee required by this section shall be paid to the East Providence Waterfront Commission Affordable Housing Fund.~~~~
- ~~(5) Construction of inclusionary units shall be provided at the same time as other units within the development, with ten percent of the units in each phase of the residential development dedicated at the time building permits are issued, and identified as such on the site plan or development plan and final subdivision plat, as applicable. The completion of inclusionary units in a project shall be comparative to the completion of the market rate units.~~
- ~~(6) Inclusionary units must be distributed throughout the development.~~
- ~~(7) The inclusionary units shall be substantially the same as the market rate units or buildings in exterior materials and finish. The developer may reduce either the size or provide less expensive interior amenities for the inclusionary units as long as there are not significant differences visible from the exterior of the units and the size, fixtures and design of the units are reasonably consistent with the market rate units in the project, provided all units conform to the requirements of local building codes in effect at the time.~~

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- ~~(8) Only qualified households shall be eligible to occupy or own and occupy the inclusionary units. Developers may utilize an entity such as a non-profit housing corporation or a public housing authority to obtain qualified applicants. Developers shall select only qualified households to occupy or own and occupy inclusionary units. Immediate relatives of developers, by virtue of their position or relationship, are ineligible to occupy inclusionary units.~~
- ~~(9) The executive director shall promulgate rules and regulations governing the affordable housing programs, including the eligibility for purchasers and renters of affordable housing units. These rules and regulations shall govern household size, household makeup, and household income, and shall be consistent with The U.S. Department of Housing and Urban Development's Program Income Eligibility Determination Guidelines. Sales prices for affordable units shall be determined based on these same references. The income limits, sales prices, and rental rates shall be determined based on these same references. The income limits, sales prices, and rental rates shall be updated annually as soon as HUD releases the median income updates and shall be made available to the public immediately thereafter by inclusion in the city's affordable housing program guidelines and information and through the city's CDBG office, planning and building inspection departments.~~
- ~~(10) When inclusionary units are required, a deed restriction shall be recorded setting forth the applicable restrictions in this chapter. The minimum period of affordability for inclusionary units are as follows:~~
- ~~a. Projects receiving public subsidies shall maintain affordability for a period of not less than 30 years or a different period when required by city or state law. A program to assure continued affordability for these units shall be administered by the commission or by a non-profit housing agency approved by the commission.~~
 - ~~b. Inclusionary units which are built without public subsidies shall be required to maintain affordability for a period of 30 years or for a different period when required by city or state law. A program to assure continued affordability for these units shall be administered by the commission or by a non-profit housing agency approved by the commission. The applicant shall enter into an agreement with the commission or its designee to provide monitoring and to assure the affordability of the inclusionary units for a period of not less than 30 years from the effective date of occupancy. The executive director shall be authorized to enter into such an agreement on behalf of the city. The approved agreement shall be recorded with the city clerk prior to the issuance of a building permit for the project.~~
 - ~~1. All buyers of "for sale" inclusionary units shall enter into a resale agreement with the commission or its designee prior to the close of escrow for such inclusionary unit (a standard form option agreement instrument shall be reviewed and approved by the commission). The resale agreement shall specify the required affordability term, shall provide for an option for the commission or its designee to designate an eligible purchaser and shall provide the commission or its designee with first right of refusal to purchase the units, and shall provide for a calculation of future equity assignment upon sale of the unit. Such agreement shall be recorded against each lot or unit.~~
 - ~~2. Conversion of an inclusionary rental unit to a "for sale" unit, if otherwise permitted, shall not void any provisions of applicable inclusionary housing agreements or requirements.~~
- ~~(11) Each owner of any rental inclusionary units shall submit an annual report to the commission by January 31 for the previous calendar year, identifying monthly rental rates, vacancy status of each inclusionary unit, income status for residents and any other related data deemed necessary by the commission while ensuring privacy for all residents. The deed restriction for ownership units shall require conformance reporting upon sale of ownership of inclusionary units.~~

(1) Applicability. The inclusionary zoning requirement shall apply to all developments resulting in the net addition of five (5) or more housing units.

(2) Affordability requirements.

- a. **For all applicable projects, at least twenty five percent (25%) of the units within the development must qualify as affordable housing, as defined by RIGL 42-128-8.1(d)(1).**
- b. **Fractional units. Where the required number of affordable units results in a fraction the applicant shall round up to the nearest whole number.**
- c. **The applicant shall enter into a monitoring service agreement with a qualified organization, to be approved by the executive director.**
- d. **Each owner of any rental inclusionary units shall submit an annual report to the commission by January 31 for the previous calendar year, identifying monthly rental rates, vacancy status of each inclusionary unit, income status for residents and any other related data deemed necessary by the commission while ensuring privacy for all residents. The deed restriction for ownership units shall require conformance reporting upon sale of ownership of inclusionary units.**

(3) Off-site options.

- a. **Off-site options. The commission, at its sole discretion, may allow an applicant to comply with the inclusionary zoning requirement by constructing inclusionary units on a site within the Waterfront District other than that at which the development is located. The following may be required by the commission for such off-site construction.**
 1. **Off-site rehabilitation of affordable units in existing buildings.**
 2. **Off-site construction of affordable units in new or existing buildings.**
- b. **Conditions. Provisions of off-site inclusionary units shall be subject to the following conditions:**
 1. **Off-site inclusionary units shall have a certificate of occupancy prior to, or simultaneous with, the occupancy of market-rate units.**
 2. **Renovated off-site units shall be in full compliance with all applicable construction and occupancy codes and shall be sufficiently maintained or rehabilitated so that all major systems meet standards comparable to new construction.**

(4) Incentives.

- a. **Density bonus. The number of housing units allowable on the site or sites involved shall be increased to two market rate units for each affordable unit. The performance standards set forth in 19-482 shall otherwise apply.**

(5) Fee In-Lieu Payments.

- a. **The developer may choose the option to pay a fee in-lieu of the construction of provision of affordable housing. In the event the developer chooses this option, the application is not eligible for the density bonus outlined in this section.**
- b. **Amount of fee in-lieu. For affordable single-family homes and condominium units, the per-unit fee shall be the difference between the maximum affordable sales price for a family of four (4) earning eighty percent (80%) of the area median income as determined annually by the U.S. Department of**

Housing Urban Development and the average cost of developing single unit of affordable housing. The average cost of developing a single unit of affordable housing shall be determined annually based on average, per-unit development cost of affordable homes financed by Rhode Island housing and mortgage finance corporation (RIHMFC) over the previous three (3) years, excluding existing units that received preservation financing.

1. Notwithstanding subsection (b) above, in no case shall the per-unit fee for affordable single-family homes and condominium units be less than forty thousand dollars (\$40,000.00).
2. The commission will allocate in-lieu payments within three years of collection to the creation of affordable housing.
3. Fifty percent of any fee required pursuant to this section shall be paid prior to the issuance of a building permit for the project. The remaining 50 percent shall be paid in full before a certificate of occupancy is issued for any unit in the housing project.
4. Any fee required by this section shall be paid to the East Providence Waterfront Commission Affordable Housing Fund.

(Ch. 317, § I, 3-2-04; Ch. 738, § X, 5-21-19)

ARTICLE IX. HISTORIC AREA ZONING

Sec. 19-486. Purpose of article.

The regulations set forth in this article are adopted in accordance with R.I.G.L. 1956, § 45-24.1-1 et seq., entitled "Historic Area Zoning," to safeguard the heritage of the city by preserving its cultural, social, economic and architectural history; foster neighborhood pride; maintain property values; strengthen the local economy through tourism; and promote the use of historic districts for the education, pleasure and welfare of the residents of the city.

(Ch. 413, § I, 1-16-07)

Sec. 19-487. Power and authority.

The city shall have the authority, as provided for in the R.I.G.L § 45-24.1-2, to establish, change, layout and define districts which are deemed to be of historical or architectural value in the same manner as cities and towns are presently empowered to establish or change areas and classifications of zoning.

(Ch. 413, § I, 1-16-07)

Sec. 19-488. Definitions.

The following terms have the following respective meanings unless a different meaning clearly appears from the context:

Alteration means an act that changes one or more of the exterior architectural features of a structure or its appurtenances, including, but not limited to, the erection, construction, reconstruction, or removal of any structure or appurtenance.

Appurtenances means features other than primary or secondary structures which contribute to the exterior historic appearance of a property, including, but not limited to, paving, doors, windows, signs, materials, decorative accessories, fences, and historic landscape features.

Certificate of appropriateness means a certificate issued by a historic district commission established under this chapter indicating approval of plans for alteration, construction, repair, removal, or demolition of a structure or appurtenances of a structure within a historic district. Appropriate for the purposes of passing upon an application for a certificate of appropriateness means not incongruous with those aspects of the structure, appurtenances, or the district which the commission has determined to be historically or architecturally significant.

Construction means the act of adding to an existing structure or erecting a new principal or accessory structure or appurtenances to a structure, including, but not limited to, buildings, extensions, outbuildings, fire escapes, and retaining walls.

Demolition means an act or process that destroys a structure in part or in whole.

Historic district means a specific division of a city or town as designated by ordinance of the city or town pursuant to this chapter. A historic district may include one or more structures.

Rehabilitation means a process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property and structure which are significant to its historic, architectural, and cultural values.

Removal means a relocation of a structure on its site or to another site.

Repair means a change meant to remedy damage or deterioration of a structure or its appurtenances.

Structure means for the purpose of this chapter a building exclusively intended for residential occupancy.

(Ch. 413, § I, 1-16-07; Ch. 729, § I, 11-7-18)

Sec. 19-489. Designation of historic districts.

Property owned by the city within the boundaries of the designated historic district shall not be exempt from the provisions of this chapter.

The following properties are deemed as historic districts:

Hunt's Mills Historic District

Map 505, Block 1, Parcel 1

Rumford Historic District (to be protected solely by section 19-493 entitled "Special criteria for demolition and removal")

Map 404, Block 18, Parcel 21.2

Map 501, Block 1, Parcel 1

Map 504, Block 1, Parcels 2, 3, 4, 5, 7, 8, 18, 19, 20, 22, 32, 43, 44, 45, 55, 56, 63, 64, 68, 82, 83, 84 and 96

Map 504, Block 2, Parcels 1 and 7

Map 504, Block 4, Parcels 3 and 5

Map 504, Block 5, Parcels 1, 2, 3, 4, 5, 6, 7, 9, 11, 12 and 13

Map 504, Block 8, Parcel 2

Map 504, Block 9, Parcels 1, 2, 3, 4, 5 and 6

Map 504, Block 10, Parcel 1

Map 504, Block 11, Parcels 1, 2, 3, 4, 5, 6 and 7

Map 504, Block 12, Parcels 1, 2 and 3

Map 504, Block 13, Parcels 1, 2, 3, and 4

Map 504, Block 14, Parcels 1, 34, 35, 36, 37, 45 and 46

Map 504, Block 15, Parcels 1 and 2

Map 504, Block 16, Parcel 1

Map 604, Block 1, Parcels 33, 35 and 36

(Ch. 413, § I, 1-16-07; Ch. 729, § II, 11-7-18)

Sec. 19-490. Historic district commission.

- (a) The commission shall consist of seven members who are residents of the city, five of which shall be appointed by the city council with one at the recommendation of each council member, the remaining two shall be appointed by the mayor, provided that the initial members serve staggered terms. Members should have a demonstrated interest in historic preservation, architectural history, planning, archaeology, historic construction, architecture, or local history. The city council shall have the right to name a council member as an auxiliary member of the commission, to sit as a non-voting eighth member of the commission and the right to designate two ex-officio non-voting members that have a demonstrated interest in historic preservation, architectural history, planning, archaeology, historic construction, architecture, or local history.
- (b) Appointed members shall serve a period of three years and be eligible for reappointment. If a vacancy occurs on the commission, interim appointments of appointed members shall be made by the original appointing authority to complete the unexpired term of such position.
- (c) The commission shall organize annually by electing from its membership a chair, vice-chair, and secretary and may adopt rules of procedure deemed necessary in discharging its duties.

(Ch. 413, § I, 1-16-07; Ch. 674, § I, 8-15-17; Ch. 729, § III, 11-7-18)

Sec. 19-491. Powers and procedures of historic district commission.

- (a) Before a property owner may authorize or commence construction, alteration, repair, removal or demolition affecting the exterior appearance of a structure or its appurtenances within the historic district, the owner must apply for and receive a certificate of appropriateness from the commission. The building inspector shall not issue a building permit until the commission has granted a certificate of appropriateness. The owner of the property must obtain a certificate of appropriateness whether or not state law requires a permit from the building inspector.
- (b) Applications for certificates of appropriateness shall be filed with the commission at the department of planning, whose staff shall determine if such application is complete. Once the application has been determined to be complete, it shall be forwarded to the commission along with all maps, plans, and other data provided by the applicant to the commission for their review. The department of planning shall provide

to the commission a written opinion stating whether the application meets the standards of review stated in this chapter.

- (c) In applying, the owner must comply with application procedures as established by the commission pursuant to R.I.G.L. 1956, § 45-24.1-1 et seq., and this article. The owner shall submit information which is reasonably necessary to evaluate the proposed construction, alteration, repair, removal or demolition, including but not limited to plans, drawings, photographs or any other information set forth in the application procedures.
- (d) All decisions of the commission shall be in writing. The commission shall articulate and explain the reasons and bases of each decision on a record, or if the decision is not to issue a certificate of appropriateness, the commission shall include the bases for its conclusion that the proposed activity would be incongruous with those aspects of the structure, appurtenance or the district which the commission has determined to be historically or architecturally significant. The commission shall send a copy of all decisions to the applicant, building inspector, and planning department.
- (e) The commission's secretary shall record minutes of all meetings. The records of the commission shall be available for public inspection in accordance with all applicable federal, state and local laws and regulations at the office of the city clerk.
- (f) Fish passage facilities, accessory structures, and related river modifications associated with the Ten Mile River Fish Restoration Project are exempt from a review by the historic district commission.

(Ch. 413, § I, 1-16-07)

Sec. 19-492. Standards of review.

- (a) The commission shall pass only on exterior features of a structure and its appurtenances and shall not consider interior arrangements. In reviewing an application for certificate of appropriateness, the historic district commission shall give consideration to the following:
 - (1) The historic and architectural significance of the structure and its appurtenances;
 - (2) The historic character and historic ecological features of the surrounding landscape;
 - (3) The way in which the structure and its appurtenances contribute to the historical and architectural significance of the district; and
 - (5) The appropriateness of the general design, arrangement, texture, materials and siting proposed in the plans.
 - (6) The commission shall use as their primary guide the standards contained in the publication "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings", Office of Archeology and Historic Preservation, Heritage Conservation and Recreation Service, U.S. Department of Interior, Washington, D.C., 20240.

(Ch. 413, § I, 1-16-07)

Sec. 19-493. Special criteria for demolition and removal.

Demolition of historic structures within a designated historic district shall be discouraged. When reviewing an application for removal and demolition of an historic structure or appurtenance, the commission shall consider the following criteria, in addition to adopted standards:

- (1) In the case of an application for construction, alteration, repair, removal or demolition affecting the exterior appearance of a structure, which the commission deems so valuable to the city, state or nation

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- that the loss thereof will be a great loss to the city, state or nation, the commission shall endeavor to work out with the owner an economically feasible plan for the preservation of such structure;
- (2) The commission shall approve an application for demolition when in the opinion of the fire chief or building inspector that the building constitutes a hazard to public safety;
 - (3) Unless the commission votes to issue a certificate of appropriateness for such construction, alteration, repair, removal, and demolition, the commission shall file with the building inspector and director of planning its rejection of such application;
 - (4) In the absence of change in such structure arising from casualty, no new application for the same or similar work shall be filed within one year after such rejection;
 - (5) In the case of an application for demolition of any structure or a portion of a structure which the HDC has deemed to be valuable for the period of architecture it represents and important to the neighborhood within which it exists, the HDC may file with the building inspector and director of planning its certificate of appropriateness for demolition if the HDC finds that any of the following exists:
 - a. Preservation of the structure is a deterrent to a major improvement program which will be of substantial benefit to the community;
 - b. Preservation of the structure would cause undue or unreasonable financial hardship to the owner, taking into account the financial resources available to the owner, including the sale of the structure to any purchaser willing to preserve the structure;
 - c. The preservation of the structure would not be in the interest of the majority of the community.
 - (6) When considering an application for demolition or removal of a historic structure, the commission shall assist the owner in identifying and evaluating alternatives to demolition, including sale of the structure on its present site;
 - (7) In addition to any other criteria, the commission shall consider whether there is a reasonable likelihood that some person or group other than the current owner is willing to purchase, move and preserve such structure, and whether the owner has made continuing and reasonable efforts to sell the structure to any such purchaser willing to move and preserve such structure.

(Ch. 413, § I, 1-16-07; Ch. 729, § IV, 11-7-18)

Sec. 19-494. Meetings and actions of historic district commission.

- (a) All meetings of the historic district commission shall be open to the public, and any person or such person's duly constituted representative shall be entitled to appear and be heard on any matter before the commission before its decision is reached.
 - (b) The commission shall keep a record, which shall be open to public view in the city clerk's office of its resolutions, proceedings, findings, decisions and actions. The commission shall provide notice of its meetings and shall comply in all respects with the requirements of the open meeting law.
 - (c) The commission shall file with the building inspector its certificate of appropriateness or rejection of all plans submitted to it for review. No work shall begin until such certificate has been filed, but in case of rejection, such certificate shall be binding upon the building inspector, and no permit shall be issued in such case.
 - (d) The failure of the commission to act within 45 days from the date of an application deemed to be complete by the department of planning shall constitute an approval, unless an extension is agreed upon mutually by the applicant and the commission.
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- (e) If the historic district commission makes a finding of fact that the circumstances of a particular application requires further time and information than can be obtained within the period of 45 days, the commission shall have a period of up to 90 days which to act upon such application.

(Ch. 413, § I, 1-16-07)

Sec. 19-495. Functions of designation and study transferred.

The historic properties designation and study commission shall be disbanded and dissolved and the functions, duties and authorities of that commission shall be subsumed into the historic district commission. The historic district commission will have the following added responsibilities.

- (1) Conduct a survey of neighborhoods, areas, places, and structures within the city for the purpose of determining those of a particular historic, aesthetic, architectural, archeological, or cultural significance or value and of compiling appropriate descriptions, facts and lists. As part of such survey the commission shall study and make report, in conjunction with and under the direction of the director of survey of the state historic preservation and heritage commission, of the exteriors of buildings, structures, features, sites, objects, and surroundings in the city. All survey and inventory work shall be conducted in accordance with the United States Secretary of the Interior's Standards and Guidelines; Archaeology and Historic Preservation, and shall be done to the satisfaction of the state historic preservation commission. The results of such survey shall be recorded on the historic building data sheet and shall be transmitted to the state historic preservation and heritage commission, along with copies of survey files and maps, and photographic negatives of all inventoried properties within 60 days of the completion of a survey project. In addition, all survey and inventory files shall be made available to the public upon request.
- (2) After careful study the commission shall make a written report to the city council which will recommend those structures, places, areas and neighborhoods of a particular historic, aesthetic, architectural, archeological, or cultural significance or value to be designated by the city council respectively as historic landmarks, historic sites.
- (3) Compile and maintain a list of designated historic landmarks.
- (4) Participate with and respond to the requests of the state historic preservation and heritage commission in the nomination of historic landmarks to the National Register.
- (5) The commission shall, as deemed appropriate or at the request of the mayor or city council, conduct a study of the need for the preservation of historic landmarks in the city. Based upon this study, the commission shall make a written report to the city council with recommendations regarding the preservation of historic landmarks. Any such recommendation including, but not limited to, the establishment of a historic zoning district, shall be consistent with any applicable laws of the state, the state historical preservation commission's certified local government program regulations and any applicable federal laws and regulations regarding historic preservation.

(Ch. 674, § II, 8-15-17)

Editor's note(s)—Ch. 674, § II, adopted August 15, 2017, in effect, repealed § 19-495 and enacted a new § 19-495 as set out herein. Former § 19-495 pertained to coordinated review process and derived from Ch. 413, adopted January 17, 2007.

Sec. 19-496. Exceptions from article.

Nothing in this article shall be construed to prevent ordinary maintenance or repair of any structure within the historic districts, provided that such maintenance or repair does not result in any change of design, type of material or appearance of the structure or its appurtenances, nor shall anything in this article be construed to prevent the construction, alteration, repair, moving or demolition of any structure under a permit issued by the building inspector prior to the effective date of the ordinance from which this article derives.

(Ch. 413, § I, 1-16-07)

Sec. 19-497. Enforcement.

Any authorized local official or any local building official may bring an action against any property owner who fails to comply with the requirements of insert section number of "powers and procedures of historic district commission". Actions shall be brought in the superior court having jurisdiction where the violation occurred or is likely to occur. Plaintiffs may seek restraining orders and injunctive relief to restrain and enjoin violations or threatened violations of this chapter.

(Ch. 413, § I, 1-16-07)

Sec. 19-498. Appeals.

A person jointly or severally aggrieved by a decision of the historic district commission shall have the right to appeal the decision to the zoning board of review. When appealing a commission decision, the zoning board of review shall not substitute its own judgment for that of the commission, but must consider the issue upon the findings and record of the commission. The zoning board of review shall not reverse a commission decision except on a finding of prejudicial procedural error, clear error or lack of support by the weight of the evidence in the record. The zoning board of review shall put all decisions of appeal in writing. The zoning board of review shall articulate and explain the reasons and bases of each decision on the record, and the zoning board of review shall send a copy of the decision to the applicant and to the historic district commission. Any person jointly or severally aggrieved by a decision of the zoning board of review on a matter of appeal under this article may appeal to the state superior court in the same manner provided in R.I.G.L. 1956, § 45-24-20 and from the superior court to the supreme court by writ of certiorari.

(Ch. 413, § I, 1-16-07)