ORDINANCE NO. 23-___
Town of Portsmouth
AN ORDINANCE AMENDING
CHAPTER 405 ZONING

Article XIII Zoning Board of Review

1. Appointment of members.

a) Members of the Zoning Board of Review shall be appointed by majority vote of the Town Council.

b) In case any vacancy occurs in said Board for any case or cause, the Town Council shall appoint a member to said Board to fill said vacancy for the remainder of the term of the member who has vacated his office.

c) The Zoning Board of Review shall consist of five (5) members, each to hold office for the term of five (5) years; provided, however, that the original appointments shall be made for terms of one (1), two (2), three (3), four (4), and five (5) years, respectively. The Zoning Board of Review shall also include two (2) alternates to be designated as the first [1st] and second [2nd] alternate members, their terms to be set by the ordinance, but not to exceed five (5) years.

(1) Members of zoning boards of review serving on the effective date of adoption of a zoning ordinance under this chapter shall be exempt from provisions of this section respecting terms of originally appointed members until the expiration of their current terms.

2. Alternates. Alternate members shall sit and may actively participate in hearings. The first and second alternates shall be designated by the chairperson on a case by case basis. 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 (2) 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.

3. Removal of a member. Members of the Zoning Board of Review may be removed from the Board for due cause by majority vote of the Town Council.

4. Organization of the Board.

a) The Zoning Board of Review shall annually elect a chairperson, a vice chairperson and a secretary. The chairperson, or in his or her absence, the vice chairperson, shall preside over all meetings of the Board.

5. Expenses.

a) Individual members of the Board may be reimbursed for expenses incurred in the performance of official duties with approval of the Chair.

b) The Zoning Board of Review may engage legal, technical, or clerical assistance to aid in the discharge of its duties.

c) The Town may provide for remuneration to members of the Zoning Board of Review.

6. Procedures generally.

a) The Zoning Board of Review shall adopt and maintain written rules of procedure, which shall be available to any applicant or the general public at the office of the Zoning Enforcement Officer. Said rules of procedure shall include, at a minimum, a mailing address to which appeals and correspondence to the Zoning Board of Review shall be sent, and an office where records and decisions shall be filed.

(1) In case of conflict between such rules of procedure and this ordinance, the provisions of this ordinance shall apply.

b) The chairperson, or in his or her absence, the vice chairperson, may administer oaths and compel the attendance of witnesses by the issuance of subpoenas.

c) No member or alternate may vote on any matter before the board unless they have attended all hearings concerning that matter.

7. Any petition for a variance or a special use permit to the Zoning Board of Review of the said Town, said petition shall be accompanied by a fee as prescribed by the Town of Portsmouth Ordinance pertaining to fees.

Section B Application procedure.

1. All applications including applications requests for variances, special use permits and appeals from a ruling of the zoning enforcement officer shall be made on forms as provided by the rules of the Board and the written ruling or decision of the enforcement official together with all other papers, plans and data constituting the record of the case shall be transmitted to the Board. All such applications must include a completed form or forms as specified by the Zoning Board of Review plus specific information required for the subject matter by this Ordinance.

2. Completed applications shall be delivered to the Zoning Enforcement Officer as specified in the written rules of procedure of the Zoning Board of Review, but in no case less than one (1) week prior to the date of publication of the first public notice on the subject matter. The Zoning Board of Review shall decline to hear any application which requires public notice for which a substantially complete application has not been submitted by the deadline, except applications pertaining directly to life safety requirements.

3. A time period of twelve (12) months shall be required to pass before a successive similar application to the Zoning Board of Review may be filed.

Section C Powers and duties of Zoning Board of Review.

1. The Zoning Board of Review shall hold a public hearing on all appeals including appeals in which applications for variances are involved and on all requests for special use permits and shall publish a notice of such hearings and give notice thereof to the parties in interest, as required by this Ordinance.

2. Public notice. Notice of all public hearings held by the Zoning Board of Review shall be as follows:

a) A notice shall be published in the legal notice section of a newspaper of local circulation in the Town of Portsmouth once per week for three (3) weeks, one (1) of which may include the week of the hearing and one (1) of which must appear at least fourteen (14) days prior to the date of the hearing.

b) Notice of hearing, which may be a copy of the newspaper notice, shall be sent by first class mail to the applicant, and to all abutters, as defined in Article II Definitions. Notice shall also be mailed to the public water district if the subject of the application is within two thousand feet (2,000') of a public water source.

c) All notices shall specify the general nature of the hearing, its date, place and time. The notice shall also include the street address of the subject property.

d) A supplemental notice shall be posted at the office of the Town Clerk and one other municipal building in the municipality and the Town shall make the notice accessible on the home page of the Town website for at least fourteen (14) days prior to the hearing. This posting shall be for information purposes only and shall not constitute required notice of a public hearing.

e) The cost of notification, including actual advertising, newspaper, and mailing costs, shall be borne by the applicant.

3. The Zoning Board of Review shall have the following powers and duties:

a) 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 hereto. Such appeals shall also be governed by the provisions of Article XIV.

b) To authorize, upon application, in specific cases of hardship, variances in the application of the terms of the zoning ordinance, pursuant to Article VI. Section D.

c) To authorize, upon application, in specific cases, special-use permits, pursuant to Article VII.

d) To refer matters to the planning board, or to other boards or agencies of the Town as the Zoning Board of Review may deem appropriate, for findings and recommendations;

e) To hear and decide other matters, according to the terms of the ordinance or other statutes, and upon which the board may be authorized to pass under this ordinance or other statutes.

4. The Zoning Board of Review is required to vote as follows:

a) Five (5) active members shall be 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 take no part in the conduct of the hearing. Only five (5) active members shall be entitled to vote on any issue;

b) The concurring vote of three (3) of the five (5) members of the Zoning Board of Review sitting at a hearing shall be necessary to reverse any order, requirement, decision, or determination of any zoning administrative officer from whom an appeal was taken; and

c) The concurring vote of four (4) of the five (5) members of the Zoning Board of Review sitting at a hearing shall be 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.

d) The concurring vote of three (3) of the five (5) members of the Zoning Board of Review sitting at a hearing shall be necessary to determine if, during the course of any hearing, an application is essentially changed and if said application shall be allowed to continue or shall require a new application.

Section D Decisions and records of Zoning Board of Review.

1. Following a public hearing, the Zoning Board of Review shall render a decision within a reasonable period of time. 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 or her failure to vote. Decisions shall be recorded and filed in the office of the Zoning Board of Review within thirty (30) working days from the date when the decision was rendered, and shall be a public record.

2. The Zoning Board of Review shall keep written 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, findings of fact, and other official actions, all of which shall be recorded and filed in the office of the Zoning Board of Review in an expeditious manner upon completion of the proceeding. For any proceeding in which the right of appeal lies to the Superior 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.

3. Any decision by the Zoning Board of Review, including any special conditions attached thereto, shall be mailed to the applicant, to the zoning enforcement officer of the Town, and to the Associate Director of the Division of Planning of the Rhode Island Department of Administration. Any decision evidencing the granting of a variance, modification, or special use shall also be recorded in the land evidence records of the Town.

4. All determinations of the Board shall be made in accordance with the comprehensive plan specified in Title 45 Chapter 24 of the General Law of 1956 as amended.

5. In authorizing special use permits, the Board shall be bound by the conditions for special uses which are set out in this Ordinance and in authorizing either special use permits or variances the Board may impose such further conditions as are deemed necessary for the protection of neighboring properties and the public interest, as further described in Article X. Special Conditions.

Section E Participation in zoning hearings.

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, a knowing violation of law,

transactions where there is an improper personal benefit, or malicious, wanton, or willful misconduct.

DEVELOPMENT PLAN REVIEW CHECKLIST

Name of proposed subdivision/development: _____

Preparer: _____

Phone Number: _____

Email: _____

Date of Application: _____

Date Received / Initials

Plat and Lot Number(s) of the land being subdivided/developed: _____

A COPY OF ALL PLANS AND SUPPORTING DOCUMENTS SHALL BE SUBMITTED IN DIGITAL FORM (PDF). APPLICATIONS WILL NOT BE CONSIDERED SUBMITTED FOR REVIEW OF COMPLETENESS UNTIL BOTH DIGITAL AND PAPER SUBMISSIONS ARE RECEIVED.

INSTRUCTIONS

All plans required by this checklist shall show the following information (as applicable). The shaded boxes within the checklist indicate an item is **not** required at a particular stage of review. If any checklist items are marked as not applicable (NA) please provide an explanation as to why the item is not applicable in the space provided at the end of each section of the checklist.

For the LOCATION column please provide the location of the specific checklist item. This can be a plan sheet number or the name of the supporting document/page.

For items required at the pre-application and master plan stage of review, conceptual design and approximate locations of required checklist items is acceptable. Engineered design and proposed final locations of required checklist items shall be provided, with certification by by a RI Registered Professional Engineer where required. All survey plans shall be stamped and signed by a RI Registered Surveyor. The Administrative Officer can provide further guidance on specific checklist items.

Review Codes are for administrative use only and are to be entered by the Administrative Officer:
Item Confirmed – Yes, No, Partial, or NA

Please check the applicable stage of review for the submission.

Note: Administrative Development Plan Review (DPR) only has an Administrative (AD) review, while Formal DPR has two stages, Preliminary (PR) and Final (F).

Project Type:	☐ Administrative DPR ☐ Formal DPR	Stage of Review:	☐ Administrative (AD) ☐ Preliminary (PR) ☐ Final (F)

PLAN DETAILS AND DIMENSIONS

Include enough sheets to clearly show all the information required. If 2 or more sheets are necessary, match lines must be provided and sheets numbered sequentially.

Where the magnitude of the subdivision is such that such scales are impracticable, applicant should request permission of the Administrative Officer to vary the scale.

	Administrative	Preliminary	Final
Details on Copies Required	• 4 copies of each form and document • 4 copies of concept plan • "Concept Plan" indicated after name of the proposed development or subdivision	• 10 copies of each form and document • 10 copies of proposed plans on 11" by 17" sheets • 4 copies no larger than 24 inches by 36 inches (24" by 36")	• 10 copies of each form and document • 1 copy of the final plat plans drawn on mylar (Max size 36" X 24" and Min 32" X 22") • 2 copies on D size sheets • 1 copy on 11" X 17" sheets • Electronic copy on disk
Scale	1 inch = 40 feet, or as otherwise required, on 22" X 32" sheet(s)	1 inch = 40 feet, or as otherwise required by the Board or permitted by Administrative Officer Mylar maximum 36" X 24" and minimum 32" X 22"	Final Plats: 1 inch = 40 feet Vertical Scale of Profiles: 1 inch = no less than 4 feet

A. FORMS AND DOCUMENTS

A	ADMIN	FORMAL		REQUIRED FORMS AND DOCUMENTS	REVIEW CODE
	AD	PR	F		
1.				Project review application cover sheet	
2.				Project team form	
3.				A notarized letter from the property owner(s) stating that the applicant has been granted the authority to proceed with the application with the owner(s) permission and consent	
4.				Purpose statement	
5.				"Tax Certificate" from the Tax Collector showing that all taxes due on the parcel being subdivided have been paid to date and there are no outstanding municipal liens of the parcel	
6.				If applicant is corporation, documentation that corporation is in good standing with Secretary of State	
7.				Electronic copies of all application materials	
Checklist Item #				Applicant Comments on Required Forms/Documents:	
Checklist Item #				Reviewer Comments on Required Forms/Documents:	

B. GENERAL INFORMATION

B	ADMIN	FORMAL		ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
	AD	PR	F			
1.				*Name of the proposed project		
2.				*Assessor's map/plat, block, and card/lot number(s) of land being developed		
3.				*Address/Location of the proposed development		
4.				Name and address of the applicant(s)		
5.				Name and address of property owner(s)		
6.				*Name, address, phone, and stamp(s) of the RI Registered Professional Engineer and/or RI Registered Land Surveyor responsible for the plans		
7.				*Date of plan preparation and all revision date(s), if any		
8.				*True north arrow and graphic scale		
9.				Site plan legend (all items displayed on site plans shall be symbolized in a legend)		
10.				*Relevant references to deeds and recorded plans		
11.				*List of sheets contained within the plan set		
12.				*Notation of any permits and/or agreements obtained from or made with State and Federal agencies, including permit number if applicable		
13.				Names, addresses and Plat/Lot identified of abutting property owners and property within 200' of the parcel(s)		
Items with asterisks (*) to be provided on plan sheets)						

C. EXISTING CONDITIONS PLAN(S)

C	ADMIN	FORMAL		ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
	AD	PR	F			
1.				A general location map showing the relationship of the development parcel(s) of the area within a half-mile radius		
2.				Dimensions and total area of the subject parcel, and location and dimensions of existing property lines, easements and rights-of-way within or appurtenant to the subject parcel		
3.				Certification by a RI Registered Land Surveyor that a perimeter study of the land being developed has been performed and meets a Class I standard for property lines and a Class III standard for topographic and existing conditions information		
4.				Location of known existing easements and rights-of-way within or adjacent to the subdivision/development parcel(s)		
5.				Location, width and names of any existing public, private and paper streets, driveways, farm roads, woods roads, and/or trails that have been in public use (pedestrian, equestrian, bicycle, etc.) within and immediately adjacent to the subdivision/development parcel(s)		

C	ADMIN	FORMAL		ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
	AD	PR	F			
6.				Zoning district(s) of the land being developed, with zoning boundary lines shown if there is more than one district		
7.				District Dimensional Regulations of the subdivision/development parcel(s)		
8.				Existing contours at intervals at a minimum of two (2) feet, using NAVD 88 datum		
9.				Location of soil contaminants present on the subject parcel		
10.				Location, size, and use/type of all existing buildings or significant above-ground structures, including stone walls on development parcel(s) and parcels immediately adjacent to the development parcel(s)		
11.				Location, size, and type of all known, existing above and below ground utilities, including sewer, water, gas, electric, stormwater drainage and communications or telecommunications infrastructure, as may be present on the site or within the right of way along the property frontage		
12.				A natural and cultural features map of the subject parcel showing the following: a. Location of wetlands, watercourses, or coastal features within and immediately adjacent to the subject parcel including buffer areas as defined by RIDEM for wetlands b. Existing contours at intervals of two (2) feet c. Base flood elevation data using the North American Vertical Datum of 1988 (NAVD 88) d. Location of wooded areas and areas of agricultural use, and approximate location of stone walls e. Location of any other significant natural or cultural features, including stone walls and historic cemeteries, within or immediately adjacent to the subject parcel		
13.				Notation indicating that the subdivision/development parcel(s) (or existing structures) are located or not located within the following areas of special concern: a. Natural Heritage Areas, as defined by RIDEM b. The area(s) under the jurisdiction of any Special Area Management Plan (SAMP) of RI CRMC c. A Groundwater Protection Overlay District d. A Wellhead Protection Area e. Groundwater Recharge Area f. Areas within a TMDL watershed, as identified by RIDEM g. Watershed Protection Overlay District(s) h. OWTS Critical Resource Area, as defined by RIDEM i. A Drinking Water Supply Watershed, as defined by RIDEM j. National Register of Historic Places k. FEMA Flood Plain Map		

D. PROPOSED CONDITIONS PLAN(S)

D	ADMIN	FORMAL		ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
	AD	PR	F			
1.				Boundaries and total area of land classified as "unsuitable for development" due to being inappropriate for construction, infrastructure, or other modifications because of environmental, geological, regulatory, or safety constraints per RIDEM, CRMC, and local regulations.		
2.				Proposed structure(s) and other site improvements with dimensions or area indicated for a multi-family, commercial or industrial development and total lot coverage.		
3.				Proposed building lots with approximate lot areas and dimensions, with proposed lot lines drawn so as to distinguish them from existing property lines, for a residential development		
4.				Proposed streets or street extensions, if any, with accurate areas and dimensions		
5.				Any proposed on- and/or off-site improvements including streets, access drives, loading areas, parking areas, sidewalks, pedestrian areas, and bicycle parking and/or paths		
6.				Traffic plan; include vehicular access showing the dimensions and location of roads, driveways, curb cuts, radii, parking as well as other off-site traffic improvements		
7.				Designated trash collection area(s) and snow stockpiling area(s) as applicable		
8.				Certification by a RI Registered Land Surveyor that a perimeter study of the land being developed has been performed and meets a Class I standard for property lines and a Class III standard for topographic and existing conditions information		
9.				Proposed location, size, and type of all above ground and underground utilities servicing the property, including water, gas, electric, stormwater drainage and communications or telecommunications infrastructure, as may be required for site development		
10.				Proposals for OWTS location and well locations (as applicable)		
11.				Designs of proposed stormwater management infrastructure for collecting and discharging stormwater, including type, location, and configuration, certified by a RI Registered Professional Engineer for final plans		
12.				Proposed phasing, including depiction of which structures and on- and off-site improvements are to be installed in which phase, if applicable		
13.				Limits of disturbance/work relative to on-and off-site improvements and infrastructure installation		
14.				Proposed grading plan(s) to show contours at sufficient detail (2-foot intervals) for all on and off-site street construction, drainage facilities, and individual house lots, stamped by a licensed Professional Engineer for final plans		

D	ADMIN	FORMAL		ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
	AD	PR	F			
15.				Landscape plan(s) prepared by a RI Registered Landscape Architect, to show all significant proposed clearing of land, removal of existing vegetation, re-vegetation, landscaping on street rights-of-way, and within common areas, and landscape installation details and related notations		
16.				Notation of any special conditions as required by the Preliminary Plan approval		
17.				Proposed measures to minimize impacts to the natural topography of the site using the RI Stormwater Design and Installation Standards Manual		
18.				Soil erosion and sediment control plan(s), as applicable		

E. SUPPORTING MATERIALS

E	ADMIN	FORMAL		ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
	AD	PR	F			
1.				Copies of an aerial photograph or satellite image vicinity map drawn to a measurable scale as necessary to show the relationship of the subdivision/development parcel(s) to the area within a half-mile radius, identifying the locations of all streets, zoning district boundaries, schools, parks, fire stations, and other significant public facilities		
2.				Renderings, elevations or photographs as may be needed to illustrate the visual impact of a proposed multi-family, commercial or industrial development		
3.				A narrative report or written statement including: a. A general description of the existing physical environment and existing use(s) of the property b. A general description of the use(s) and type(s) of development proposed c. A general statement and supporting maps and/or graphics that illustrates the approach utilized in designing the proposed development, including consideration of existing conditions and significant site features d. A general analysis of soil types and suitability for the development proposed e. A general viewshed analysis, showing the location and extent of significant views both from and within the proposed development parcel(s), as well as anticipated views into the property from adjacent public or private streets and properties		
4.				A written, signed statement indicating the specific sections of the Regulations from which waiver and/or modification is requested; or a written signed statement indicating that no waivers and/or modifications are being requested		
5.				For developments with freshwater wetlands present on the subdivision parcel(s), copies of either:		

E	ADMIN	FORMAL		ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
	AD	PR	F			
				a. An RIDEM wetlands permit, if required pursuant to RIDEM rules and regulations; or b. Written confirmation of non-jurisdiction from RIDEM		
6.				If no freshwater wetlands and/or wetland buffers are depicted within the plan set, copies of an affidavit signed by a qualified professional stating that there are no freshwater wetlands and/or buffer areas within the subdivision/development parcel(s)		
7.				Either, copies of: a. An affidavit signed by a qualified professional stating that there are no coastal features and/or buffer areas adjacent to or within the development parcel(s); or b. A Preliminary Determination, including coastal feature verification, from the Coastal Resources Management Council		
8.				For developments proposing service by public water, copies of a written statement from the appropriate water company or district that the proposed plan, with plan revision date indicated, has been reviewed and which provides: a. Confirmation that water service is available b. Approval of connection to the existing water main as depicted on the plan If an extension of an existing water line is proposed, approval from the company or district of the extension of the water line as depicted on the plan		
9.				For developments proposing service by OWTS(s), copies of a permit issued by RIDEM.		
10.				Written comments on the Plans, by the following as required (provided by Admin. Officer): ____ Building/Zoning Official Date _____ ____ Planning Board Date _____ ____ Technical Review Committee Date _____ ____ Director of Public Works Date _____ ____ Department of Health Date _____ ____ Fire Department Date _____ ____ Conservation Commission Date _____ ____ Police Department Date _____ ____ School Department Date _____ Other (specify below) _____ Date _____ Adjacent Communities _____ Date _____		
11.				Copies of drainage calculations, associated explanatory narrative, and all supporting documentation, including an Operations and Maintenance manual for any drainage system		
12.				A traffic study, if required, prepared by a RI Registered Professional Engineer regarding the potential impact of the		

E	ADMIN	FORMAL		ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
	AD	PR	F			
				proposed development on neighboring properties and roads; include all means of vehicular access to and from the site onto public streets showing driveways, curb cuts, radii, parking as well as other offsite traffic improvements necessary to ensure public safety and convenience, if required.		
13.				Copies of any RIDEM stormwater or other general construction permits that are required, or an affidavit, signed by a qualified professional, stating that no RIDEM stormwater or construction permits are required		
14.				Copies of any additional permits required for the project from federal, state, or local agencies and/or written confirmation by applicant that no other permits are required for the proposed project		
15.				Determination letter from the Building Official or designee as to whether a local Soil Erosion Sediment Control Plan is required		
16.				Narrative of Soil Erosion Sediment Control Plan if required by the Building Official that meets requirements of Chapter 320 of the Town Code Soil Erosion and Sediment Control		
17.				Determination letter from the Building Official or designee as to whether a local Stormwater Management Plan is required		
18.				Written report of Phase I Environmental Site Assessment and Phase II, if required		
19.				Written report and approval from RIDEM of an Environmental Site Assessment Phase III (Remediation Plan) if required		
20.				Copies of all legal documents; legal description of property, proposed easement and rights-of-way, dedications, restrictions or other required legal documents including but not limited to covenants or Homeowners Association, conservation easements, DPW easements, Stormwater Management Plan, Landscaping Maintenance Plan, a deed conveying open space or offer of street dedication, metes and bounds description(s) and warranty deed(s). Draft copies shall be provided at preliminary submittal and final documents for administrative or final.		
21.				Final copies of an irrevocable offer to convey to the Town of Portsmouth all public streets and/or other public improvements, accompanied by a metes and bounds description		
22.				Location, type, intensity, and direction of illumination of all outdoor lighting fixtures.		
23.				Floor plans and building elevations showing exterior building design, materials, colors, and height.		
24.				Location, type, and density of land uses that will be in the development.		
25.				Renderings as needed to illustrate the visual impact on abutting properties.		
26.				Signage including location, size, design, and illumination.		

E	ADMIN	FORMAL		ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
	AD	PR	F			
27.				Calculations determining allowable residential density based upon the exclusion of unsuitable land from the total land area of the subject parcel, including the total acreage, the acreage of unsuitable land and the resulting total number of units.		

F. FEES

F	ADMIN	FORMAL		FEE REQUIRED	REVIEW CODE
	AD	PR	F		
1.				Filing fee: $___ Check made out to "Town of Portsmouth, RI"	
2.				Escrow, if required: $ ____	
3.					

Signature of Applicant: _____

Signature of Professional Land Surveyor /Engineer: _____

Registration Number: _____

Signature of Reviewer: _____

Date of Review: _____

ORDINANCE NO. 23-___

Town of Portsmouth

AN ORDINANCE AMENDING

CHAPTER 405 ZONING

Article VIII Land Development Projects

Section A Applicability.

A project as provided for in the Zoning Ordinance as a Land Development Project, as defined in RIGL § 45-23-32, shall be subject to the provisions of this section as a "Land Development Project."

Section B

Procedure.

1. Land development projects shall be reviewed in accordance with the procedures established in the Land Development and Subdivision Regulations. No land development project shall be initiated until a plan of the project has been submitted and approved by the authorized permitting authority as determined in the Land Development and Subdivision Regulations.

2. All land development projects shall be reviewed in accordance with procedures and regulations established for major subdivisions in Article VI of the Land Development and Subdivision Regulations, and pursuant to Section 45-23 of the R.I. General Laws.

3. The Planning Board may, at its option and at the applicant's sole expense, retain independent expert consultants to evaluate specific portions of the proposal.

4. In case of conflict between this article and the Land Development and Subdivision Regulations, the provisions of this article shall prevail.

ORDINANCE NO. 23-___

Town of Portsmouth

AN ORDINANCE AMENDING

CHAPTER 405 ZONING

Article II Definitions

Section B Definition of Terms

Adaptive reuse

The conversion of an existing structure from the use for which it was constructed to a new use by maintaining the elements of the structure and adapting such elements to a new use.

ORDINANCE NO. 23-___

Town of Portsmouth

AN ORDINANCE AMENDING

CHAPTER 405 ZONING

Article XV Adoption of Ordinance and Amendments

Section D Notice and hearing requirements.

1. No zoning ordinance shall be adopted, repealed, or amended until after a public hearing has been held upon the question before the Town Council. At said hearing opportunity shall be given to all persons interested to be heard upon the matter of the proposed ordinance.

2. General notice requirements. The Town Council shall first give notice of the public hearing by publication of notice in a newspaper of local circulation within the Town at least once each week for three (3) successive weeks prior to the date of the hearing, which may include the week in which the hearing is to be held.

a) Written notice shall be mailed to the Associate Director of the Division of Planning of the Rhode Island Department of Administration, and, where applicable, to the parties specified in Subsections 2., 3., 4., and 5. of this section, at least two (2) weeks prior to the hearing.

b) The same notice shall be posted in the town or city clerk's office and one other municipal building in the municipality and the municipality must make the notice accessible on their municipal home page of its website at least fourteen (14) days prior to the hearing. The notice shall:

(1) Specify the place of the hearing and the date and time of its commencement;

(2) Indicate that adoption, amendment, or repeal of the zoning ordinance is under consideration;

(3) Contain a statement of the proposed amendments to the ordinance that may be printed once in its entirety, or summarize and describe the matter under consideration;

(4) Advise those interested where and when a copy of the matter under consideration may be obtained or examined and copied; and

(5) 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.

3. Notice for a general amendment. Where a proposed general amendment to an existing zoning ordinance, having Town-wide or district wide effect, includes changes in an existing zoning map, public notice shall be given as required by Subparagraph 2 of this section.

4. 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 or town. The notice shall be given by first-class mail at least two (2) weeks prior to the hearing at which the text amendment is to be considered, with the content required by subsection (a). If the city or town zoning ordinance contains an existing 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 of nonconforming lots. For any notice sent by first-class mail, the sender of the notice shall submit a notarized affidavit to attest to such mailing.

5. Notice for specific lot(s) change(s). Where a proposed amendment to an existing ordinance includes a specific change in the zoning district map applicable to specific parcels, but does not affect districts generally, public notice shall be given as required by Subparagraph 2 of this section, with the additional requirements that:

a) Notice shall include a map showing the existing and proposed boundaries, zoning district boundaries, and existing streets and roads and their names, and Town boundaries where appropriate; and

b) Written notice of the date, time, and place of the public hearing and the nature and purpose thereof shall be sent to all owners of real property whose property is located in or within not less than two hundred feet (200') of the perimeter of the area proposed for change, whether within the Town or within an adjacent town.

c) The notice shall be sent by first-class mail to the last known address of the owners, as shown on the current real estate tax assessment records of the Town in which the property is located. The sender of the notice shall submit a notarized affidavit to attest to such mailing.

6. Notice of a public hearing shall be sent by first class mail to the Town Council of any town to which one (1) or more of the following pertain:

a) Which is located in or within not less than two hundred feet (200') of the boundary of the area proposed for change; or

b) 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, within two thousand feet (2,000') of any real property that is the subject of a proposed zoning change, regardless of municipal boundaries.

7. Notice of a public hearing shall be 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 within two thousand feet (2,000') 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 Town a map survey, which shall be kept as a public record, showing areas

of surface water resources and/or watersheds and parcels of land within two thousand feet (2,000') thereof.

8. No defect in the form of any notice under this section shall render any ordinance or amendment invalid, unless the defect is found to be intentional or misleading.

9. Costs of newspaper and mailing notices required under this section shall be borne by the applicant.

ORDINANCE NO. 23-___
Town of Portsmouth
AN ORDINANCE AMENDING

CHAPTER 405 ZONING

ARTICLE VII Special Use Permits

Section A. General.

1. The following uses may require a special use permit from the Zoning Board of Review if designated by the letter "S" in the Tables of Use Regulations or, if applicable pursuant to unified development review, the Planning Board. Applications for special use permits must meet the specific and objective criteria specified herein as to each use:

   a) Uses in Flood Hazard Areas designated by the letter "R" in Article III, Section E.

   b) Uses designated by the letter "S" in the Tables of Use Regulations, Article V, Section B.

   c) Enlargement of a structure on a substandard lot of record according to the provisions of Article VI, Section A.

   d) Alterations to or change in use of non-conforming uses according to the provisions of Article VI, Section B and C.

   e) Signs requiring a Special Use Permit as specified in Article IX, Section B.

   f) Antennas, as further defined in Section E. herein.

   g) Light Industry, as further defined in Section F. herein.

   h) All proposed uses in the Town Center District that are not prohibited per Article V, Section B. **[Added 10-27-2004]**

2. Applicants for special use permits shall meet all federal, state, and local requirements including, but not limited to, licensing, health, safety, noise, and building code requirements. Residence/facility shall be appropriately licensed by the state.

3. Uses not listed in Table of Uses. To the extent a proposed land use is not specifically listed in Article V Table of Use Regulations, the property owner may submit a written request to the Zoning Board of Review 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 Board of Review shall have sixty (60) days to provide a written evaluation to the property owner. Upon such determination, the proposed use may be considered to be a use requiring a special-use permit.

4. Upon receipt of a completed application for a special use permit, the Zoning Board of Review, or the authorized permitting authority under Article XI Development Plan Review and Unified Development Review as applicable, may request that the Planning Director prepare a written report of findings and recommendations to be submitted to the appropriate review body.

5. Designation as a special use permit does not constitute an authorization or an assurance that

such use will be permitted. Rather, each application for a special use permit shall be evaluated as to its probable effect on the adjacent property, the neighborhood and on the community and may be approved or denied as the findings indicate appropriate.

6. Nothing herein contained shall preclude the Zoning Board of Review from granting multiple special use permits for a single project or proposal or to condition the granting of one (1) or more special use permits upon the implementation or completion of one (1) portion of a project, a master plan for which is submitted at the time of the application for special use permits. (See also Article X, Special Conditions.)

7. In granting a special-use permit, the Zoning Board of Review may grant one (1) or more dimensional variances, per the provisions of Article VI, Section D. Variances. **[Added 2-4-2008]**

    a) Dimensional variances granted in conjunction with a special-use permit shall be supported by independent evidence on the record satisfying each of the requirements for a dimensional variance, and the Board shall vote on each dimensional variance before voting on the special-use permit.

8. Where these regulations may conflict with other regulations, the more stringent regulation shall prevail.

9. Expiration. Any special use permit which is not utilized within a period of one (1) year from the date of the signing of the decision granting said Special Use Permit[1] shall be void unless, upon written request of the applicant and good cause shown, the Zoning Board of Review, following a public hearing thereon, grants an extension of not more than one (1) year. Not more than a single, one (1) year extension may be granted following any one public hearing. The Zoning Board of Review shall not grant successive extensions which total more than two (2) years on any project, (excluding any extensions granted prior to enactment of this amendment).

    a) If written proof from the Portsmouth Water and Fire District is provided showing that the applicant is unable to secure a tie-in to the Portsmouth Water and Fire District's water supply, then the Zoning Board of Review shall grant an extension for a period of one (1) year, provided that the applicant demonstrates reasonable diligence in attempting to secure such tie-in.

    b) In the event an application for extension is filed prior to the passage of one (1) year from date the signing of the decision granting said Special Use Permit, or the end of any subsequent extension term thereof, the special use permit shall remain in force and effect until the Zoning Board of Review has acted on said application for extension. **[Amended 8-10-2004]**

Section B. Procedures.

1. The applicant shall, on a form prescribed by the Zoning Enforcement Officer together with a proposed site plan, as required for the pertinent types of special use permits in this article, submit an application describing the request, supported by such data and evidence as may be required by the Zoning Board of Review or by the terms of this ordinance, the need and justification for the requested Special Use Permit.

2. The Zoning Enforcement Officer shall immediately transmit said completed application to

the Zoning Board of Review and, if required by the provisions of this Article, shall transmit a copy of each application to the Planning Board and the Design Review Board. Planning Board and Design Review Board review and procedures for this purpose are further defined in Article XI. Development Plan Review.

a) This provision shall apply to all non-residential developments and multi-family developments designated with an "S" (Special Use Permit) in Article V herein. **[Amended 10-27-2004 ; 12-14-2020 by Ord. No. 2020-12-14]**

3. The Zoning Board of Review shall hold a public hearing on any application for Special Use Permit in an expeditious manner, after receipt, in proper form, of an application, and shall give public notice pursuant to the provisions of Article XIII.) In its decision, the Zoning Board of Review shall provide, in writing, findings of fact and decisions, and conclusions of law.

4. Appeals from the decision of the Zoning Board of Review may be taken pursuant to Article XVII.

5. For each proposed development the applicant shall submit a filing fee payable to the Town of Portsmouth per the Town of Portsmouth Ordinance on fees.

6. Preliminary plans may be submitted to the Planning Board and the Design Review Board, as applicable, for informal discussion for the following types of Special Use Permits only. Any tentative advisory opinion on a preliminary plan by the Planning Board or the Design Review Board shall not be binding upon the Planning Board, Design Review Board or Zoning Board of Review:

a) Apartments, Condominiums, Cluster or Town Houses.

b) Retail Business, Office or Consumer Service Complex: New, Substantial Alteration or Substantial Improvement.

c) All uses designated as a special use permit within the Town Center District**. [Added 10-27-2004]**

Section C. Criteria for Special Use Permits

1 . Residential

a. Renting of rooms in an existing dwelling unit to not more than four (4) persons provided there are no separate cooking facilities and no separate means of ingress or egress.

1. The landlord abides by the requirements of R.I. Gen. Laws § 34-18-22.

2. There shall be one parking space for every adult occupant with a car.

3. There shall be no more occupants in the dwelling unit than the total number of rooms.

4. The dwelling unit must meet the requirements of the Rhode Island Property Maintenance Code.

b. Renting rooms in an existing dwelling unit to more than four (4) persons.

1. The landlord abides by the requirements of R.I. Gen. Laws § 34-18-22.

2. There shall be one parking space for every adult occupant with a car.

3. There shall be no more occupants in the dwelling unit than the total number of rooms.

4. The dwelling unit must meet the requirements of the Rhode Island Property Maintenance Code.

c. Conversion of an existing dwelling unit to accommodate not more than two (2) households provided there is no external evidence of occupancy by more than one (1) household and provided the dimensional requirements for a two-family dwelling are met.

1. There shall be one parking space for every adult occupant with a car.

2. There shall be no more occupants in the dwelling unit than the total number of rooms.

3. The dwelling unit must meet the requirements of the Rhode Island Property Maintenance Code.

d. Conversion of an existing dwelling unit to accommodate more than two (2) families.

1. A dwelling shall have a primary entrance either on the façade facing the front lot line or visible from the public right of way.

2. The front entry shall have a minimum elevation of three (3) feet above grade.

3. Windows, entrances, porches, or other architectural features are required on any facades to avoid the appearance of blank walls.

f) ~~b) Section C.~~ Apartments, condominiums, cluster or town houses.

1. An apartment, condominium, cluster or town house may be permitted as a special use permit in districts as specified in Article V. Permitted Uses, provided that the Zoning Board of Review, in accordance with this Ordinance, finds that the establishment of the same meets the standards and requirements of this section.

2. The purpose of these regulations is to encourage the appropriate use of land for the development of multi-family housing taking into consideration the natural amenities of the site. No multi-family structure or structures or apartment houses or group of apartment houses shall be erected unless in accordance with the standards set forth in this section.

3. In granting any such special use permit or in permitting any modification of the regulations set forth herein, the Zoning Board of Review may prescribe such conditions and safeguards, as further described in Article X. Special Conditions, as it may deem necessary to prevent nuisance to and promote harmony with nearby property.

4. The disregarding of any such condition or safeguard, when made a part of the terms under which a special use permit is granted, shall be deemed a violation of this Ordinance.

5. A Performance Bond or cash surety in the name of the Town of Portsmouth and in the amount of five percent (5%) of the estimated cost of development shall be submitted to the Zoning Enforcement Officer prior to the start of construction. Such Performance Bond or cash surety must be maintained in effect until a Certificate of Occupancy is issued.

6. No proposed development shall be approved by the Zoning Board of Review unless it is served by an adequate sewerage treatment system, as certified by RIDEM, or public sewer, when the same becomes available, and that the sewer line(s) to which it shall be connected, have adequate capacity to carry the additional effluent created by the development. Should the line(s) be determined to be inadequate, only such portion of the development as can be accepted by the sewer line(s) shall be approved for development, provided it meets all other requirements of this Zoning Ordinance.

    a) In the event a private sewage treatment plant is to be constructed, it shall be approved by the State of Rhode Island Department of Environmental Management and it shall meet the standards of any federal or state legislation regarding water pollution control before a building permit may be issued.

7. In granting a special use permit for a development under this section the Zoning Board of Review shall, immediately upon receipt of an application hereunder, refer the site plan and related documents to the Portsmouth Planning Board for review and advice, per the stipulations of Article XI. Development Plan Review. Plans for apartment, Condominium and Town House developments within or adjacent to commercial zones shall also be referred to the Design Review Board review and advice, per the stipulations of Article XI. Development Plan Review.

8. The Zoning Board of Review shall require that the developer provide affidavits or statements prior to final approval signed by the Department of Environmental Management and the Coastal Resources Management Council that the proposed site does not violate any portion of the Wetlands Act or CRMC regulations, plus permits for curb cuts and connections to State road drainage systems, if applicable.

9. Application shall include eleven (11) full sets of building and site drawings including, but not limited to, sewerage, other utilities, topographical plans, plumbing, heating and electrical plans, etc., as set forth below, and shall, as a condition precedent to the granting of said special use permit, require full adherence to said plans without deviation at any later construction date. The site plan shall conform to the development standards set forth in paragraph 10 below and shall contain the following:

    ~~a)~~ A location map showing the location of the proposed site in relation to the Town of Portsmouth~~.~~

    b) A plot plan showing the entire area to be developed as well as any abutting land under control of the applicant or owner of the land shown on the plan.

    c) The site plan shall:

        (1) Be drawn at a scale of one inch equals forty feet (1" = 40') and be thirty-two inches (32") long and twenty-two inches (22") wide and contain a North arrow in the upper left corner (A master plan may be of other scale).

        (2) Contain a title block in the lower right corner including the name of the surveyor, designer and engineer, the name of the development, owner and applicant if other than owner, the date and scale, the acreage and the number of efficiency or one (1) bedroom units, the number of two (2) bedroom units and the number of units containing three (3) or more bedrooms.

        (3) Show both existing and proposed contours at two foot (2') intervals, by the use of

solid and dotted lines.

(4) Show size and location of all underground utilities within and abutting the site.

(5) Show location and width of all proposed vehicular and pedestrian interior ways.

(6) Show location and number of spaces of proposed parking.

(7) Show location of all proposed buildings by type (i.e. Apartment, townhouse, recreation, etc.) with the number of units by bedroom distribution.

(8) Show location and size of all proposed utilities, as approved by the installing authority.

(9) Show location and type of retention/erosion control areas if necessary to meet drainage requirement.

(10) Show location of all monuments.

(11) Show the names of all abutters as determined from the most recent tax list.

(12) Show the proposed treatment of all open spaces.

(13) Show on a separate sheet building elevations.

(14) Show on a separate sheet preliminary layout of building interiors.

d) Submittal shall also include items required in Article IX Section D. Design Review Standards, as applicable.

(1) The above elements may be shown on separate sheets.

10. Development standards. All developments proposed under this Section shall conform to the following standards:

a) Minimum Frontage: one hundred ten feet (110').

b) Minimum Front Yard: thirty feet (30').

c) Minimum Side Yard: twenty-five feet (25').

(1) Driveways may not be counted as side yards.

d) Minimum Rear Yard: twenty-five percent (25%) or thirty feet (30') whichever is lesser.

e) Maximum Lot Coverage by Buildings: twenty-five percent (25%)**.

** Does include accessory structures such as swimming pools, cabanas, recreational buildings, etc. used exclusively for the residents of the development.

f) Maximum building and parking area coverage: forty percent (40%).

g) The following are the minimum required buildable land area per unit in square feet. In determining buildable land area, not more than ten percent (10%) of the area that is subject to periodic or seasonal flooding, per the most recent FEMA maps, shall be counted. (Example: total land area twenty (20) acres of which five (5) acres are subject to flooding net buildable land for determining density is fifteen point five (15.5) acres.)

The provisions of this Subparagraph shall supersede the provisions of Article IV, Section B. Land Space Requirements Table.

(1) If served by an on site sewer system with effluent being discharged into an on site absorption field, the minimum buildable land area per unit in square feet is as follows:

ZONE	1 BEDROOM	2 BEDROOM	3 BEDROOM	EACH ADDITIONAL BEDROOM
R-10	5,000	8,000	10,000	3,000
R-20 & WD	10,000	16,000	20,000	6,000
R-30	15,000	24,000	30,000	9,000
R-40	20,000	32,000	40,000	12,000

(2) If served by sewer system plant or public sewer system with effluent being discharged into an offsite absorption field the minimum buildable land area per unit in square feet is as follows:

ZONE	1 BEDROOM	2 BEDROOM	3 BEDROOM	EACH ADDITIONAL BEDROOM
R-10	3,750	5,600	7,500	2,000
R-20 & WD	7,500	11,000	15,000	4,000
R-30	11,250	17,000	22,500	6,000
R-40	15,000	22,500	30,000	8,000

NOTE: Any room such as a den, playroom, etc. is to be considered as a bedroom for this purpose.

h) Due to the wide range of soil content in the Town of Portsmouth, no on site sewerage system shall be considered completely adequate without attention being given to the existing soil analysis map as prepared by the U.S. Department of Agriculture Soil Conservation Service. No opinion pertaining to the adequacy of the proposed system can be given without written evidence of on-site soil exploration tests as required by the R.I. Department of Environmental Management. On site sewerage systems shall be approved by the Rhode Island Department of Environmental Management.

i) Maximum Building Height: two and one-half (2 1/2) Stories, not to exceed thirty-five feet (35').

j) Drainage.

(1) The developer shall provide for adequate drainage and shall further provide that the rate of runoff from the property shall not increase during construction or after completion of the development to the detriment of surrounding properties. If the retention of water is deemed necessary, then the retention areas shall be provided prior to construction of any buildings or the surfacing of any areas. The engineer

shall submit on separate sheets all computations in determining rates of runoff and shall base all calculations on a ten (10) year storm frequency using the TR-55 method for determining total storm water runoff. These computations shall be prepared by an engineer registered in the State of Rhode Island and he shall affix his seal to the required documents.

k) Sewage System.

(1) Public sanitary sewers shall be designed so as to ensure a self-cleaning velocity of not less than two-and-one-half feet (2.5') per second nor more than ten feet (10') per second. Computation of sewage and sewage flow calculation shall be submitted.

l) Water.

(1) Computation of water usage and a statement of water availability shall be submitted. Written evidence of permission to connect to a public water supply shall be delivered to the Building Inspector prior to issuance of a building permit.

m) Parking.[i]

n) Open space.

o) Building design and location.

(1) Where more than one (1) building is erected on a lot it shall be separated from any other building by a minimum of one hundred feet (100') and all buildings shall be set back a minimum of fifty-five feet (55') from the centerline of any interior way and thirty feet (30') from any parking area.

(2) Town House or attached dwelling: No row of attached buildings shall contain less than three (3) nor more than eight (8) units and the minimum width between party walls shall be not less than eighteen feet (18').

(3) No apartment building shall be less than sixty feet (60') in length. No facade or any apartment building shall exceed one hundred sixty linear feet (160') without a building jog of at least forty-five degrees (45°) for a two (2) wing building or thirty degrees (30°) for a three (3) wing building.

(4) No one building shall contain more than twenty-four (24) units.

p) All interior roadways and parking areas shall be constructed in accordance with the "Construction Standard for Streets" of the "Rules and Regulations Regarding the Platting or other Subdivision of Land" of the Town of Portsmouth.[1]

q) Access and egress.

(1) For each lot there shall be not more than one (1) entrance and exit driveway for each five hundred feet (500') of the street on which the lot faces. Said entrance and exit shall meet the requirements of the State of Rhode Island Department of Roads and Bridges and the Portsmouth Police and Highway Departments.

r) Acceptable engineering standards shall prevail where no standards are specified.

s) Fire lanes shall be provided for and approved by the Fire Department.

11. Where these regulations may conflict with other regulations, the more stringent regulation shall prevail.

a) Motels and hotels.

1. No motel or hotel shall be constructed on a lot having less than two hundred feet (200') frontage, nor less than forty thousand square feet (40,000 ft.^{2}) of lot area.

2. On each lot used for motel or hotel purposes there shall be provided front, rear and side yards each not less than fifty feet (50') in depth.

3. A space not less than twenty feet (20') shall be maintained open with grass, bushes, flowers or trees all along each side yard, rear yard and front yard except for entrance and exit driveways and such open space shall not be built on, not paved nor used for parking.

4. No space within the required front yard depth shall be used for parking except as a temporary nature such as for registering.

5. Each motel or hotel site shall be provided with not more than two (2) motor vehicle driveways for each abutting street which shall intersect the abutting street or streets at ninety degrees (90°).

6. Each rental unit shall contain not less than two hundred ten square feet (210 ft.^{2}) of habitable floor area.

7. Height restrictions as set forth in Article IV. may be varied subject to Zoning Board of Review for motels containing one hundred (100) or more units.

8. Subject to Zoning Board of Review approval, uses such as, but not limited, to restaurants, convention facilities, health clubs, retail shops, beauty and barber shops are permitted within motels containing one hundred (100) or more units.

9. In granting a special use permit for a development under this section the Zoning Board of Review shall, immediately upon receipt of an application hereunder, refer the site plan and related documents to the Portsmouth Planning Board for review and advice, per the stipulations of Article XI. Development Plan Review. Plans shall also be referred to the Design Review Board review and advice, per the stipulations of Article XI. Development Plan Review.

2. Institutional, Recreational and Educational Uses

a) Place of worship.

1. There shall be a ten (10)-foot landscaped buffer along any lot line abutting a street, excluding driveways, which shall include one shrub(s) per three (3) linear feet along said lot line a minimum of three (3) feet in height at time of planting, as well as one street trees for every five of linear feet along said lot line.

2. The site shall otherwise comply with the Town’s landscaping requirements.

3. Parking shall be screened along interior side and rear lot lines with a solid fence or wall, a minimum of six (6) feet and a maximum of eight (8) feet in height.

4. Parking shall be located in the side and rear yards of the property, behind the building(s) and parking plans shall provide safe pedestrian circulation with clearly marked crosswalks from each parking area to the building entrance(s).

b) Private or public school not conducted as a private business for gain.

1. The applicant shall provide proof of state licensing.

2. Hours of operation shall be between the hours of 6:00 a.m. and 6:00 p.m.

3. The site shall otherwise comply with landscaping requirements of the Town

4. There shall be a designated drop-off area near an entrance to the building with a queuing lane that does not block vehicle parking spaces.

5. Parking shall be located in the side and rear yards of the property, behind the building(s), and parking plans shall provide safe pedestrian circulation with clearly marked crosswalks from each parking area to the building entrance(s).

e. Cemeteries or mausoleums.

1. Cemetery uses require a minimum five (5)-acre lot area and a minimum twenty-five (25)-foot landscaped buffer from adjacent properties. Non-commercial, family cemeteries shall be allowed as a use by right and shall not require development review. A cemetery use on the same lot as or on a lot adjacent to a religious facility shall be allowed as a use by right.

f. Public utilities, limited to electrical, telephone, water, gas, cable television and sewer.

1. For electrical or waterpower generation stations:

a) Lighting of power generation facilities shall be consistent with local, state, and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes and shall be shielded from abutting properties.

b) Noise levels generated by power generation facilities shall be consistent with federal and state law and shall comply with the ambient noise level thresholds prescribed by the Town Code of Ordinances.

c) Signage. Signs on power generation facilities shall comply with the [Sign Ordinance]. Signs shall display identification of the owner or operator of the facility and a twenty-four-hour emergency contact telephone number.

d) Security measures which are not inconsistent with the requirements prescribed by the Federal Energy Regulatory Commission shall be provided and approved by the Chief of Police or his/her designee.

e) All means of shutting down the facility shall be clearly marked. The facility owner or operator shall:

i. Provide a copy of the facility's emergency action plan to the local Fire Chief.

ii. Cooperate with federal, state, and local emergency services in developing emergency response actions.

f) Identify a responsible person for public inquiries throughout the life of the facility.

g) Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of the facility or otherwise prescribed by applicable laws, regulations, and bylaws/ordinances.

h) The facility owner or operator shall maintain the facility in accordance with the requirements of the federal power generation license issued by the Federal Energy Regulatory Commission. In addition, maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief, under the applicable Fire Code(s). The owner or operator shall be responsible for the cost of maintaining the facility and any access road(s), unless accepted as a public way.

i) The facility proponent shall be required to provide a form of surety, either through escrow account, bond, or otherwise, to cover the cost of decommissioning and removing the facility at the end of the federal power generation license term and for restoring the landscape, in an amount and form determined to be reasonable by the permitting authority and subject to review by the Town Treasurer.

2. For utility substations

a) The utility shall be enclosed by a perimeter fence of eight (8) feet in height and shall include a gated ingress and egress.

g. Private non-profit libraries or museums.

1. Hours of operation shall be between the hours of 7:00 a.m. and 10:00 p.m. Hours of operation may be extended for events that are specifically licensed by the Town Council. Such license shall state the agreed upon hours of operation for such event.

2. No amplified live music is permitted outdoors, unless licensed specifically licensed to do so by Town Council. Outdoor structures shall be temporary and removed when not in use for events.

3. Private non-profit community center building, settlement house, adult education center or other similar facility. Hours of operation shall be between the hours of 7:00 a.m. and 10:00 p.m. Hours of operation may be extended for events that are specifically licensed by the Town Council. Such license shall state the agreed upon hours of operation for such event.

4. Lodges/meeting halls are permitted to serve meals on the premises for members and their guests only.

5. No more than 30 percent of the gross floor area may be used as office space for the lodge/meeting hall.

6. Sleeping facilities are prohibited.

h. Hospital, clinic, infirmary, nursing home, convalescent home, institutional residence group homes or other congregate care facility not qualifying as a community residence.

1. Public water must be available at the site. The applicant must provide written confirmation from the applicable water that there is adequate service available for connection.

2. The parking plan shall provide safe pedestrian circulation with clearly marked crosswalks from each parking area to the building entrance(s).

3. Traffic assessment shall be provided for hospitals and facilities serving 11 or more clients and patients in total.

i. Day Care Center: provided any outdoor play area is screened by fence, wall, or planting line from any neighboring residential structure and is not detrimental to the

1. The applicant shall provide proof of state licensing.

2. There shall be a designated drop-off area near an entrance to the building with a queuing lane that does not block vehicle parking spaces calculated as [NUMBER] percent of facility's enrollment capacity as determined by the licensing authority.

3. The parking plan shall provide safe pedestrian circulation with clearly marked crosswalks from each parking area to the building entrance(s).

j. Trade, professional or other for-profit school for gain

1. The applicant shall provide proof of state licensing.

2. Hours of operation shall be between the hours of 6:00 a.m. and 6:00 p.m.

3. The site shall otherwise comply with the Town's landscaping requirements.

4. There shall be a designated drop-off area near an entrance to the building with a queuing lane that does not block vehicle parking spaces.

5. Parking shall be located in the side and rear yards of the property, behind the building(s), and parking plans shall provide safe pedestrian circulation with clearly marked crosswalks from each parking area to the building entrance(s).

k. Country club, golf, swimming, tennis or other outdoor recreational facility.

1. Facility must not violate the noise standards outlined in Chapter 257 Section 7.

2. Facility's exterior lighting must abide by standards of Chapter 148 Section VI.

3. Applicant must document that trips generated will not exceed capacity of existing roads, with consideration for current traffic.

3. Agricultural

a. Agricultural Promotion

1. Where the use abuts a residential use or zoning district, there shall be a one hundred (100) ft. setback from each such lot line abutting a residential use or zoning district.

2. All overnight boarding operations shall be located indoors.

3. All animal care and/or kennel facilities shall have a valid municipal license.

b. Agricultural Special Events

1. The operator must obtain a Special Events permit from Town Council no less than annually.

2. The operator must provide or make arrangements for medical and emergency assistance; protection of neighboring property; litter control and cleanup, including septic waste disposal; parking; and traffic control.

c. Farm Brewery.

1. Farm Breweries shall have a maximum capacity of five thousand (5,000) barrels (31 gallons each) per year.

2. Farm Breweries shall require development review pursuant to the requirements in the Land Development and Subdivision Regulations if they allow on-site consumption of beer or alcoholic beverages and/or if they are located within five hundred (500) feet of the property line of a lot in a residential zoning district or a lot containing a residential use.

3. Other Principal Uses

a. Antennas.

1. Antennas proposed to extend over a height of thirty-five feet (35') from existing grade may be permitted by special use permit.

2. Each and every antenna proposed to be installed utilizing an individual support structure shall not be allowed within the confines of the designated front, side or rear yards and shall not be installed or erected without the prior approval of the Building Inspector and the acquisition of a lawfully issued building permit therefor.

3. Each such antenna shall be provided with a free-fall radius of one hundred twenty-five percent (125%) of its height, which radius shall be clear of any structure designed for residential use or commercial/industrial occupancy.

4. -Industrial, Wholesale and Transportation Uses

a. Laundries and dry-cleaning plants.

1. Must have received applicable federal, state, and local permits prior to granting of a special-use permit.

2. Must not expand existing substandard or non-conforming operations.

3. May only use solvents which are nonflammable (i.e., will not support combustion) or nonflammable at ordinary temperatures and only moderately flammable at higher temperatures.

b. Extractive industries and earth removal.

1. Must have received applicable federal, state, and local permits prior to granting of a

special-use permit.

2. Must not expand existing substandard or non-conforming operations.

c. Mass Storage of fuel in tanks not exceeding 50,000 gallons.

1. Must have received applicable federal, state, and local permits prior to granting of a special-use permit.

2. Must not expand existing substandard or non-conforming operations.

3. Storage of any kind is prohibited outside fences or walls. No items stored within ten feet of fences or walls may exceed the height of the fence or wall.

4. The storage area should be located in the rear of the lot. Any structures shall be located in front of the storage area to obscure the view of the storage from street(s), in compliance with the front yard of the underlying zoning district.

d. Limited light industry.

Map 38, Lots 5, 6, 7, 7B, 7C, 7D, 7E, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32 are to be considered "Limited Light Industry" and are, in addition to other provisions of this ordinance, subject to the following regulations:

1. All structures erected on these lots shall not exceed thirty feet (30') or one (1) story in height. Uses permitted hereunder must be so located that each part thereof is set back at least the following distances:

a) Fifty feet (50') from any street or road on which the structure in question fronts.

b) Fifty feet (50') from any other property line.

2. Permitted uses. No lot within the district shall be used or occupied at any time for other than the purpose of "Limited Light Industrial Uses," which is defined as follows:

a) A limited light industrial use is one of such a nature and so designed, constructed and operated that there is no production of sound, heat or glare perceptible at any lot line, and which emits no vibration, smoke, dust, dirt, toxic or offensive odors or gases, electromagnetic or atomic radiation.

b) Without limiting the foregoing, uses specifically prohibited within these lots are residential and commercial usages of a retail nature, except facilities expressly designed for the use and benefit of the occupants of a site. In addition, no site shall be used for any industry whose primary business requires industrial sewage disposal facilities, unless the governing municipal and state bodies authorize the use of the available sewage disposal facilities. All liquid or solid wastes must be treated to conform with applicable standards of the Rhode Island Department of Health and any other regulations of any governing municipal or state agency.

3. All outside storage shall be screened from abutting properties by the erection and maintenance of an opaque fence, not less than six feet (6') in height or a double row

of compact evergreen screen not less than six feet (6') in height.

4. Any and all loading, unloading or deliveries shall be "off street" and the facilities therefor shall be located at the rear or sides of buildings which do not face the roadway. All loading and unloading areas shall have a minimum surfacing of asphaltic concrete with curbing. Curbings shall be installed in all loading and unloading areas.

5. The area between buildings and property lines is to be used either for open landscape and green areas, or for off-street parking.

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1. **Note: Effective 10-15-1997, Article VII Section F.5. is deleted. All parking requirements related to limited light industrial development are in Article IX. Deleted wording was: "Any and all parking, including parking for visitors, employees, or customers shall be "off street" and there shall be no less than one parking space for each person to be employed on a lot. All roads and parking areas shall have a minimum surfacing of asphaltic concrete or approved equivalent. Curbings shall be installed in all parking areas."**

6. Fences, walls and hedges may be permitted in any required yard, not to exceed the maximum height as follows:

LOCATION	MAXIMUM HEIGHT
Front and side yards	6 feet
Rear yards	10 feet
Hedges	No restrictions

7. Signs for advertising purposes shall be prohibited, except that one (1) sign flush with an exterior wall or a structure on each building site shall be permitted, as stipulated in Article IX. Section B. Signs. This sign shall indicate no information other than the name of the industry occupying the building site. Sign illumination shall not flash, blink, vary in intensity, revolve or otherwise be or appear to be in motion. Free standing information and directional signs shall be permitted upon approval of the Zoning Board of Review as stipulated in Article IX. Section B. Signs.

8. An accessory use which is clearly incidental and secondary to the principal permitted use of the premises or structure shall be allowed provided that such accessory use shall be located on the premises to which it applies and shall not be detrimental to or impair adjacent properties.

9. Structures permitted above height requirements on these lots include roof structures for housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, towers, steeples flagpoles, chimneys, smokestacks, wireless masts, antennas and water tanks, provided that no roof structure of any space above the height limit shall be allowed for the purpose of providing additional floor space.

5. Retail and Consumer Services

a. Store for retail sale or merchandise, with outside display storage of wares and merchandise, provided there is no manufacturing or assembly on the premises.

   1. Drive-through facilities are prohibited.

   2. All chemicals and/or hazardous substances must be properly stored within the primary or a legally permitted accessory structure.

   3. Outdoor retail display of items is limited to [NUMBER] square feet.

b. Marinas including sales and repair of boats and related supplies.

   1. All repair, service, and sales and/or leasing operations shall be performed within a fully enclosed building. All equipment and parts shall be stored indoors.

2. Boat services establishments shall be screened along interior side and rear lot lines with a solid wall or fence, a minimum of six (6) feet and a maximum of eight (8) feet in height.

3. No boats shall be stored and no repair and/or service work shall be conducted in the public right-of-way.

4. There shall be a ten (10)-foot landscaped buffer along any lot line abutting a street, excluding driveways, which shall include one shrub(s) per three (3) linear feet along said lot line a minimum of three (3) feet in height at time of planting, as well as one street trees for every five of linear feet along said lot line.

5. The site shall otherwise comply with landscaping requirements of the Land Development and Subdivision Regulations.

6. No access driveway may exceed 25 feet in width. For a corner lot, curb cuts are restricted to one curb cut per street frontage.

c. Store for retail sale of merchandise such as, but not limited to, lumber yards and building supply yards, wherein merchandise is stored in the open provided that all merchandise so stored is screened from ground level view from any abutting street or property at the property line where such materials are stored.

1. All stored materials must be covered from weather and are stored on an impervious surface.

d. Telephone exchanges, but not including service or storage yards, or microwave transmission facilities.

e. "Outdoor Trade Shows" which includes those events in which manufacturers, wholesalers and/or retailers shall assemble to display their wares and merchandise for promotion and sale to the general public, including but not limited to Art Shows, Boat Shows, Antique Shows and the like.

f. New retail business, office or consumer service complex, alteration or substantial improvement.

1. A new retail business, office or consumer service complex use, or an addition of more than thirty percent (30%) over the size of the buildings as existing at the time of the enactment of this amendment, or a Substantial Improvement, as defined in Article II., may be permitted as specified in Article V. Section B. Permitted Uses, provided that the Zoning Board of Review in accordance with this Ordinance, finds that the establishment of the same meets the standards and requirements of this section, and the intent of the use district in which it is located. **[Amended 10-27-2004 [3]]**

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2. Note: "and the intent of the use district in which it is located" adopted 10-27-2004.

a) Multiple principal and/or accessory buildings may be permitted within a single lot, subject to the provisions of Article VIII. Section D. Planned Unit Developments. **[Added 2-4-2008]**

2. A performance bond in the amount of one hundred percent (100%) of the cost of on-site improvements including roads, parking and travel areas, drainage and landscaping, but exclusive of buildings, and a certificate of occupancy shall be required.

3. A Performance Bond or cash surety in the name of the Town of Portsmouth and in the amount of five percent (5%) of the estimated cost of development shall be submitted to the Zoning Enforcement Officer prior to the start of construction. Such Performance Bond or cash surety must be maintained in effect until the requirements, in total or in phases, as determined by the Zoning Board of Review, are completed.

4. No proposed development shall be approved by the Zoning Board of Review unless it is served by an adequate sewerage system as approved by the R.I. Department of Environmental Management or public sewer, when the same becomes available, and that the sewer lines to which it shall be connected, have adequate capacity to carry the additional effluent created by the development. Should the lines be determined to be inadequate, only such portion of the development as can be accepted by the sewer lines, shall be approved for development provided it meets all other requirements of this Zoning Ordinance.

   a) In the event that a private sewage treatment plant is to be constructed, it shall be of a type approved by the State of Rhode Island Department of Environmental Management, and it shall meet the standards of all Federal and State Legislation regarding water pollution control before a building permit may be issued.

5. In granting a special use permit for a development under this section the Zoning Board of Review shall, immediately upon receipt of an application hereunder, refer the site plan and related documents to the Portsmouth Planning Board for review and advice, per the stipulations of Article XI. Development Plan Review. Plans shall also be referred to the Design Review Board review and advice, per the stipulations of Article XI. Development Plan Review.

6. The Zoning Board of Review shall require that the developer provide affidavits or statements signed by the Department of Environmental Management and the Coastal Resources Management Council that the proposed site does not violate any portion of the Wetlands Act

or CRMC regulations prior to final approval, plus permits for curb cuts and connections into State road drainage systems, if applicable.

7. Application shall include eleven (11) full sets of building and site drawings including, but not limited to, sewerage, other utilities, topographical plans, plumbing, heating and electrical plans, etc., as set forth below, and shall, as a condition precedent to the granting of said special use permit, require full adherence to said plans without deviation at any later construction date. The site plan shall conform to the development standards set forth in paragraph 10 below and shall contain the following:

   a) A location map showing the location of the proposed site in relation to the Town of Portsmouth.

   b) A plot plan showing the entire area to be developed as well as any abutting land under control of the applicant or owner of the land shown on the plan, and all parcels within five hundred feet (500') of proposed development. **[Amended 10-27-2004 [4]]**

   c) The site plan shall:

      (1) Be drawn at a scale of one inch equals forty feet (1" = 40') and be thirty-two inches (32") long and twenty-two inches (22") wide and contain a North arrow in the upper left corner (a Master Plan could be of other scale).

      (2) Contain a title block in the lower right corner, including the name of the surveyor, designer, and engineer, the name of the development, owner and applicant if other than the owner, the date and scale, the acreage and square footage of the development.

      (3) Show both existing and proposed contours at two foot (2') intervals, by the use of solid and dotted lines.

      (4) Show size and location of all underground utilities within and abutting the site.

      (5) Show location and width of all proposed vehicular and pedestrian interior ways.

      (6) Show location and number of spaces of proposed parking.

      (7) Show location of all proposed buildings by type.

      (8) Show location and size of all proposed utilities, as approved by the installing authority.

      (9) Show location and type of retention/erosion control areas if necessary to meet drainage requirement.

      (10) Show location of all monuments.

      (11) Show the names of all abutters as determined from the most recent tax list.

      (12) Show the proposed treatment of all open spaces.

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3. Note: ", and all parcels within 500 feet of proposed development" adopted 10-27-2004.

(13) Show on a separate sheet building elevations.

(14) Show on a separate sheet preliminary layout of building interiors.

d) Submittal shall also include items required in Article IX Section D. Design Review Standards, as applicable. **[Added 10-27-2004]**

The above elements may be shown on separate sheets.

8. Development standards. All developments proposed under this Section shall conform to the following standards:

a) Minimum frontage: one hundred ten feet (110').

b) Minimum front yard: thirty feet (30').

c) Minimum side yard: twenty-five feet (25').

(1) Driveways may not be counted as side yards.

d) Minimum Rear Yard: thirty feet (30').

e) Maximum lot coverage by buildings: twenty-five percent (25%).

f) Maximum Building, parking and travelway coverage: seventy percent (70%); eighty-five percent (85%) in the Town Center District.[5]

g) Due to the wide range of soil content in the Town of Portsmouth, no on site sewerage system shall be considered completely adequate without attention being given to the existing soil analysis map as prepared by the U.S. Department of Agriculture Soil Conservation Service. No opinion pertaining to the adequacy of the proposed system can be given without written evidence of on-site soil exploration tests as required by the R.I. Department of Environmental Management. On site sewerage systems shall be approved by the Rhode Island Department of Environmental Management.

h) Maximum Building Height: two and one-half (2 1/2) Stories, not to exceed thirty-five feet (35').

i) Drainage. The developer shall provide for adequate drainage and shall further provide that the rate of runoff from the property shall not increase during construction or after completion of the development to the detriment of surrounding properties. If the retention of water is deemed necessary, then the retention areas shall be provided prior to construction of any buildings or the surfacing of any areas. The engineer shall submit on separate sheets all computations in determining rates of runoff and shall base all calculations on a ten (10) year storm frequency using the TR-55 method for determining total storm water runoff. These computations shall be prepared by an engineer registered in the State of Rhode Island and he shall affix his seal to the required documents.

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4. Note: 85% in the Town Center District adopted 10-27-2004.

j) Sewage system. Public sanitary sewers shall be designed so as to ensure a self-cleaning velocity of not less than two and one-half feet (2.5') per second nor more than ten feet (10') per second. Computation of sewage and sewage flow calculation shall be submitted.

k) Water. Computation of water usage shall be submitted and a statement of water availability shall be submitted. Written evidence of permission to connect to a public water supply shall be delivered to the Building Inspector prior to issuance of a building permit.

l) (Reserved)[6]

m) All interior roadways and parking areas shall be constructed in accordance with the "construction standards for streets" contained in Land Development and Subdivision Regulations of the Town of Portsmouth.[7] **[Added 10-27-2004]**

n) Access and egress. There shall be not more than one (1) entrance and one exit for every five hundred feet (500') or less of frontage. Said entrance and exit shall meet the requirements of the State of Rhode Island Department of Roads and Bridges and the Portsmouth Police and Highway Departments.

o) Acceptable engineering standards shall prevail where no standards are specified.

p) Fire lanes shall be provided for and approved by the Fire Department.

q) Outdoor display areas. Exterior display areas shall be permitted only where clearly depicted on the approved site plan. All exterior display areas shall be adequately separated from motor vehicle routes by a physical barrier visible to drivers and pedestrians. Display areas on building aprons must maintain an adequate minimum walkway width between the display items and any vehicle drives. **[Added 2-4-2008]**

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5. Note: Effective 10-15-1997, Article VII Section G.10.l) is deleted. All parking requirements related to retail development are in Article IX. Deleted wording was: "Parking shall be provided for in accordance with Article IX. Section A, Parking. There shall be no parking within 25' of any lot line. Cross-section of travel and parking areas shall be provided on the site plan."

6. Editor's Note: See Ch. 236, Land Development and Subdivision Regulations.

Merchandise may not be displayed or stored in parking areas or on sidewalks adjacent to facade walls, except in screened display, sales, and storage areas, except short term seasonal events as approved by the Building Inspector.

Display, sales, and storage areas, such as nursery departments, must be enclosed by screening with a solid base with a minimum height of three feet (3') under a wrought iron or tubular steel fence (black or green vinyl coated only) with a minimum height of five feet (5'). The screening may also be composed of materials and colors matching the main building. No merchandise other than trees may be visible above the screening from eye level at grade.

These provisions shall not be applicable where the sale of nursery and agricultural products are the principal use of the building.

9. The foregoing development standards including but not limited to parking, open space, building design and location and other standards set forth herein and in Article IX may be modified and/or varied by the Zoning Board of Review upon a finding that such modifications comply with the requirements set forth in Section A paragraph 4 herein.

g. Sales places for flowers, garden supplies, agricultural produce partly or wholly outdoors including commercial greenhouses.

1. The storage area(s) shall be completely enclosed by a solid fence or wall a minimum of 5 feet and a maximum of 30 feet in height, including ingress and egress. Fences or walls along the front or corner side lot line shall be set back a minimum of 20 feet.

2. Storage of any kind is prohibited outside the fence or wall.

3. The storage areas shall be located in the rear of the lot. Any structures shall be located in front of the storage area to obscure the view of the storage from street(s), in compliance with the front yard of the underlying zoning district.

4. Where the use abuts a residential use or zoning district, there shall be a 20 ft. setback from each such lot line abutting any residential use or zoning district.

6. Automotive and Drive-In Retail

a. Boat Repair Shops

1. All repair, service, and sales and/or leasing operations shall be performed within a fully enclosed building. All equipment and parts shall be stored indoors.

2. Boat services establishments shall be screened along interior side and rear lot lines with a solid wall or fence, a minimum of six feet and a maximum of eight feet in height.

3. No boats shall be stored and no repair and/or service work shall be conducted in the public right-of-way.

4. There shall be a ten (10)-foot landscaped buffer along any lot line abutting a street, excluding driveways, which shall include one shrub(s) per three (3) linear feet along said lot line a minimum of three (3) feet in height at time of planting, as well as one street trees for every five of linear feet along said lot line.

5. The site shall otherwise comply with landscaping requirements of the Land Development and Subdivision Regulations.

6. No access driveway may exceed 25 feet in width. For a corner lot, curb cuts are restricted to one curb cut per street frontage.

b. Paint and body shops, provided all work is carried out within the building.

1. All repair, service, and sales and/or leasing operations shall be performed within a fully enclosed building. All equipment and parts shall be stored indoors.

2. Vehicle services establishments shall be screened along interior side and rear lot lines with a solid wall or fence, a minimum of six feet and a maximum of eight feet in height.

3. No partially dismantled, wrecked, or unlicensed vehicles shall be stored outdoors on the premises. This standard does not apply to vehicles under repair and/or service.

4. No motor vehicles shall be stored and no repair and/or service work shall be conducted in the public right-of-way.

5. There shall be a 10-foot landscaped buffer along any lot line abutting a street, excluding driveways, which shall include one shrub(s) per three (3) linear feet along said lot line a minimum of three (3) feet in height at time of planting, as well as one (1) street tree for every five (5) linear feet along said lot line.

6. The site shall otherwise comply with landscaping requirements of the Land Development and Subdivision Regulations.

a. No access driveway may exceed twenty-five (25) feet in width. For a corner lot, curb cuts are restricted to one (1) curb cut per street frontage.

8. Accessory Uses

a. Restaurants primarily for the use of residents of an apartment building or group of apartment buildings provided there is no exterior evidence of same and further provided the apartment building or group of buildings is under one management and contains not less than one hundred (100) dwelling units. (Leasing of the restaurant is permitted.)

b. Windmills and other wind power generating devices, whether commercial or otherwise.

1. The applicant shall be required to provide evidence of liability insurance in an amount, and for a duration, sufficient to cover loss or damage to persons and property occasioned by the failure of the facility.

2. No site plan for the installation of a wind energy facility shall be approved until evidence has been given that the electric utility company that operates the electrical grid where the facility is to be located has been informed of the customer's intent to install an interconnected customer-owned generator, and copies of site plans showing the proposed location have been submitted to the utility for review.

3. Off-grid systems shall be exempt from this requirement, unless they are proposed to be located within setback distance from the sideline of an existing utility ROW.

4. A wind energy facility that is no more than 36 feet tall and that generates no more than 100

kw of electricity and where said electricity is used exclusively for the power needs of the individual homeowner shall be allowed, provided that:

1. The facility may not produce more than 40 dB of noise during the day (as measured from 6:00 a.m. to 6:00 p.m.) and no more than 35 dB of noise during the evening (as measured from 6:00 p.m. to 6:00 a.m.).

2. Small-unit turbines that exceed 36 feet in height shall be evaluated at the preapplication meeting with consultation from the Zoning Board of Review.

5. All windmills and wind turbines requiring a special use permit shall be in conformance with the following standards and requirements:

ii. Fall zone. The minimum fall zone shall be 200% of the height of the tower, plus one rotor length, or the manufacturer's recommendation, whichever is greater. The minimum fall zone and safety setback shall be contained within the applicant's property and/or property under control of applicant which is dedicated to the exclusive use of a fall zone by easement or other property interest which said property interest has a duration of least 20 years after the installation of the turbine. Easements and other instruments evidencing property interests are subject to the approval of the Town Solicitor.

iii. Noise and sound level. Noise levels shall not exceed a five dB increase over the ambient levels at the applicant's property boundary lines. The ambient sound shall be determined with preapplication acoustical testing of said sound levels at the property boundary lines, said testing to account for day and evening levels. If additional turbines are proposed on the same property in the future, the previously installed turbine noise levels shall not be included to raise the background and ambient noise levels for the new turbine evaluation. Said testing shall be at the applicant's expense.

iv. Shadow flicker. During the time of shadow flicker, the wind energy facility shall be shut down so as to eliminate any shadow flicker issues. The presence of shadow flicker effect shall be measured at the property boundary lines and at locations within 2,500 feet of the wind energy facility. Wind energy facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect will not have significant adverse impact on neighboring or adjacent uses.

v. Overspeed controls, brakes, ice detection. All wind turbines shall be equipped with an overspeed control system, braking mechanism, and ice detection sensors (or heated blades, as the case may be). These systems shall be of the latest proven technology available.

vi. Wildlife, bird migratory patterns to remain significantly unaffected. The wind energy facility shall not have an unreasonable adverse effect on birds, migratory patterns, rare, threatened, or endangered wildlife, significant wildlife habitat, rare, threatened, or endangered plants and rare and exemplary plant communities.

vii. Electrical components and interconnections. All electrical components of the wind energy facility shall conform to relevant and applicable local, state, and national codes, laws and regulations.

viii. Access. All ground-mounted electrical and control equipment and all access doors

to a wind turbine shall be labeled and secured to prevent unauthorized access. A wind tower shall not be climbable up to a minimum of 15 feet above the ground surface.

ix. Co-location of external cellular and wireless equipment prohibited. To the extent that wind energy facility shall co-locate cellular or wireless communication equipment, said equipment shall be enclosed within the tower and not mounted externally. The applications for such uses shall be submitted as two separate and independent projects.

x. Incorporation of latest technology in testing parameters and studies. The applicant shall incorporate the latest technology, testing parameters, and best management practices, including preapplication testing, that meet or exceed accepted industry standards into all studies and technical submissions provided in the application process.

xi. Developer must provide calculations of potential hazards such as ice throw and blade throw in the event that such was to occur. These calculations shall be based on maximum governed speed of the blades releasing at the optimum angle for maximum distance.

c. Drive-in or drive-through facility, whether attended or unattended by an employee, that is accessory to the primary commercial use.

1. All drive-through facilities shall provide on-site stacking/queuing spaces. Stacking spaces provided for drive-through uses shall begin behind the vehicle parked at a final point of service, such as a service window or car wash bay (and does not include a menu board). Spaces shall be placed in a single line behind each lane or bay.

2. All drive-through lanes shall be located and designed to ensure that they do not adversely affect traffic circulation on adjoining streets. Drive-through lanes on corner lots shall not route exiting traffic into adjacent residential neighborhoods.

3. Drive-through facilities shall be:

a) screened along interior side and rear lot lines with a solid wall or fence, a minimum of six feet and a maximum of eight feet in height.

b) There shall be a ten (10)-foot landscaped buffer along any lot line abutting a street, excluding driveways, which shall include one shrub(s) per three (3) linear feet along said lot line a minimum of three (3) feet in height at time of planting. This standard does not apply to drive-through facilities within multi-tenant retail centers where the drive-through use does not abut lot lines.

4. An additional buffer of twenty (20) feet shall be provided along lot line adjacent to residential uses and zoning districts.

5. Speakers used for ordering and other service shall be located so as not to disturb or interfere with the use of neighboring properties, considering such property's type of use and Town standards for noise.

d. Solar

1. See requirements in Article XX, Section E.

MAJOR SUBDIVISION OR MAJOR LAND DEVELOPMENT CHECKLIST

Name of proposed subdivision/development: _____

Preparer: _____

Phone Number: _____

Email: _____

Date of Application: _____

Date Received / Initials

Plat and Lot Number(s) of the land being subdivided/developed: _____

A COPY OF ALL PLANS AND SUPPORTING DOCUMENTS SHALL BE SUBMITTED IN DIGITAL FORM (PDF). APPLICATIONS WILL NOT BE CONSIDERED SUBMITTED FOR REVIEW OF COMPLETENESS UNTIL BOTH DIGITAL AND PAPER SUBMISSIONS ARE RECEIVED.

INSTRUCTIONS

All plans required by this checklist shall show the following information (as applicable). The shaded boxes within the checklist indicate an item is **not** required at a particular stage of review. If any checklist items are marked as not applicable (NA) please provide an explanation as to why the item is not applicable in the space provided at the end of each section of the checklist.

For the LOCATION column please provide the location of the specific checklist item. This can be a plan sheet number or the name of the supporting document/page.

For items required at the pre-application and master plan stage of review, conceptual design and approximate locations of required checklist items is acceptable. For items required at the preliminary and final stage of review, engineered design and proposed final locations of required checklist items shall be provided, with certification by RI Registered Professional Engineer where required. All survey plans shall be stamped and signed by a RI Registered Surveyor. The Administrative Officer can provide further guidance on specific checklist items.

Review Codes are for administrative use only and are to be entered by the Administrative Officer:
Item Confirmed – Yes, No, Partial, or NA

Please check the applicable stage of review for the submission

Project Type:	☐ Major Subdivision ☐ Major Land Development	Stage of Review:	☐ Pre-Application (PA) ☐ Master Plan (M) ☐ Preliminary Plan (PR) ☐ Final Plan (F)

PLAN DETAILS AND DIMENSIONS

Include enough sheets to clearly show all the information required. If 2 or more sheets are necessary, match lines must be provided and sheets numbered sequentially.

Where the magnitude of the subdivision is such that such scales are impracticable, applicant should request permission of the Administrative Officer to vary the scale.

	Pre Application	Master	Preliminary	Final
Details on Copies Required	• 10 copies of forms, documents and supporting materials • 10 copies of concept plan • "Concept Plan" indicated after name of the proposed development or subdivision	• 10 copies of forms, documents and supporting materials • 10 copies of concept plan • "Concept Plan" indicated after name of the proposed development or subdivision	• 10 copies of forms, documents and supporting materials • 20 copies of proposed plans on 11" by 17" sheets • 4 copies no larger than 24 inches by 36 inches (24" by 36").	• 1 copy of forms, documents and supporting materials • 1 copy of the final plat plans drawn on mylar (Max size 36" X 24" and Min 32" X 22") • 5 copies on D size sheets • 12 copies on 11" X 17" sheets • Electronic copy on disk
Scale	1 inch = 40 feet, or as otherwise required, on 22" X 32" sheet(s)	1 inch = 40 feet, or as otherwise required, on 22" X 32" sheet(s)	1 inch = 40 feet, or as otherwise required Mylar maximum 36" X 24" and minimum 32" X 22"	Final Plats: 1 inch = 40 feet Vertical Scale of Profiles: 1 inch = no less than 4 feet

A. FORMS AND DOCUMENTS

A	PA	M	PR	F	REQUIRED FORMS AND DOCUMENTS	REVIEW CODE
1.					Project Review Application Cover Sheet	
2.					Project Team Form	
3.					A notarized letter from the property owner(s) stating that the applicant has been granted the authority to proceed with the application with the owner(s) permission and consent	
4.					Purpose statement	
5.					Electronic copies of all application materials	

Checklist Item #	Applicant Comments on Required Forms/Documents:
Checklist Item #	Reviewer Comments on Required Forms/Documents:

B. GENERAL INFORMATION

B	PA	M	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
1.					*Name of the proposed subdivision/land development project, including phase number, if applicable		
2.					*Assessors Map/Plat, block, and card/lot number(s) of land being subdivided/developed		
3.					*Address/Location of Subdivision or Development		
4.					Name and address of the applicant(s)		
5.					Name and address of property owner(s)		
6.					*Name, address, phone, and stamp(s) of the RI Registered Professional Engineer and/or RI Registered Land Surveyor responsible for the plans		
7.					*Date of plan preparation and all revision date(s), if any		
8.					*True north arrow and graphic scale		
9.					Site plan legend (all items displayed on site plans shall be symbolized in a legend)		
10.					*Relevant references to deeds and recorded plans		
11.					*List of sheets contained within the plan set		
12.					Notation of any special conditions of approval imposed by the Planning Board (if any).		
13.					*Notation of any permits and/or agreements obtained from or made with State and Federal agencies, including permit number if applicable		
14.					Names, addresses and Plat/Lot identified of abutting property owners and property immediately across any adjacent streets and within 200’ of the parcel(s)		
Items with asterisks (*) to be provided on plan sheets)							

C. EXISTING CONDITIONS PLAN(S)

C	PA	M	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
1.					A general location map showing the relationship of the subdivision/development parcel(s) of the area within a half-mile radius		
2.					Certification by a RI Registered Land Surveyor that a perimeter study of the land being developed has been performed and meets a Class I standard for property lines and a Class III standard for topographic and existing conditions		
3.					Location of known existing wells, septic systems, easements, structures, and rights-of-way within or adjacent to the		

C	PA	M	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
					subdivision/development parcel(s) within 200 feet of any property line		
4.					Location, width and names of any existing public, private and paper streets, driveways, farm roads, woods roads, and/or trails that have been in public use (pedestrian, equestrian, bicycle, etc.) within and adjacent to the subdivision/development parcel(s)		
5.					Zoning district(s) of the land being subdivided/developed, with zoning boundary lines shown if there is more than one district		
6.					District Dimensional Regulations of the subdivision/development parcel(s)		
7.					Allowable Density calculations based upon the exclusion of unsuitable land from the total land area of the subdivision/development parcel(s), include the total acreage, the acreage of unsuitable land and the resulting total number of units allowed by right		
8.					Dimensions and total area of the subdivision/development parcel(s), and location and dimensions of existing property lines, type of easements and rights-of-way within or adjacent to the subdivision/development parcel(s)		
9.					Existing contours at intervals at a minimum of two (2) feet, using NAVD 88 datum, plus contours at all property lines and all property within 200’ of any property line (the latter may be taken from the most recent public records). Contours for Master Plans must show natural drainage patterns and existing stormwater drainage facilities.		
10.					Base flood elevation data; use the North American Vertical Datum of 1988 (NAVD 88) (if applicable)		
11.					Boundaries and notation of the soil type classifications from the USDA Soil Survey of Rhode Island for the entire area of the subdivision parcel(s) and the existence of any ledge or rock outcroppings. (Copies of soil survey sheets with boundaries and roadways drawn on them are sufficient). If any prime agricultural soils are within the subdivision parcel(s) the soils map shall be marked to show location of said prime agricultural soils.		
12.					Location of soil contaminants present on the subject parcel		
13.					Location of pond, stream, brook or other wetlands, watercourses or coastal features within the parcel or within 200’ of the perimeter of the subdivision parcel, plus setback lines, including buffer areas as defined by RIDEM for wetlands. RIDEM or CRMC verification as appropriate.		
14.					Location of wooded areas and areas of active agricultural use, and notation of existing groundcover		
15.					Boundaries of applicable watersheds for the parcel(s)		

C	PA	M	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
16.					Location, size, and use/type of all existing buildings or significant above-ground structures, including stone walls		
17.					Location and size of existing buildings or significant above-ground structures, including stone walls, on parcels immediately adjacent to the subdivision/development parcel(s)		
18.					Location, size, and type of all known, existing above and below ground utilities, including sewer, water, gas, electric, stormwater drainage, communications or telecommunications infrastructure, fire alarm, hydrants, and utility poles as may be present on the site or within the right of way along the property frontage		
19.					Location of any significant or unique natural or cultural features, including historic cemeteries, rock outcrops, beaches, stone walls and access, within or adjacent to the parcel(s)		
20.					Notation indicating that the subdivision/development parcel(s) (or existing structures) are located or not located within the following areas of special concern: a. Natural Heritage Areas, as defined by RIDEM b. The area(s) under the jurisdiction of any Special Area Management Plan (SAMP) of RI CRMC c. A Groundwater Protection Overlay District d. A Wellhead Protection Area e. Groundwater Recharge Area f. Areas within a TMDL watershed, as identified by RIDEM g. Watershed Protection Overlay District(s) h. OWTS Critical Resource Area, as defined by RIDEM i. A Drinking Water Supply Watershed, as defined by RIDEM j. National Register of Historic Places k. FEMA Flood Plain Map		
21.					Location and size of trees with a caliper of fifteen inches or greater that are within the area proposed for disturbance or alteration		
22.					Location of tests for installation of OWTS: _____ Location of all percolation test holes, indicated by the letter “P” with test hole numbers where OWTS planned. _____ Location of all ground water table determination tests, indicated by the letter “W” with test hole numbers where OWTS planned or stormwater detention/retention or sediment ponds ISDS proposed.		

Checklist Item #	Applicant Comments on Required Items:
Checklist Item #	Reviewer Comments on Required Items:

D. **PROPOSED CONDITIONS PLAN(S)**

D	PA	M	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
1.					Boundaries and total area of land classified as "unsuitable for development" due to being inappropriate for construction, infrastructure, or other modifications because of environmental, geological, regulatory, or safety constraints per RIDEM, CRMC, and local regulations.		
2.					Location and number of proposed buildable lots, with approximate lot areas and dimensions		
3.					Location and notation of type of proposed easements and rights-of-way within the subdivision parcel(s), with accurate dimensions and areas indicated		
4.					Proposed lot lines, with accurate dimensions and lot areas, drawn so as to distinguish them from existing property lines		
5.					Proposed structures and all accessory structures with dimensions or area indicated for a residential subdivision and total lot coverage, including proposed number of residential units per building, if applicable		
6.					Proposed structure(s) and other site improvements with dimensions or area indicated for a multi-family, commercial or industrial subdivision/development and total lot coverage with approximate lot areas and dimensions, and with proposed lot lines drawn so as to distinguish them from existing property lines, for a residential development or subdivision		
7.					Proposed streets, if any, with accurate areas and dimensions, including proposed street plan and street profile plan, as well as proposed street cross sections.		
8.					Proposed street names. All street names must be submitted to the Fire Department for preliminary approval and such preliminary approval shall be submitted to the Planning Board for final approval.		
9.					Final Plans shall show the intersecting lot lines of all abutting property, the names of the owners thereof, all abutting existing streets, and all abutting streets shown on recorded plats, including property owners immediately across any adjacent streets.		
10.					If proposed, notation as to whether the proposed street extension or creation is to be private or public		
11.					Any proposed on- and/or off-site improvements including street trees, access drives, loading areas, parking areas, sidewalks, pedestrian areas, and bicycle parking and/or paths		
12.					Final traffic plan; include vehicular access sites showing the dimensions and location of roads, driveways, curb cuts, radii, parking as well as other off-site traffic improvements		
13.					Designated trash collection area(s)		
14.					Certification by a RI Registered Land Surveyor that a perimeter study of the land being developed has been performed and		

D	PA	M	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
					meets a Class III standard for topographic and proposed conditions information		
15.					Location and dimensions of proposed easements and rights-of-way within the subdivision/development parcel(s), or those to be acquired adjacent to the subdivision/development parcel(s) as maybe necessary (such as utilities or agencies)		
16.					Proposed location, size, and type of all above ground and underground utilities servicing the property, including wastewater, water, gas, electric, stormwater drainage, communications or telecommunications infrastructure, fire alarm, hydrants, utility poles, or other proposed above or underground utilities, including connections to existing facilities, as may be required for site development		
17.					Proposals, if any, for connection with existing sanitary sewer systems, or a notation that OWTS is proposed		
18.					The locations and design details of any OWTS proposed for use within the subdivision/development		
19.					Proposed test locations for soil evaluations on the site plan.		
20.					If future subdivision/development is to be served by an OWTS, soil evaluations in the relative location where each system is proposed, which have been performed by a licensed RI soil evaluator and witnessed by RIDEM		
21.					Proposals, if any, for connection with existing water supply systems, or if future subdivision/development is to be served by onsite wells, notation of such		
22.					Designs of proposed stormwater management infrastructure for collecting and discharging stormwater (stormwater detention, retention, or sediment pond facilities), including type, location, and configuration, prepared by a RI Registered Professional Engineer for final plans		
23.					Proposed phasing, including depiction of which structures and on- and off-site improvements are to be installed in which phase, if applicable		
24.					Location, dimensions, types, and area of any land proposed to be set aside as open space or to be conveyed to the Town of Portsmouth, the State of Rhode Island or other quasi-public non-profit organizations for public purposes or the homeowner's association.		
25.					Locations and types of proposed survey and open space monumentation, if any. Location of proposed permanent bounds. Every plan shall show the location and nature of all permanent monuments.		
26.					Limits of disturbance/work relative to on-and off-site improvements and infrastructure installation		
27.					Proposed grading plan(s) to show contours at sufficient detail (2-foot intervals) using NAVD 88 datum for all on and off-site street construction, drainage facilities, and individual house lots		

D	PA	M	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
					if part of proposed subdivision improvements (if applicable), stamped by a RI Registered Professional Engineer for final plans		
28.					Landscape plan(s), to show all significant proposed clearing of land, limits of clearing, removal of existing vegetation, re-vegetation, and/or landscaping on street rights-of-way and upon individual lots, and landscape installation details and related notations, if part of proposed subdivision improvements.		
29.					Notation of any special conditions as required by the Preliminary Plan approval		
30.					Proposed measures to minimize impacts to the natural topography of the site using the Low Impact subdivision (LID) Site Planning & Design Guidance Manual		
31.					Final construction plans including plans and any additional improvements as required as a condition of preliminary plan with certification (stamp) of RI Registered Professional Civil Engineer.		
32.					For phased projects, as-built drawings for the previous phase		
32.					Drainage plan per Checklist for Drainage, Erosion and Sediment Control Measures, prepared by a RI Registered Professional Civil Engineer.		
33.					Perimeter boundary lines of the subdivision, drawn so as to distinguish them from other property lines.		
34.					Request House or Building numbers. Numbers shall be assigned and initialed by the Town of Portsmouth Fire Department and shall be shown on the final plat if available.		

Checklist Item #	Applicant Comments on Required Items:
Checklist Item #	Reviewer Comments on Required Items:

E. <u>SUPPORTING MATERIALS</u>

E	PA	M	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
1.					Copies of an aerial photograph or satellite image vicinity map drawn to a measurable scale as necessary to show the relationship of the subdivision/development parcel(s) to the area within a half-mile radius, identifying the locations of all streets, zoning district boundaries, schools, parks, fire stations, and other significant public facilities		
2.					Renderings, elevations or photographs as may be needed to illustrate the visual impact of a proposed multi-family, commercial or industrial subdivision/development		
3.					A narrative report or written statement including: a. A general description of the existing physical environment and existing use(s) of the property;		

E	PA	M	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
					b. A general description of the use(s) and type(s) of subdivision/development proposed; c. A general statement and supporting maps and/or graphics that illustrates the approach utilized in designing the proposed subdivision/development, including consideration of existing conditions and significant site features; d. An estimate of the approximate population of the proposed subdivision/development, if any e. An estimate of the number of school-aged children to be housed in the proposed subdivision/development, if any. f. A general analysis of soil types and suitability for the development proposed; g. A general viewshed analysis, showing the location and extent of significant views both from and within the proposed subdivision/development parcel(s), as well as anticipated views into the property from adjacent public or private streets and properties; h. A statement of the potential fiscal impacts of the subdivision/development on Town expenses and revenues		
4.					A written, signed statement indicating the specific sections of the Regulations from which waiver and/or modification is requested; or a written signed statement indicating that no waivers and/or modifications are being requested		
5.					For subdivisions with freshwater wetlands present on the subdivision parcel(s), copies of either: a. An RIDEM wetlands permit, if required pursuant to RIDEM rules and regulations; or b. A letter of non-jurisdiction from RIDEM		
6.					If no freshwater wetlands and/or wetland buffers are depicted within the plan set, copies of an affidavit signed by a qualified professional stating that there are no freshwater wetlands and/or buffer areas within the subdivision/development parcel(s)		
7.					Either, copies of: a. An affidavit signed by a qualified professional stating that there are no coastal features and/or buffer areas adjacent to or within the subdivision/development parcel(s); or b. A Preliminary Determination, including coastal feature verification, from the Coastal Resources Management Council		
8.					For subdivisions/developments proposing service by public water, copies of a written statement from the appropriate water company or district that the proposed plan, with plan		

E	PA	M	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
					revision date indicated, has been reviewed and which provides: a. Confirmation that water service is available; b. Approval of connection to the existing water main as depicted on the plan; and, If extension is proposed, approval from the company or district of the extension of the water main as depicted on the plan Water District _____ Date _____		
9.					For subdivisions/developments proposing service by OWTS(s), copies of a permit issued by RIDEM.		
10.					Written comments on the Plans, by the following as required (provided by Admin. Officer): ____ Building Official Date _____ ____ Zoning Official Date _____ ____ Planning Board Date _____ ____ Technical Review Committee Date _____ ____ Director of Public Works Date _____ ____ Department of Health Date _____ ____ Fire Department Date _____ ____ Conservation Commission Date _____ ____ Police Department Date _____ ____ School Department Date _____ Other (specify below) _____ Date _____ Adjacent Communities _____ Date _____		
11.					Copies of drainage calculations, associated explanatory narrative, and all supporting documentation, including an Operations and Maintenance manual for the system		
12.					A traffic study, if required, prepared by a RI Registered Professional Engineer, regarding the potential impact of the proposed subdivision/development on neighboring properties and roads; include all means of vehicular access to and from the site onto public streets showing driveways, curb cuts, radii, parking as well as other offsite traffic improvements necessary to ensure public safety and convenience		
13.					Copies of any RIDEM stormwater or other general construction permits that are required, or an affidavit, signed by a qualified professional, stating that no RIDEM stormwater or construction permits are required		
14.					"Tax Certificate" from the Tax Collector showing that all taxes due on the parcel being subdivided have been paid to date and there are no outstanding municipal liens of the parcel		
15.					If applicant is corporation, documentation that corporation is in good standing with Secretary of State		
16.					Written confirmation and/or permits from any additional required federal, state, or local agencies		

E	PA	M	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
17.					Determination letter from the Building Official or designee if a Soil Erosion Sediment Control Plan is required		
18.					Determination letter from the Building Official or designee as to whether a local Stormwater Management Plan is required		
19.					Soil Erosion and Sediment Control Plan, if required, that meets requirements of Chapter 320 of the Town Code Soil Erosion and Sediment Control		
20.					Written report of Phase I Environmental Site Assessment and Phase II, if indicated		
21.					Written report and approval from RIDEM of an Environmental Site Assessment Phase III (Remediation Plan) if required		
22.					Draft or final copies of all legal documents; legal description of property, proposed easement and rights-of-way, dedications, restrictions or other required legal documents including but not limited to covenants or Homeowners Association, Stormwater Management Plan, Landscaping Maintenance Plan, a deed conveying open space or offer of street dedication		
23.					Final copies of an irrevocable offer to convey to the Town of Portsmouth all public streets and/or other public improvements, accompanied by a metes and bounds description		
24.					For subdivisions/developments proposing new physical access to a State right-of-way a letter evidencing the issuance of such a permit upon the submission of a bond and insurance [1]		
25.					A letter from RIDOT confirming that a Physical Alteration Permit will be issued upon submission of a bond and insurance for any connection to or construction work within a State highway or other right-of-way (if necessary). Date _____		
26.					Location, type, intensity and direction of illumination of all outdoor lighting fixtures.		
27.					Location, type and density of land uses that will be in the development.		
28.					Signage including location, size, design and illumination.		
29.					The location, details and plans of any previous application to or approval by RIDEM for lowering the water table, or installation of such facilities if applicable.		
30.					Written confirmation from appropriate utility companies that they have reviewed and approved proposed plans for installation of: _____ Water _____ Electric		

[1] RIGL §45-23-39(d)(1)(v) states that for a state permit from the Rhode Island department of transportation, a letter evidencing the issuance of such a permit upon the submission of a bond and insurance is sufficient, but such actual permit shall be required prior to the issuance of a building permit.

E	PA	M	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
					_____ Telephone _____ Gas _____ Cable or other		
31.					Within any public water supply watershed, written comments from the applicable public water authority on plans to protect public drinking water quality.		
32.					A letter to the Planning Board requesting that security sufficient to cover the cost of required improvements to be established by the Board.		
33.					Written approval of the Director of Public Works, or his representative, of the detailed costs, including labor and materials, of all improvements that must be installed by the applicant as required by these regulations and by the Planning Board approval. Detailed costs to be submitted on the "Cost of Improvements" form attached hereto		

F. <u>FEES</u>

F	PA	M	PR	F		REVIEW CODE
1.					Filing fee: $___	
2.					Escrow, if required: $ ____	
3.					Financial security for public improvements, either one of surety bond, irrevocable letter of credit, or cash/check.	

Signature of Applicant: _____

Signature of Professional Land Surveyor /Engineer: _____

Registration Number: _____

Signature of Reviewer: _____

Date of Review: _____

ORDINANCE NO. 23-___
Town of Portsmouth
AN ORDINANCE AMENDING
CHAPTER 405 ZONING

Article XIX Low and Moderate Income Housing

Section A. Authority to grant a comprehensive permit.

In accordance with Title 45, Chapter 53 of the Rhode Island General Laws, the Low and Moderate Income Housing Act, the Portsmouth Planning Board is designated as the local review board, and shall have the power to issue a comprehensive permit for a qualifying low and moderate income housing project.

Section B. Applicability and eligibility.

Any applicant proposing to build low- or moderate-income housing may submit to the local review board a single application for a comprehensive permit to build housing in lieu of separate applications to the applicable local boards. This procedure is only available for proposals in which at least twenty five percent (25%) of the housing is low- or moderate-income housing.

Section C. Municipal Subsidies

1. In order to offset the differential cost of the low- or moderate-income housing units in the section, the following municipal subsides shall be provided:
    a. Adjustments, meaning a request, or requests by the application to seek relief from the literal use and dimensional requirements of the zoning ordinance and/or the design standards or requirements of the Land Development and Subdivision Regulations. The standard for the Planning Board's consideration of adjustments is set forth in Section D. Subsection 4. Required Findings and RIGL §45-53-4(d)(2)(iii)(E)(II).
    b. Density bonus. The Town shall provide the following density bonuses for projects submitted under this section provided that the total land utilized under in the density calculation shall exclude wetlands, wetland buffers, area devoted to infrastructure necessary for development, and easements or rights of way of record.
        1. For projects connected to public water and sewer, or eligible to be connected to public water and sewer, demonstrated through written confirmation from each respective service provider the following density bonuses are provided:
            i. For projects providing at least twenty-five (25%) low- and moderate-income housing the density bonus shall be five (5) units per acre.

ii. For projects providing at least fifty percent (50%) low- and moderate-income housing the density bonus shall be nine (9) units per acre.

iii. For projects providing at least 100 percent (100%) low- and moderate-income housing the density bonus shall be twelve (12) units per acre.

2. For properties not connected to either public water or sewer or both, but which provide competent evidence as to the availability of water to service the development and/or a permit for on-site wastewater treatment system to service the dwelling units from the applicable state agency the following density bonuses are provided:

i. For projects providing at least twenty-five (25%) low- and moderate-income housing the density bonus shall be three (3) units per acre.

ii. For projects providing at least fifty percent (50%) low- and moderate-income housing the density bonus shall be five (5) units per acre.

iii. For projects providing at least 100 percent (100%) low- and moderate-income housing the density bonus shall be eight (8) units per acre.

c. Parking. For comprehensive permit applications one (1) off-street parking space per dwelling unit is required for units up to and including two (2) bedrooms. Bedrooms. The bedroom count of units for a comprehensive permit are not limited to any count less than three (3) bedrooms for single family dwelling units, Floor area. There are no floor area limitations for comprehensive permit applications other than those provided by §45-24.3-11.

Section D. Procedure for approval of construction of low or moderate income housing.

Any applicant proposing to build low or moderate income housing may submit to the Planning Board a single application for a comprehensive permit to build that housing in lieu of separate applications to the applicable local boards. This procedure is only available for proposals in which at least twenty-five percent (25%) of the housing is low or moderate income housing. The application and review process for a comprehensive permit shall be as follows:

1. Pre-application conference. A pre-application conference is required for all comprehensive permit applications. The preapplication conference may be with the Planning Board, technical review committee, or administrative officer as determined appropriate by the administrative officer.
    a. In advance of the pre-application conference, the applicant shall submit a short written description of the project including the number of units, type of housing,

density analysis, preliminary list of adjustments requested, a location map, and a conceptual site plan.

b. Upon request of the applicant for a pre-application conference, such conference will be scheduled and held within thirty (30) days of the request, unless a different timeframe is agreed to by the applicant in writing.

c. If thirty (30) days has elapsed from the filing of the pre-application submission, and no pre-application submission has taken place, nothing shall be deemed to preclude the applicant from thereafter filing and proceeding with an application for preliminary plan review.

2. Preliminary Plan.

a. Submission requirements. Applications shall include:

1. A letter of eligibility issued by the Rhode Island Housing Mortgage Finance Corporation, or in the case of projects primarily funded by the U.S. Department of Housing and Urban Development or other state or federal agencies, an award letter indicating the subsidy, or application in such form as may be prescribed by the Town of Portsmouth for a municipal government subsidy; and
2. A letter signed by the authorized representative of the applicant, setting forth the specific sections and provisions of applicable local ordinances and regulations from which the applicant is seeking adjustments; and
3. A proposed timetable for the commencement of construction and completion of the project; and
4. Those items included in the checklist for preliminary plan review with the exception of evidence of state or federal permits
5. Notwithstanding the submission requirements set forth above, the Planning Board may request additional, reasonable documentation throughout the public hearing, including, but not limited to, opinions of experts, credible evidence of application for necessary federal and/or state permits and/or financial assistance, statements and advice from other local boards and officials.

b. Certification of completeness. The preliminary plan must be certified complete or incomplete by the Administrative Officer according to the provisions of the Land Development and Subdivision Regulations provided, however, that for a major land development or major subdivision, the certificate for a master plan shall be granted within twenty-five (25) days of submission of an application. The running of the time period set forth herein will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the Administrative Officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the Administrative Officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission. If the Administrative Officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.

c. Public hearing. A public hearing shall be noticed and held as soon as practicable after the issuance of a certificate of completeness.
d. Notice. Public notice for the public hearing will be the same notice required under local regulations for a public hearing for a master plan. The cost of notice shall be paid by the applicant.
e. Timeframe for review. The Planning Board shall render a decision on the preliminary plan application within ninety (90) days of the date the application is certified complete, or within a further amount of time that may be consented to by the applicant through the submission of written consent.
f. Failure to act. Failure of the Planning Board to act within the prescribed period constitutes approval of the preliminary plan and a certificate of the administrative officer as to the failure of the Planning Board to act within the required time and the resulting approval shall be issued on request of the applicant. Further, if the public hearing is not convened or a decision is not rendered within the time allowed in Section E, the application is deemed to have been allowed and the preliminary plan approval shall be issued immediately.
g. Vesting. The approved preliminary plan is vested for a period of two (2) years with the right to extend for two (2), one-year extension upon written request by the applicant, who must appear before the Planning Board for each annual review and provide proof of valid state or federal permits as applicable. Thereafter, vesting may be extended for a longer period, for good cause shown, if requested, in writing by the applicant, and approved by the Planning Board. The vesting for the preliminary plan approval includes all ordinances and provisions and regulations at the time of the approval, general and specific conditions shown on the approved preliminary plan drawings and support material.

3. Final Plan

The second and final stage of review for the comprehensive permit project shall be done administratively, unless an applicant has requested and been granted any waivers from the submission of checklist items for preliminary plan review, and then, at the Planning Board's discretion, it may vote to require the applicant to return for final plan review and approval.

a. The following items shall be submitted as part of the final plan submission:
    i. All required state and federal permits must be obtained prior to the final plan approval.
    ii. A draft monitoring agreement which identifies an approved entity that will monitor the long-term affordability of the low- and moderate-income units pursuant to RIGL §45-53-3.2.
    iii. A sample land lease or deed restriction with affordability liens that will restrict use as low- and moderate-income housing in conformance with the guidelines of the agency providing the subsidy for the low- and moderate-income housing, but for a period of not less than thirty (30) years.
    iv. Those items included in the checklist for final plan review.

v. Arrangements for completion of the required public improvements, including construction schedule and/or financial guarantees.
vi. Certification by the tax collector that all property taxes are current.
vii. For phased projects, the final plan for phases following the first phase, shall be accompanied by copies of as-built drawings not previously submitted of all existing public improvements for prior phases.

b. Certificate of completeness. The final plan application must be certified complete or incomplete by the administrative officer according to the provisions of § 45-23-36; provided however, that, the certificate shall be granted within twenty-five (25) days of submission of the application. The running of the time period set forth herein will be deemed stopped upon the issuance of a written certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.

c. Timeframe for review. The reviewing authority shall render a decision on the final plan application within forty-five (45) days of the date the application is certified complete.

d. Decision on final plan. An application filed in accordance with this article shall be approved by the administrative officer unless such application does not satisfy conditions set forth in the preliminary plan approval decision or such application does not have the requisite state and/or federal approval or other required submissions, does not post the required improvement bonds, or such application is a major modification of the plans approved at preliminary plan.

e. Failure to act. Failure of the reviewing authority to act within the prescribed period constitutes approval of the final plan and a certificate of the administrative officer as to the failure to act within the required time and the resulting approval shall be issued on request of the applicant.

f. Vesting. The approved final plan is vested for a period of two (2) years with the right to extend for one one-year extension upon written request by the applicant, who must appear before the planning board for the extension request. Thereafter, vesting may be extended for a longer period, for good cause shown, if requested, in writing by the applicant, and approved by the local review board.

4. Required Findings.

a. Required findings for approval. In approving a preliminary plan application for a comprehensive permit, the local review board shall make positive findings, supported by legally competent evidence on the record which discloses the nature and character of the observations upon which the fact finders acted, on each of the following standard provisions, where applicable:

i. The proposed development is consistent with local needs as identified in the comprehensive plan with particular emphasis on the affordable housing plan and/or has satisfactorily addressed the issues where there may be inconsistencies.
ii. The proposed development is in compliance with the standards and provisions of the zoning ordinance and subdivision regulations, and/or where adjustments are requested by the applicant, that local concerns that have been affected by the relief granted do not outweigh the state and local need for low- and moderate-income housing.
iii. All low- and moderate-income housing units proposed are integrated throughout the development; are compatible in scale and architectural style to the market rate units within the project; and will be built and occupied prior to, or simultaneous with the construction and occupancy of any market rate units.
iv. There will be no significant negative impacts on the health and safety of current or future residents of the community, in areas including but not limited to, safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water runoff, and the preservation of natural, historical, or cultural features that contribute to the attractiveness of the community.
v. All proposed land development and all subdivision lots will have adequate and permanent physical access to a public street in accordance with the requirements of Article VIII Section A of the Land Development and Subdivision Regulations.
vi. The proposed development will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable, unless created only as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.

b. Required findings for denial. In reviewing the comprehensive permit request, the local review board may deny the request for any of the following reasons:
i. The Town has an approved affordable housing plan and is meeting housing needs, and the proposal is inconsistent with the affordable housing plan; provided that, the local review board also finds that the municipality has made significant progress in implementing the housing plan;
ii. The proposal is not consistent with local needs, including, but not limited to, the needs identified in an approved comprehensive plan, and/or local zoning ordinance and procedures promulgated in conformance with the comprehensive plan;
iii. The proposal is not in conformance with the comprehensive plan;

iv. The community has met or has plans to meet the goal of ten percent (10%) of the year-round units, provided that, the local review board also finds that the community has achieved or has made significant progress towards meeting the goals of the affordable housing plan; or,

v. Concerns for the environment and the health and safety of current residents have not been adequately addressed.

c. Infeasibility of Conditions of Approval. The burden is on the applicant to show, by competent evidence before the local review board, that proposed conditions of approval are infeasible, as defined in R.I. Gen. Laws § 45-53-3. Upon request, the applicant shall be provided a reasonable opportunity to respond to such proposed conditions prior to a final vote on the application.

5. Appeal. Any person aggrieved by the issuance of an approval may appeal to the Supreme Court.

6. Expiration of comprehensive permits. A comprehensive permit shall expire unless construction is started within twelve (12) months and completed within sixty (60) months of final plan approval unless a longer and/or phased period for development is agreed to by the Planning Board and the applicant. Low and moderate income housing units shall be built and occupied prior to, or simultaneous with the construction and occupancy of market rate units.

7. Limit on comprehensive permit applications. The Town may limit the annual total number of dwelling units in comprehensive permit applications from for-profit developers to an aggregate of one percent (1%) of the total number of year-round housing units in the Town, as recognized in the affordable housing plan and notwithstanding the timetables set forth elsewhere in this section, the Planning Board shall have the authority to consider comprehensive permit applications from for-profit developers, which are made pursuant to this paragraph, sequentially in the order in which completed applications are submitted.

8. Annual reports required. The Planning Board shall report the status of implementation to the Housing Resources Commission pursuant to § 42-128-4 of the Rhode Island General Laws, including the disposition of any applications made under the plan, as of June 30, 2006, by September 1, 2006 and for each June 30 thereafter by September 1 through 2010, as further provided in Title 45, Section 45-53-4(4)(xiii) of the Rhode Island General Laws.

9. Remanded applications. Notwithstanding the provisions of § 45-53-4 in effect on February 13, 2004, a local review board shall commence hearings within thirty (30) days of receiving an application remanded by the State Housing Appeals Board or Superior Court, as applicable. In any town with more than one (1) remanded application, applications may be scheduled for hearing in the order in which they were received, and may be taken up sequentially from the date they are remanded, with the thirty (30) day requirement for the initiation of hearings, commencing upon the decision of the earlier filed application.

Section E Filing fees.

Section F Effective date.

Section G Duplex units.

Section H. Residential Multi-Family Incentive District.

MINOR SUBDIVISION OR MINOR LAND DEVELOPMENT CHECKLIST

Name of proposed subdivision/development: _____

Preparer: _____

Phone Number: _____

Email: _____

Date of Application: _____

Date Received / Initials

Plat and Lot Number(s) of the land being subdivided/developed: _____

A COPY OF ALL PLANS AND SUPPORTING DOCUMENTS SHALL BE SUBMITTED IN DIGITAL FORM (PDF). APPLICATIONS WILL NOT BE CONSIDERED SUBMITTED FOR REVIEW OF COMPLETENESS UNTIL BOTH DIGITAL AND PAPER SUBMISSIONS ARE RECEIVED.

INSTRUCTIONS

Please refer to the submission requirements for Minor Subdivision/Land Development project for additional information in completing your application. All plans required by this checklist shall show the following information (as applicable). The shaded boxes within the checklist indicate an item is **not** required at a particular stage of review. If any checklist items are marked as not applicable (NA) please provide an explanation as to why the item is not applicable in the space provided at the end of each section of the checklist.

For the LOCATION column please provide the location of the specific checklist item. This can be a plan sheet number or the name of the supporting document and page.

For items required at the pre-application stage of review, conceptual design and approximate locations of required checklist items is generally acceptable. For items required at the preliminary and final stage of review, engineered design and proposed final locations of required checklist items shall be provided, with certification by a RI Registered Professional Engineer where required. All survey plans shall be stamped and signed by a RI Registered Surveyor. The Administrative Officer can provide further guidance on specific checklist items.

Review Codes are for administrative use only and are to be entered by the Administrative Officer:
Item Confirmed – Yes, No, Partial, or NA

Please check the applicable stage of review for the submission

Project Type:	☐ Minor Subdivision ☐ Minor Land Development	Stage of Review:	☐ Pre-Application (PA) ☐ Preliminary Plan (PR) ☐ Final Plan (F)

PLAN DETAILS AND DIMENSIONS

Include enough sheets to clearly show all the information required. If 2 or more sheets are necessary, match lines must be provided and sheets numbered sequentially.

Where the magnitude of the subdivision is such that such scales are impracticable, applicant should request permission of the Administrative Officer to vary the scale.

	Pre Application	Preliminary	Final
Details on Copies Required	• 8 copies of each form and document • 8 copies of concept plan • "Concept Plan" indicated after name of the proposed development or subdivision	• 8 copies of each form • 8 copies of proposed plans on 11" by 17" sheets • 4 copies no larger than 24 inches by 36 inches (24" by 36").	• 8 copies of each form • 1 copy of the final plat plans drawn on mylar (Max size 36" X 24" and Min 32" X 22') • 5 copies on D size sheets • 8 copies on 11" X 17" sheets • Electronic copy on disk
Scale	1 inch = 40 feet, or as otherwise required, on 22" X 32" sheet(s)	1 inch = 40 feet, or as otherwise required by the Board or permitted by Administrative Officer. Mylar maximum 36" X 24" and minimum 32" X 22".	Final Plats: 1 inch = 40 feet Vertical Scale of Profiles: 1 inch = no less than 4 feet

A. FORMS AND DOCUMENTS

A	PA	PR	F	REQUIRED FORMS AND DOCUMENTS	REVIEW CODE
A.				Project Review Application Cover Sheet	
B.				Project Team Form	
C.				A notarized letter from the property owner(s) stating that the applicant has been granted the authority to proceed with the application with the owner(s) permission and consent	
D.				Purpose statement	
E.				Application Cover Sheet	
F.				Electronic copies of all application materials	

Checklist Item #	Applicant Comments on Required Forms/Documents:

Checklist Item #	Reviewer Comments on Required Forms/Documents:

B. GENERAL INFORMATION

B	PA	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
1.				*Name of the proposed subdivision/land development project		
2.				*Assessors Map/Plat, block, and card/lot number(s) of land being subdivided/developed		
3.				*Address/Location of Subdivision or Development		
4.				Name and address of the applicant(s)		
5.				Name and address of property owner(s)		
6.				*Name, address, phone, and stamp(s) of the RI Registered Professional Engineer and/or RI Registered Land Surveyor responsible for the plans		
7.				*Date of plan preparation and all revision date(s), if any		
8.				*True north arrow and graphic scale		
9.				*Site plan legend (all items displayed on site plans shall be symbolized in a legend)		
10.				*Relevant references to deeds and recorded plans		
11.				*List of sheets contained within the plan set		
12.				*Notation of any permits and/or agreements obtained/or that must be obtained from/with State and Federal agencies, including permit number if applicable		
13.				Names, addresses and Plat/Lot identified of abutting property owners and property within 200' of the parcel(s) or immediately across adjacent streets. Final plans shall show the intersecting lot lines of all abutting property, all abutting existing streets, and all abutting streets shown on recorded plats.		
14.				Names and addresses of adjoining communities or agencies requiring notification under these regulations		
15.				FEMA Flood Plain Map, show the entire parcel		
16.				Site and/or environmental analysis		
Items with asterisks (*) to be provided on plan sheets)						

C. EXISTING CONDITIONS PLAN(S)

C	PA	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
1.				A general location map showing the relationship of the parcel to the area within a half-mile radius, provide an aerial photograph or satellite image clearly depicting the subject parcel at a scale of 1" = 1000'.		
2.				Zoning district(s) and district Dimensional Regulations of the subject parcel of the land being subdivided. If more than one district, zoning boundary lines must be shown.		

C	PA	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
3.				Density calculations based upon the exclusion of unsuitable land from the total land area of the subject parcel, include the total acreage, the acreage of unsuitable land and the resulting total number of units allowed by right		
4.				Dimensions and total area of the subject parcel, and location and dimensions of existing property lines, type of easements and rights-of-way within or adjacent to the subject parcel		
5.				Plat and lot numbers of all abutting property and property within 200' of the subject parcel		
6.				Base flood elevation data; use the North American Vertical Datum of 1988 (NAVD 88)		
7.				Location of wetlands, watercourses or coastal features within and adjacent to the parcel(s), including buffer areas as defined by RIDEM for wetlands		
8.				Boundaries and notation of the soil types classifications from the USDA Soil Survey of Rhode Island for the entire area of the subdivision parcel(s), and the existence of any ledge or rock outcroppings		
9.				Notation of existing ground cover with approximate location of wooded areas and areas of active agricultural use		
10.				Determination if the proposed development or subdivision lies within any area designated by the town or state for purposes of environmental protection or natural or cultural resource protection, such as: a. Natural Heritage Areas, as defined by RIDEM b. The area(s) under the jurisdiction of any Special Area Management Plan (SAMP) of RI CRMC c. A Groundwater Protection Overlay District d. Wellhead Protection Area e. Groundwater Recharge Area f. Areas within a TMDL watershed, as identified by RIDEM g. Watershed Protection Overlay District(s) h. An OWTS Critical Resource Area, as defined by RIDEM i. A Drinking Water Supply Watershed, as defined by RIDEM j. National Register of Historic Places		
11.				Location, width, classification, and names of existing public, private, and paper streets within and adjacent to the subdivision/development parcel(s)		
12.				Location, size, and use/type of all existing buildings or significant above-ground structures, including stone walls, on the subdivision/development parcel(s)		
13.				If no wetlands or coastal features are depicted within the plan set, an affidavit signed by a qualified professional stating that there are no freshwater wetlands and/or buffer areas within the subdivision/development parcel(s)		

C	PA	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
14.				Identification of areas containing prime agricultural soils and farmland soils of statewide importance, or if no such soils are present on the site, a notation indicating such		
15.				Location of known existing easements and rights-of-way within or adjacent to the subdivision/development parcel(s), including streets, driveways, farm roads, woods roads, and/or trails that have been in public use, to remain (if any) with accurate dimensions and areas indicated		
16.				Location and size of existing buildings or significant above-ground structures on parcels immediately adjacent to the subdivision/development parcel(s)		
17.				Relevant references to deeds and recorded plans		
18.				Existing contours at intervals at a minimum of two (2) feet, using NAVD 88 datum		
19.				Certification by a RI Registered Land Surveyor that a perimeter study of the land being developed has been performed and meets a Class I standard for property lines and a Class III standard for topographic and existing conditions information		
20.				Location of soil contaminants present on the subject parcel		
21.				Location of Phase III Remediation Plan area, if required by RIDEM		
33.				Location of any existing wells, OWTS, easements, structures, ponds, streams, brooks, or other water courses, and any wetlands within the parcel or within 200’ of any property line of the subject parcel.		
Checklist Item #				Applicant Comments on Required Items:		
Checklist Item #				Reviewer Comments on Required Items:		

D. <u>PROPOSED CONDITIONS PLAN(S)</u>

D	PA	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
1.				Location, size, and use/type of proposed buildings and structures, including proposed number of residential units per building, if applicable, and include all accessory structures and total lot coverage		
2.				Proposed lots with dimensions and areas indicated, include all interior lot lines, building setback lines and street lines with dimensions indicated and drawn so as to distinguish them from existing lot line		
3.				Proposed connection with existing public water supply and sewer system, if available, and/or on-site wells and sewage disposal		

D	PA	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
4.				Concept measures to minimize impacts to the natural topography of the site using the Low Impact Development (LID) Site Planning & Design Guidance Manual		
5.				Any proposed on- and /or off-site improvements including streets, access drives, loading areas, parking areas, sidewalks, and bicycle paths, include profiles and typical cross-sections		
6.				Proposed location, size, and type of all above ground and underground utilities servicing the property, including wastewater, water, gas, electric, stormwater drainage and communications or telecommunications infrastructure, as may be required for site development		
7.				Location, dimension, monumentation, and proposed use of any area(s) proposed to be set aside as open space, if any		
8.				Proposed test locations for soil evaluations on the site plan.		
9.				Concept for collecting and discharging stormwater		
10.				Boundaries and total area of land classified as “unsuitable for development” due to being inappropriate for construction, infrastructure, or other modifications because of environmental, geological, regulatory, or safety constraints per RIDEM, CRMC, and local regulations.		
11.				If proposed, plan and profile design information for any extension of public or private utility infrastructure		
12.				If future development is to be serviced by an On-Site Wastewater Treatment System(s), soil evaluations in the relative location where each system is proposed, which have been performed by a licensed RI soil evaluator and witnessed by RIDEM		
13.				Location and dimensions of proposed easements and rights-of-way within the development parcel(s), or those to be acquired adjacent to the development parcel(s) as maybe necessary		
14.				Proposed phasing, including depiction of which structures and on- and off-site improvements are to be installed in which phase, if applicable		
15.				Limits of disturbance/work relative to on-and off-site improvements and infrastructure installation		
16.				Grading plan(s) to show contours at sufficient detail (2-foot intervals) for all on and off-site street construction, drainage facilities, and individual house lots, certified by a RI Registered Professional Engineer for final plans		
17.				Stormwater management plan(s), to show accurate designs and details of proposed stormwater management infrastructure, including type, location, drainage calculations, extension of existing lines, and configuration, prepared by a RI Registered Professional Engineer		
18.				Landscape plan(s) prepared by a RI Registered Landscape Architect, maintenance plan and tree preservation plan, to show all significant proposed clearing of land, removal of existing		

D	PA	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
				vegetation, re-vegetation, landscaping on street rights-of-way, and within common areas, and landscape installation details and related notations, signed by a licensed Landscape Architect for final plans		
19.				Certification by a RI Registered Professional Engineer that the Proposed Conditions Plan is correct		
20.				Certification by a RI Registered Land Surveyor that a perimeter study of the land being developed has been performed and meets a Class III standard for proposed conditions		
21.				Any revisions to the proposed conditions required by the Preliminary Plan approval		
22.				Notation of any special conditions/documents received as required by the Preliminary Plan approval		
23.				House or Building Numbers. Numbers shall be assigned by the Town of Portsmouth Fire Department and shall be shown on the final plat for recording in the land evidence records after it has been approved. A plat shall not be recorded until this requirement has been fulfilled.		
24.				A letter from RIDOT confirming that a Physical Alteration Permit will be issued upon submission of a bond and insurance for any connection to or construction work within a State highway or other right-of-way (if necessary). Date _____		
25.				Location, type, intensity and direction of illumination of all outdoor lighting fixtures.		
26.				Signage including location, size, design and illumination.		
27.				Monuments. Location of proposed permanent bounds. Every plan shall show the location and nature of all permanent monuments, which must be at all intersections of streets with each other or with plat boundary lines.		

Checklist Item #	Applicant Comments on Required Items:
Checklist Item #	Reviewer Comments on Required Items:

E. PROJECTS WITH STREETS/ROADWAYS

If your project proposes to extend or create a roadway, please complete this section. If your project does not propose to extend or create a roadway, you may skip this section.

E	PA	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
1.				Roadway design plan(s) and profile(s), including existing and proposed elevations and typical cross-sections and paved (impervious) areas delineated on the appropriate plans, including all pedestrian facilities		
2.				Notation as to whether the proposed street extension or creation is to be private or public		

Checklist Item #	Applicant Comments on Required Items:
Checklist Item #	Reviewer Comments on Required Items:

F. SUPPORTING MATERIALS

F	PA	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
1.				Renderings, elevations or photographs as may be requested to illustrate the visual impact of the proposal for subdivision/ development		
2.				Copies of an aerial photograph or satellite image vicinity map drawn to a measurable scale as necessary to show the relationship of the subject parcel(s) to the area within a half-mile radius, identifying the locations of all streets, zoning district boundaries, schools, parks, fire stations, and other significant public facilities		
3.				Proposed zoning relief or waiver required /requested, if requesting a zoning waiver		
4.				Determination letter from the Building Official or designee as to whether a local Soil Erosion Sediment Control Plan is required		
5.				Determination letter from the Building Official or designee as to whether a local Stormwater Management Plan is required		
6.				Copy of the Deed/Title to the subject parcel, if requested		
7.				Written confirmation from the RIDEM Office of Water Resources that the stormwater management plans of the proposed subdivision/development including any required off-site construction, have been reviewed and approved for site alteration		
8.				Written report of Phase I Environmental Site Assessment		

F	PA	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
9.				Phase II Environmental Site Assessment, written report if indicated		
10.				For subdivisions/developments proposing service by OWTS(s), copies of an On-Site Wastewater Treatment System permit issued by RIDEM confirming soil suitability or OWTS permits for individual lots.		
11.				Written report and approval from RIDEM of an Environmental Site Assessment Phase III (Remediation Plan) if required		
12.				Copies of a narrative report or written statement including: a. A general description of the existing physical environment and existing use(s) of the property; b. A general description of the use(s) and type(s) of subdivision/development proposed; c. A general statement and supporting maps and/or graphics that illustrates the approach utilized in designing the proposed subdivision/development, including consideration of existing conditions and significant site features; d. An estimate of the approximate population of the proposed subdivision/development, if any; e. An estimate of the number of school-aged children to be housed in the proposed subdivision/development, if any. f. A general analysis of soil types and suitability for the subdivision/development proposed; g. A statement of the potential fiscal impacts of the subdivision/development on Town expenses and revenues; h. A description of proposed phasing, if any. An updated narrative report that reflects any changes to these elements is required as part of the final submission.		
13.				Either, copies of: a. An affidavit signed by a qualified professional stating that there are no coastal features and/or buffer areas adjacent to or within the subdivision/development parcel(s); or b. A Preliminary Determination, including coastal feature verification, from the Coastal Resources Management Council		
14.				For subdivisions/developments with freshwater wetlands present on the parcel(s), copies of either: a. An RIDEM wetlands permit, if required pursuant to RIDEM rules and regulations; or b. A letter of non-jurisdiction from RIDEM		
15.				For subdivisions/developments without freshwater wetlands present, an affidavit signed by a qualified professional (a wetland		

F	PA	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
				biologist, a RI Registered Professional Engineer or a Registered Landscape Architect) stating that there are no freshwater wetlands present within the parcel or within 200' of the property being subdivided. Dated _____		
16.				Copies of drainage calculations, associated explanatory narrative, and all supporting documentation, including an Operations and Maintenance manual for the system. The final submission must reflect any changes since preliminary review.		
17.				Written comments on the Plans, by the following as required (provided by Admin. Officer): ____ Building/Zoning Official Date _____ ____ Planning Board Date _____ ____ Technical Review Committee Date _____ ____ Director of Public Works Date _____ ____ Department of Health Date _____ ____ Fire Department Date _____ ____ Conservation Commission Date _____ ____ Police Department Date _____ ____ School Department Date _____ Other (specify below) _____ Date _____ Adjacent Communities _____ Date _____		
18.				Copies of all legal documents; legal description of property, proposed easement and rights-of-way, dedications, restrictions or other required legal documents including but not limited to covenants or Homeowners Association, conservation easements, DPW easements, Stormwater Management Plan, Landscaping Maintenance Plan, a deed conveying open space or offer of street dedication, metes and bounds description(s) and warranty deed(s). Draft copies shall be provided at preliminary submittal and final documents for final.		
19.				Written confirmation and/or permits from any additional required federal, state or local agencies		
20.				Final utilities plan stamped by a RI Registered Professional Engineer; include the extension and location of gas, electric, water/wells, sewer/OWTS, signage or other proposed utilities as applicable		
21.				"Tax Certificate" from the Tax Collector showing that all taxes due on the parcel being developed have been paid to date and there are no outstanding municipal liens on the parcel		
22.				Soil Erosion and Sediment Control Plan, if required, that meets requirements of Chapter 320 of the Town Code Soil Erosion and Sediment Control		

F	PA	PR	F	ELEMENT REQUIRED	LOCATION (PAGE #)	REVIEW CODE
23.				Copies of an estimate of the cost of installation of all on- and off-site improvements, including landscaping, prepared by a RI Registered Professional Engineer		
24.				For subdivisions/developments proposing service by public water, copies of a written statement from the appropriate water company or district that the proposed plan, with plan revision date indicated, has been reviewed and which provides: a. Confirmation that water service is available; b. Approval of connection to the existing water main as depicted on the plan; and, If extension is proposed, approval from the company or district of the extension of the water main as depicted on the plan		
25.				For subdivisions/developments proposing service by public sewer, copies of a written statement from the Department of Public Services that the proposed plan, with plan revision date indicated, has been reviewed and which provides: a. Confirmation that sewer service is available; b. Approval of connection to the existing sewer main as depicted on the plan; and If extension is proposed, approval of extension of the sewer main as depicted on the plan		
26.				Traffic study performed by a RI Registered Professional Engineer (as applicable)		
27.				Floor plans and building elevations showing exterior building design, materials, colors and height.		
28.				If applicable: the location, details and plans of any previous application to or approval by RIDEM for lowering the water table, or installation of such facilities.		
29.				Written approval of the Director of Public Works, or his representative, of the detailed costs, including labor and materials, of all improvements that must be installed by the applicant as required by these regulations and by the Administrative Officer or Planning Board Detailed costs to be submitted on the "Cost of Improvements" form attached.		

Checklist Item #	Applicant Comments on Required Items:
Checklist Item #	Reviewer Comments on Required Items:

F. <u>FEES</u>

	PA	PR	F		*Received?*
1.				Filing fee: $___	
2.				Escrow, if required: $ ____	

3.					

Signature of Applicant: _____

Signature of Professional Land Surveyor /Engineer: _____

Registration Number: _____

Signature of reviewer: _____

Date of Review: _____

ORDINANCE NO. 23-___

Town of Portsmouth

AN ORDINANCE AMENDING

CHAPTER 405 ZONING

Article II Definitions

Section B Definition of Terms.

ADJUSTMENT(S)
A request, or requests by the application to seek relief from the literal use and dimensional requirements of the zoning ordinance and/or the design standards or requirements of the land development and subdivision regulations. The standard for the local view board's consideration of adjustments is set forth in RIGL §45-53-4(d)(2)(iii)(E)(II).

INFEASIBLE
Any condition brought about by any single factor or combination of factors, as a result of limitations imposed on the development by conditions attached to approval of the comprehensive permit, to the extent that it makes it impossible for any applicant to proceed in building or operating low or moderate income housing, within the limitations set by the subsidizing agency of government or local review Planning Board, on the size or character of the development, on the amount or nature of the subsidy, or on the tenants, rentals, and income permissible, and without substantially changing the rent levels and unit sizes proposed by the applicant. [Added 6-26-2006]

LOCAL REVIEW BOARD
The Planning Board.

LOW OR MODERATE INCOME HOUSING
Synonymous with "affordable housing" as defined in R.I. Gen. Laws § 42-128-8.1, and further means any housing whether built or operated by any public agency or any nonprofit organization or by any limited equity housing cooperative or any private developer, that is subsidized by a federal, state, or municipal government subsidy under any program to assist the construction or rehabilitation of affordable housing and that will remain affordable through a land lease and/or deed restriction for ninety-nine (99) years or such other period that is either agreed to by the applicant and town or prescribed by the federal, state, or municipal government subsidy program but that is not less than thirty (30) years from initial occupancy.

MEETING LOCAL HOUSING NEEDS
As a result of the adoption of the implementation program of an approved affordable housing plan and the absence of unreasonable denial of applications that are made pursuant to an approved affordable housing plan in order to accomplish the purposes and expectations of the approved affordable housing plan. and a showing that at least twenty percent (20%) of the total residential units approved by a local review board or any other municipal board in a calendar year are for low- and moderate-income housing as defined in R.I. Gen. Laws § 42-128-8.1.

MONITORING AGENTS

Those monitoring agents appointed by the Rhode Island housing resources commission pursuant to RIGL §45-53-3.2 and to provide the monitoring and oversight set forth in this chapter, including, but not limited to, RIGL §§45-53-3.2 and 45-53-4.

VARIANCE

Permission to depart from the literal requirements of a zoning ordinance. An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land, which is prohibited by a zoning ordinance. There shall be only two (2) categories of variance, a use variance or a dimensional variance.

a. USE VARIANCE. Permission to depart from the use requirements of a zoning ordinance 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 the zoning ordinance.
b. DIMENSIONAL VARIANCE. Permission to depart from the dimensional requirements of this zoning ordinance under the applicable standards set forth in R.I.G.L. § 45-24-41.

ORDINANCE NO. 23-___

Town of Portsmouth

AN ORDINANCE AMENDING

CHAPTER 405 ZONING

Article V Use Regulations

Section B

1.1. Adaptive Reuse Projects.

a. Permitted Use. 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.

b. Eligibility.

1. Adaptive reuse development must include at least 50% of existing gross floor area developed into residential units.

2. There are no environmental land use restrictions recorded on the property preventing the conversion to residential use by RIDEM or the US EPA.

c. Density calculations.

1. For projects that meet the following criteria, the residential density 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.
   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.

2. 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.

3. The density proposed for any adaptive reuse project shall be determined to meet all public health and safety standards.

d. Dimensional requirements.

1. Notwithstanding any other provisions of this section, existing building setbacks shall remain and are considered legal nonconforming.

2. No additional encroachments shall be permitted into any nonconforming setback unless relief is granted by the permitting authority.

3. 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.

i. Any rooftop construction necessary for building or fire code compliance, or utility infrastructure is included in the height exemption.

e. Parking requirements.

1. 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.

2. The parking requirements and design standards in Chapter 405 Section A Off-Street Parking and Loading shall apply to all uses proposed as part of the project unless otherwise approved by the applicable authority. The number of parking spaces required shall apply for uses other than residential.

f. Allowed uses within an adaptive reuse project.

1. 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.

2. Any nonresidential uses proposed as part of an adaptive reuse project must comply with the provisions of Chapter 405 Article V Use Regulations for the zoning district in which the structure is located.

1.2. *Development and Design Standards.* Site design shall be in accordance with the Chapter 236 Article X Design and Improvement Standards.

1.3 *Procedural requirements.*

a. Adaptive reuse project shall be subject to the procedural requirements of Article VIII Land Development Projects and undergo review as determined in that section.

b. In addition to the checklist requirements for the applicable review process, the applicant shall provide the following information:
    1. The proposed residential density and the square footage of nonresidential uses.
    2. A floor plan to scale for each building indicating, as applicable, the use of floor space, number of units, number of bedrooms, and the square footage of each unit.

1.4 *Specific and Objective Provisions.* Applications for adaptive reuse projects shall be subject to the specific and objective criteria for projects in accordance with Article VII Special Use Permits, Section C Criteria for Special Use Permits.

ORDINANCE NO. 23-___

Town of Portsmouth

AN ORDINANCE AMENDING

CHAPTER 405 ZONING REGULATIONS

Article IV District Intensity Regulations

Section D Modifications to Dimensional Requirements

1. The following structures or parts of structures, when accessory to a permitted or special use permit principal use may be permitted above the maximum height limitations set forth herein, provided they meet all other rear lot, side lot and front lot requirements of this Ordinance: Flagpoles, chimneys, radio masts, television antennas, water towers, skylights and other necessary features appurtenant to buildings which are usually carried above roofs and are not intended for human occupancy.

a) Wireless or broadcasting towers are not excepted herein, but are subject to a special use permit. (See also Article VII. Section E. for antennas over thirty-five feet (35') in height.)

3. Structures other than those listed in the paragraph above, may exceed the height limitation provided only upon the granting of a dimensional variance by the Zoning Board of Review.

4. For the purpose of side yard regulations, the following dwellings with common party walls shall be considered as one (1) building occupying one (1) lot: duplex dwellings and townhouse dwellings.

5. Irregular shaped lots are to receive special consideration by the Board in that lot frontage may be determined at a depth of thirty feet (30') radially opposite and concentric with the front boundary, providing that the front boundary line is not less than seventy-five feet (75') in length. This thirty foot (30') strip is to be excluded from the overall lot size requirement.

6. The zoning officer is authorized to grant modification permits of up to and including twenty-five percent (25%) of the literal dimensional requirements of this ordinance as follows:

a. Within ten (10) days of the receipt of a request for a modification, the zoning enforcement officer shall make a decision as to the suitability of the requested modification based on the following determinations:

   1. The modification 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 does not require a variance of a flood hazard requirement, unless the building is built in accordance with applicable regulations;

4. The modification requested does not violate any rules or regulations with respect to freshwater or coastal wetlands.

b. Upon an affirmative determination, in the case of a modification of five percent (5%) or less, the zoning enforcement offer 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 five percent (5%), the zoning enforcement officer shall notify, by 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 local circulation within the city or town that the modification will be granted unless written objection is received within fourteen (14) days of the public notice. If written objection is received within fourteen (14) days, the request for modification shall be scheduled for the next available hearing before the zoning board of review on application for a dimensional variance following the standard procedures for such variances, including notice requirements provided for under this chapter. If no written objections are received within fourteen (14) days, the zoning enforcement officer shall grant the modification.

c. The zoning enforcement officer may apply any special conditions to the permit as may, in the opinion of the officer, be requested to conform to the intent and purposes of the zoning ordinance.

d. The zoning enforcement officer shall keep public records of all requests for modifications, and of findings, determinations, special conditions, and any objections received.

e. Costs of any notice required under this subsection shall be borne by the applicant requesting the modification.

ORDINANCE NO. 23-___

Town of Portsmouth

AN ORDINANCE AMENDING

CHAPTER 405 ZONING

Article XI Development Plan Review and Unified Development Review

Section A.

1. Development plan review established. There shall be development plan review for uses that are permitted by right under the zoning ordinance.

2. Permitting authority. The permitting authority shall be the Administrative Officer for administrative projects submitted, and Planning Board for formal projects.

3. Specific and objective guidelines. Design of all projects shall be consistent with the provisions of the subdivision regulations.

4. Waivers. The authorized permitting authority may grant waivers of design standards as set forth in the subdivision regulations.

5. Appeal. A rejection of the decision shall be an appealable decision pursuant to RIGL §45-23-71.

Section B

1. Unified development review established. There shall be unified development review for the issuance of variances and special use permits for properties undergoing review by development plan review and/or land development or subdivision review.

2. Public hearing. All land development and subdivision applications, and development plan review 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 the Subdivision Regulations and (RIGL §45-23-42).

3. In granting requests for dimensional and use variances, the Planning Board shall be bound to the requirements of Article VI Non-Standard Development Section D relative to entering evidence into the record in satisfaction of the applicable standards.

4. 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 and the criteria for the issuance of such permits, as found in the zoning ordinance Article VII Special Use Permits Section C Criteria for Special Use Permits, and shall be required to provide for the recording of findings of fact and written decisions as described in the zoning ordinance pursuant to Article VII Special Use Permits Section B Procedures.

ORDINANCE NO. 23-___

Town of Portsmouth

AN ORDINANCE AMENDING

CHAPTER 405 ZONING

Article VI NON-STANDARD DEVELOPMENT

Section A Substandard lots of record.

1. Notwithstanding the failure of a single substandard lot of record or contiguous lots of record to meet the dimensional and /or quantitative requirements of this zoning ordinance, and/or road frontage or other access requirements applicable to the district as stated in the ordinance, 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 Article IV Section D or a dimensional variance request under Section D whichever is applicable.

Section C

Alteration of nonconforming development.

1. (a) With Board of Review approval as a special use permit, a building or structure which is devoted to a non-conforming use which is not a single-family residential building or structure, lawfully existing at the time of the passage of this Ordinance may be added to or enlarged provided that the front, side and rear yards, lot coverage, height of such enlarged building or structure, and parking requirements meet the zoning requirements of the district in which it is located.

(b) With Board of Review approval as a special use permit, a building or structure which is devoted to a non-conforming use which is a single-family residential building or structure, lawfully existing at the time of the passage of this Ordinance may be added to or enlarged provided that the front, side and rear yards, lot coverage, height of such enlarged building or structure and parking requirements meet the zoning requirements of the district in which is located or the Board grants dimensional variances in accordance with Section D.2. No lot area shall be so reduced or diminished that the yards or other open spaces or total lot area shall be smaller than prescribed by this Ordinance, unless the reduction in area is due to the taking of a portion of the lot for public use.

3. A legally non-conforming use shall not be changed to a use other than a conforming use. The Zoning Board of Review may permit a change in use as a special use permit. Any change in use shall be more in keeping with the characteristics of the neighborhood.

4. Any alteration or change in use permitted herein shall adhere more closely to the intents and purposes of this Ordinance.

Section D Variances

1. An application for relief from the literal requirements of this zoning ordinance because of hardship may be made by an applicant by filing with the Zoning Enforcement Officer an application describing the request and supported by such data and evidence as may be required by the Zoning Board of Review or by the terms of this ordinance. The Zoning Enforcement Officer shall immediately transmit each application received to the Zoning Board of Review and shall transmit a copy of each application to the Planning Board.

a) All appeals including appeals involving applications for variances shall be made on forms as provided by the rules of the Zoning Board of Review, and the written ruling or decision of the enforcement official together with all other papers, plans and data constituting the record of the case shall be transmitted to the Zoning Board of Review.

2. The Zoning Board of Review, immediately upon receipt of an application for a variance in the application of the literal terms of the zoning ordinance, may request that the Planning Board and/or staff shall report its findings and recommendations, including a statement on the general consistency of the application with the goals and purposes of the comprehensive plan of the Town, in writing to the Zoning Board of Review within thirty (30) days of receipt of the application from that board.

3. The Zoning Board of Review shall hold a public hearing on any application for variance in an expeditious manner, after receipt, in proper form, of an application, and shall give public notice at least fourteen (14) days prior to the date of the hearing in a newspaper of general circulation in the city or town. Notice of hearing shall be sent by first-class mail to the applicant, and to at least all those who would require notice under RIGL §45-24-53. The notice shall also include the street address of the subject property.

4. Requests for dimensional and use variances and special use permits submitted under a unified development review provision of this zoning ordinance shall be submitted as part of the subdivision or land-development application to the administrative officer of the Planning Board pursuant to RIGL §45-24-46.4(a) and Article XI Development Plan Review and Unified Development Review. All subdivision or land-development applications submitted under the unified development review provisions of this zoning ordinance shall have a public hearing, which shall meet the requirements of the Land Development and Subdivision Regulations Section B.3 Unified Development Review and RIGL §45-23-50.1(c).

5. In granting a variance, the Zoning Board of Review shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

a) That 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 is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in Section 45-24-30(a)(16) General Laws of Rhode Island (amended 2003-04-28);

b) That the hardship is not the result of any prior action of the applicant; and

c) That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.

6. The Zoning Board of Review, or where unified development review is enabled, the Planning Board, shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:

a) 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 the zoning ordinance. 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

b) In granting a dimensional variance, that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience, (amended 2003-04-28) 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.

7. Expiration. Any variance which is not utilized within a period of one (1) year from the date of the signing of the decision granting said variance shall be void unless, upon written request of the applicant and good cause shown, the Zoning Board of Review, following a public hearing thereon, grants an extension of not more than one (1) year. Not more than a single, one (1) year extension may be granted following any one (1) public hearing. The Board of Review shall not grant successive extensions which total more than two (2) years on any project, (excluding any extensions granted prior to enactment of this amendment).

[Amended 7-12-2002; 8-10-2004]

a) If written proof from the Portsmouth Water and Fire District is provided showing that the applicant is unable to secure a tie-in to the Portsmouth Water and Fire District's water supply, then the Zoning Board of Review shall grant an extension for a period of one (1) year, provided that the applicant demonstrates reasonable diligence in attempting to secure such tie-in.

b) In the event an application for extension is filed prior to the passage of one (1) year from date of authorization, or the end of any subsequent extension term thereof, the variance shall remain in force and effect until the Board of Review has acted on said application for extension.

ORDINANCE NO. 23-___
Town of Portsmouth
AN ORDINANCE AMENDING

CHAPTER 405 ZONING

ARTICLE V USE REGULATIONS

Principal Use District	R10	R20	R30	R40	R60	C-1	I-L	I-H	WD	TC
A. RESIDENTIAL (Note: Please also refer to definitions of 'dwelling unit', 'family', and 'household'.)										
1. One detached dwelling unit on a separate lot occupied by not more than one household.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. One two-family or one duplex structure on a separate lot.	Y	Y	Y	Y	Y	N	Y	Y	Y	Y
3. Motels and Hotels (See Article VII.)	N	N	N	N	N	Y	Y	Y	Y	Y
4. Renting of rooms in an existing dwelling unit to not more than four (4) persons provided there are no separate cooking facilities and no separate means of ingress or egress.	Y	Y	Y	Y	Y	N*	N	N	S	N
5. Renting rooms in an existing dwelling unit to more than four (4) persons.	N	N	N	N	N	S	N	N	S	N

6. Conversion of an existing dwelling unit to accommodate not more than two (2) households provided there is no external evidence of occupancy by more than one (1) household and provided the dimensional requirements for a two-family dwelling are met.	Y	Y	Y	Y	N	N*	S	S	S	N
7. Conversion of an existing dwelling unit to accommodate more than two (2) families.	S	S	S	S	N	N*	S	S	S	N
8. Trailer or mobile home, except in a trailer or mobile home park.	N	N	N	N	N	N	N	N	N	N
9. Trailer park or Mobile home park.	N	N	N	N	N	N	N	N	N	N
10. Apartments, Condominiums, Cluster and Town Houses or Multi-family development (See Article VII.)	S	S	S	S	S	S	N	N	S	N
11. Mixed Residential and Commercial Uses, except Home Occupations.	N	N	N	N	N	Y	Y	Y	Y	Y
12. Community Residences (See definition.)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
13. Planned Marina Village Development (PMVD), as	N	N	N	N	N	N	N	N	Y	N
14. Planned Resort Development (PRD), as as approved by the Planning Board[1] [Added 9-19-2006]	N	Y*	Y*	Y*	N	N	N	Y*	N	N
14. Planned Resort Development (PRD), as										

approved by the Planning Board * [2] [Added 9-19-2006; amended 5-26-2015 by Ord. No. 2015-05-26]										
* Lots directly abutted on both sides by residential uses may apply for a special use permit for said residential use. * Planned Resort Development (PRD) is permitted within the R20, R40 and HI Zones limited to the area bounded by Willow Lane, West Main Road, Bristol Ferry Road and the Mount Hope Bridge. Planned Resort Development (PRD) is permitted within the R30 Zone limited to Map 55, Lot 1A. [Amended 5-26-2015 by Ord. No. 2015-05-26]										
B. INSTITUTIONAL, RECREATIONAL AND EDUCATIONAL USES										
1. Place of worship.	S	S	S	S	S	S	S	S	S	N
2. Private or public school not conducted as a private business for gain.	S	S	S	S	S	S	S	S	S	N
3. Cemeteries or mausoleums.	Y	Y	Y	Y	Y	S	S	S	N	N
4. Public park or playground, public recreational building or facility.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

5. Public utilities, limited to electrical, telephone, water, gas, cable television and sewer.	S	S	S	S	S	S	S	S	S	N
6. Private non-profit libraries or museums.	S	S	S	S	N	Y	S	S	S	Y
7. Private non-profit community center building, settlement house, adult education center or other similar facility.	S	S	S	S	S	S	N	N	N	Y
8. Hospital, clinic, infirmary, nursing home, convalescent home, institutional residence group homes or other congregate care facility not qualifying as a community residence.	S	S	S	S	N	S	S	N	N	S
9. Day Care Center: provided any outdoor play area is screened by fence, wall, or planting line from any neighboring residential structure and is not detrimental to the to the neighborhood by reason of noise. (Formerly Day nursery.) [Amended 3-13-2017 by Ord. No. 2017-03-13]	S	S	S	S	N	S	S	S	S	S
9a. Family Day Care Home	Y	Y	Y	Y	Y	Y	N	N	Y	N
10. Trade, professional or other for profit school for gain.	N	N	N	N	N	Y	Y	Y	Y	S
11. Private non-profit membership or social club or lodge.	N	N	N	N	N	Y	N	N	N	N

12. Country club, golf, swimming, tennis or other outdoor recreational facility.	S	S	S	S	S	S	S	S	Y	S
13. Indoor entertainment and recreational facilities operated as a business for gain, provided that such use is housed indoors in sound-insulated structures that protect the neighborhood.	N	N	N	N	N	Y	Y	Y	Y	Y
C. AGRICULTURAL										
1. agricultural, orchard, horticultural or silvicultural.	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
2. Farms- livestock, fish and shellfish, or poultry but not swine, provided that any building housing livestock or poultry is not less than fifty feet (50') from the property boundary. **[Amended 9-9-1997 3]**	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
3. One roadside stand per farm for the sale of agricultural or horticultural products the major portion of which are grown or produced on the premises or an adjacent parcel; must provide off- street parking. **[Amended 10-25-2010**	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Agricultural Promotion Uses [Added 6-8-2015 by Ord. No. 2015-06-08]	S	S	S	S	S	S	S	S	S	N
5. Agricultural Special Events [Added 6-8-2015 by Ord. No. 2015-06-08]	S	S	S	S	S	S	S	S	S	N

6. Farm Brewery [Added 10-9-2018 by Ord. No. 2018-10-09]	S	S	S	S	S	S	S	S	S	S
D. OFFICES AND LABORATORY USES										
1. Business, financial or professional offices with no retail, manufacturing or processing.	N	N	N	N	N	Y	Y	Y	Y	Y
2. Offices and clinics for medical, psychiatric, or other health services for the examination or treatment of persons as out- patient, including laboratories that are part of such office or clinic.	N	N	N	N	N	Y	Y	Y	N	Y
3. Laboratory or research facility.	N	N	N	N	N	Y	Y	Y	Y	N
4. Radio, television or recording studio.	N	N	N	N	N	Y	Y	Y	Y	Y
E. RETAIL AND CONSUMER SERVICES										
1. Store for retail sale of merchandise, provided all display storage and sales for materials are conducted within a building and there is no manufacturing or assembly on the premises.	N	N	N	N	N	Y	Y	Y	Y	Y
2. Store for retail sale or merchandise, with outside display storage of wares and merchandise, provided there is no manufacturing or assembly on the premises.	N	N	N	N	N	S	S	S	S	S

3. Eating places serving food and beverages to be consumed within the building.	N	N	N	N	N	Y	Y	Y	Y	Y
4. Stores for sale of marine supplies and associated items including boats and trailers.	N	N	N	N	N	Y	Y	Y	Y	N
5. Service business serving needs of local residents.	N	N	N	N	N	Y	Y	Y	Y	Y
6. Marinas including sales and repair of boats and related supplies.	N	N	N	N	N	S	S	S	Y	N
7.1. Mortuary or funeral establishment (crematorium not permitted on the premises). [Amended 4-9-1996]	N	N	N	N	N	Y	Y	Y	N	N
7.2. Mortuary or funeral establishment (crematorium permitted on the premises). [Amended 4-9-1996]	N	N	N	N	N	Y	Y	Y	N	N
8. Veterinary establishment, kennel or similar establishment.	N	N	N	N	N	Y	Y	Y	N	N
9. Store for retail sale of merchandise such as, but not limited to, lumber yards and building supply yards, wherein merchandise is stored in the open provided that all merchandise so stored is screened from ground level view from any abutting street or property at the property line where such materials are stored.	N	N	N	N	N	S	S	S	S	N

10. Dispatch facility for transportation company providing bus transportation services to Town of Portsmouth schools with associated parking of buses but no repair facilities.	N	N	N	N	N	N	Y	Y	N	N
11. Telephone exchanges, but not including service or storage yards, or microwave transmission facilities.	N	N	N	N	N	Y	Y	Y	Y	N
12. "Outdoor Trade Shows" which includes those events in which manufacturers, wholesalers and/or retailers shall assemble to display their wares and merchandise for promotion and sale to the general public, including but not limited to Art Shows, Boat Shows, Antique Shows and the like.	N	N	N	N	N	N	N	N	Y	N
13a. Itinerant vendors as defined by Rhode Island Statutes.	N	N	N	N	N	N	N	N	N	Y
13b. All other vendors from temporary fixed locations except as otherwise allowed by this Ordinance.	N	N	N	N	N	N	N	N	N	N
14. New retail business, office or consumer service development of over 5,000 gross square feet of floor area or over 20,000. (See Article VII. Section G.)	N	N	N	N	N	S	S	S	S	S

14.1. Addition to new retail business, office or consumer service complex, as in 14, provided the additions increase the size of the buildings by no more than 30% over the size of the buildings as constructed under the first application approved under Section 14. Such additions need not be constructed at the same time. [Added 10-15-1996]	N	N	N	N	N	Y	Y	Y	Y	~~S~~Y
14.2 Addition to existing retail business, office or consumer service complex provided the addition increases the existing buildings by no more than 30% over the size of the buildings as existing at the time of the enactment of this amendment. Such additions need not be constructed at the same time. [Added 10-15-1996]	N	N	N	N	N	Y	Y	Y	Y	Y
14.3 Addition to new or existing retail business, office or consumer service complex of more than 30% over the size of the buildings as existing at the time of the enactment of this amendment, or a Substantial Improvement, as defined in Article II. Such additions need not be constructed at the same time. [Added 1-21-2004]	N	N	N	N	N	Y	Y	Y	Y	Y

14.4 New or expanded retail business, office or consumer service development totaling over 25,000 square feet building gross floor area of the first floor in one or more buildings as approved by the Planning Board as a Planned Retail/Service Development (See Article VIII. Section D). [Added 2-4-2008]	N	N	N	N	N	Y	Y	Y	Y	Y
14.5 New or expanded single use retail business of over 45,000 square feet building foundation area in one building abutting the Traffic Sensitive District. [Added 2-4-2008]	N	N	N	N	N	N	N	N	N	N
15 . Sales places for flowers, garden supplies, agricultural produce partly or wholly outdoors including commercial greenhouses.	S	S	S	S	S	Y	Y	Y	N	Y
16. Place for exhibition, lettering or sale of gravestones.	N	N	N	N	N	Y	Y	Y	N	N
17. Marine Trade Development as approved by the Planning Board.**5**	N	N	N	N	N	Y	Y	Y	N	N
18. Planned Retail/ Service Development as approved by the Planning Board.**6**	N	N	N	N	N	Y	Y	N	N	Y
** Provided the development is approved by the Planning Board pursuant to Article VII.										

(Op. Cit. Planned Unit Development)										
F. AUTOMOTIVE AND DRIVE IN RETAIL										
1 Automobile fuel service stations.	N	N	N	N	N	Y	N	Y	Y	N
2. Sale or rental of boats and rental of other motor vehicles and accessory storage.	N	N	N	N	N	Y	Y	Y	Y	N
2a. Sale or rental of automobiles.	N	N	N	N	N	Y	N	N	N	N
3 Automobile repair shops, provided all work is carried out within the building.	N	N	N	N	N	Y	Y	N	N	N
4. Boat Repair Shops.	N	N	N	N	N	S	S	S	Y	N
5. Car washing establishments	N	N	N	N	N	Y	Y	Y	N	N
6. Paint and body shops, provided all work is carried out within the building.	N	N	N	N	N	S	S	S	S	N
7. Free standing drive-in or drive- through facility, whether attended by an employee or unattended.	N	N	N	N	N	S	N	N	N	N
G. INDUSTRIAL, WHOLESALE AND TRANSPORTATION USES										
1. Laundries and dry cleaning plants.	N	N	N	N	N	S	S	S	Y	N
2. Printing, binding, publishing and related arts and trades.	N	N	N	N	N	Y	Y	Y	N	N
3. Bottling of beverages.	N	N	N	N	N	N	Y	Y	N	N

4 Plumbing, electrical or carpentry shop or other similar service or repair	N	N	N	N	N	Y	Y	Y	Y	N
5. Place of manufacturing, assembly or packaging of goods, provided that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke and vapor be effectively confined to the premises or be disposed of in a manner that does not create a nuisance or hazard to safety or health, provided that food or animal waste processing is not less than fifty feet (50') from the property boundary. [Amended 9-9-1997[7]]	N	N	N	N	N	N	Y	Y	Y	N
6. Place of manufacturing, assembly or packaging of goods, provided that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke and vapor be effectively confined to the premises or be disposed of in a manner that does not create a nuisance or hazard to safety or health with no outside storage of goods or materials.	N	N	N	N	N	N	Y	Y	Y	N
7. Wholesale business and storage in an enclosed and roofed structure.	N	N	N	N	N	N	Y	Y	Y	N
8. Wholesale business, including outdoor storage.	N	N	N	N	N	N	Y	Y	Y	N
9. Trucking terminals.	N	N	N	N	N	N	Y	Y	N	N

10. Extractive industries and earth removal. (See Ordinance No. 107.[8])	N	N	N	N	N	N	S	S	N	N
11. Planned Corporate Development as approved by the Planning Board. [9]	N	N	N	N	N	N	Y	Y	Y	N
12. Planned Industrial Development as approved by the Planning Board. [10]	N	N	N	N	N	N	N	Y	N	N
13. Mass Storage of fuel in tanks exceeding 50,000 gallons. [Added 6-17-2002]	N	N	N	N	N	N	N	N	N	N
14. Mass Storage of fuel in tanks not exceeding 50,000 gallons. [Added 6-17-2002]	N	N	N	N	N	N	S	S	N	N
H. Other Principal Uses										
1. Any use that is hazardous, offensive or noxious by reason of potential of fire, noise or vibration, dust, gas, fumes, odor, smoke, cinders, flashing or excessively bright light, refuse matter or electromagnetic radiation.	N	N	N	N	N	N	N	N	N	N
2. Open lot storage, including unused vehicles not held for sale.	N	N	N	N	N	N	N	N	N	N
3. Sale of junk or salvage materials.	N	N	N	N	N	N	N	N	N	N
4. Any use hazardous to health because of danger of flooding, inadequacy of drainage or inaccessibility to fire fighting apparatus or other protective service or any use which	N	N	N	N	N	N	N	N	N	N

creates excessive noise beyond the property line.										
I. ACCESSORY USES										
1. A private garage for residents of an existing dwelling on the same premises.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. More than one (1) commercial vehicle per lot in excess two (2) tons capacity.	N	N	N	N	N	Y	Y	Y	Y	Y
3. A storage shed with a maximum of 120 square feet area and no more than 12 feet in height. Storage sheds of over 120 square feet shall meet all dimensional requirements of the zoning use district in which it is located.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Private greenhouse, tennis court, or other similar building or structure for domestic use.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
5. Swimming pool enclosed by a six foot (6') fence and the pool area locked when not in use.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

6, The raising or keeping of animals, livestock or poultry as pets or for use by residents of the premises provided that no buildings or enclosure (including fencing) for any animal may be less than fifty feet (50') from side, rear or front lot line. Provided, however, the raising or keeping of swine shall comply with all R.I. Department of Health rules and regulations not inconsistent with the provisions hereof.	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
7. Home occupation of a resident provided that not more than three (3) persons shall practice or be employed on the premises at any one time and further provided that not more than 20% of the floor area is so used. (See Definition of Home Occupations)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
8. Restaurants inside a building for the use of the primary occupants of the building provided there is no exterior evidence of same.	N	N	N	N	N	Y	Y	Y	Y	Y

9. Restaurants primarily for the use of residents of an apartment building or group of apartment buildings provided there is no exterior evidence of same and further provided the apartment building or group of buildings is under one management and contains not less than one hundred (100) dwelling units. (Leasing of the restaurant is permitted.)	S	S	S	S	N	N	N	Y	Y	S
10. The storage of one (1) recreational vehicle and one (1) boat and trailer, meeting the Yard requirements as set forth in the Land Space Requirements Table, except that in R-10 the yard requirements for this use shall be fifty percent (50%) of those set forth in the Land Space Requirements Table.	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
11. Construction equipment, storage of.	N	N	N	N	N	S	Y	Y	Y	N
12. Windmills and other wind power generating devices, whether commercial or otherwise.	S	S	S	S	S	S	S	S	S	N
13. Drive-in or drive- through facility, whether attended or unattended by an employee, that is accessory to the primary commercial use.	N	N	N	N	N	S	S	S	S	S

14. Day Care conducted in one's own home, but otherwise meeting the definition of 'Day Care- Family Day Care Home', provided there is no exterior signage.	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
15. Accessory Family Dwelling Unit, providing there are no separate cooking facilities and no separate means of ingress or egress.	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
16. Private school conducted as an accessory to the principal use. (See also parking requirements, Article IX.)	N	N	N	N	N	Y	Y	Y	Y	S
J. SOLAR ENERGY SYSTEMS (ARTICLE XX)										
1. Large solar energy system	N	N	N	N	N	M	M	M	M	N
2. Medium solar energy system	N	N	N	N	N	M	M	M	M	N
3. Small solar energy system	S	S	S	Y	Y	Y	Y	Y	Y	S
4. Accessory roof- mounted solar energy system	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Section B

1. Adaptive Reuse Projects.

    a. Permitted Use. 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.

    b. Eligibility.

        1. Adaptive reuse development must include at least 50% of existing gross floor area developed into residential units.

2. There are no environmental land use restrictions recorded on the property preventing the conversion to residential use by RIDEM or the US EPA.

c. Density calculations.

1. For projects that meet the following criteria, the residential density 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.

    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.

2. 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.

3. The density proposed for any adaptive reuse project shall be determined to meet all public health and safety standards.

d. Dimensional requirements.

1. Notwithstanding any other provisions of this section, existing building setbacks shall remain and are considered legal nonconforming.

2. No additional encroachments shall be permitted into any nonconforming setback unless relief is granted by the permitting authority.

3. 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.

i. Any rooftop construction necessary for building or fire code compliance, or utility infrastructure is included in the height exemption.

e. Parking requirements.

1. 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.

2. The parking requirements and design standards in Chapter 405 Section A Off-Street Parking and Loading shall apply to all uses proposed as part of the project unless otherwise approved by the applicable authority. The number of parking spaces required shall apply for uses other than residential.

f. Allowed uses within an adaptive reuse project.

1. 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.

2. Any nonresidential uses proposed as part of an adaptive reuse project must comply with the provisions of Chapter 405 Article V Use Regulations for the zoning district in which the structure is located.

2. Development and Design Standards. Site design shall be in accordance with the Chapter 236 Article X Design and Improvement Standards.

3. Procedural requirements.

a. Adaptive reuse project shall be subject to the procedural requirements of Article VIII Land Development Projects and undergo review as determined in that section.

b. In addition to the checklist requirements for the applicable review process, the applicant shall provide the following information:

1. The proposed residential density and the square footage of nonresidential uses.

2. A floor plan to scale for each building indicating, as applicable, the use of floor space, number of units, number of bedrooms, and the square footage of each unit.

c. Specific and objective provisions

1. Applications for adaptive reuse projects shall be subject to the specific and objective criteria for projects in accordance with Article VII Special Use Permits, Section C Criteria for Special Use Permits.