

Sec. 32-215. – 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:
 - a. Where the project is limited to the existing footprint, except that the footprint is allowed to be expanded to accommodate upgrades related to the building fire code and utility requirements; and
 - b. The development includes at least twenty percent (20%) low- and moderate-income housing; and
 - c. The development has access to public sewer and water service or has access to adequate private water, such as 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.
 - a. 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. However, the applicant may propose additional parking in excess of one space per dwelling unit.
 - (2) All non-residential uses shall comply with the parking requirements of section 30-156.
- (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 section 30-71. Zoning district uses, for the zoning district in which the structure is located.

(g) *Procedural requirements.*

- (1) Adaptive reuse projects shall be subject to the procedural requirements for major land development, minor land development, or development plan review according to the standards of the Town of Burrillville Subdivision and Land Development Regulations, as amended. The administrative officer shall decide whether an adaptive reuse project will go through Development Plan Review or Minor Land Development or whether the project meets the threshold for Major Land Development and shall advise the applicant as to which category of approval is required. Specifically:
 - Development Plan Review may apply to any adaptive reuse project: located in a commercial zone where no extensive exterior construction of improvements is sought; or located in a residential zone which results in less than nine (9) residential units.
 - Minor Land Development may apply to any adaptive reuse project: of up to twenty-five thousand (25,000) square feet of gross floor area located in a commercial zone where no extensive exterior construction of improvements is sought; or located in a residential zone which results in less than nine (9) residential units.
 - Major Land Development applies to any adaptive reuse project that exceeds the thresholds for Development Plan Review or Minor Land Development.
- (2) In addition to the checklist requirements for the applicable review process, the applicant shall provide the following information:
 - The proposed residential density and the square footage of nonresidential uses.
 - 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.

ARTICLE II. AFFORDABLE HOUSING¹

Note to Town: Ensure that effective date of these amendments is 1/1/2024

Sec. 10.5-31. Relation to Rhode Island General Law

All applications made under this Article are subject to the definitions, procedures, and standards of G.L. 1956, § 45-53, the Rhode Island Low and Moderate Income Housing Act, as may be amended from time to time.

Sec. 10.5-~~31~~³². Powers of ~~zoning board of review and~~ planning board to grant comprehensive permits.

In accordance with G.L. 1956, § 45-53, the Rhode Island Low and Moderate Income Housing Act, ~~for~~ all comprehensive permit applications ~~filed on or before December 31, 2004~~, the ~~zoning board of review~~ planning board shall serve as the local review board and shall have the same power to issue a comprehensive permit which includes all permits or approvals as any local board or official who would otherwise act with respect to such application, including, but not limited to, the power to attach to the permit or approval conditions and requirements with respect to height, site plan, size, shape or building materials, as are consistent with the terms of this section. ~~With respect to any applications for comprehensive permits for low and moderate income housing that are filed on or after January 1, 2005, the power as aforesaid shall be vested in the planning board.~~

(Ord. of 1-26-2005, § A)

Sec. 10.5-~~32~~³³. For-profit developers – Limits.

- (a) There shall be a limit on the annual calendar-year total number of dwelling units in comprehensive permit applications from for-profit developers to an aggregate of one percent of the total number of year-round housing units in the town, as recognized in the town's affordable housing plan. The ~~local review board (either the zoning board of review, or the planning board, as the case may be),~~ shall not act on applications which exceed the stated limit. Notwithstanding the timetables set forth in G.L. 1956 §45-53-4, the ~~zoning board of review or the planning board, as the case may be,~~ local review board shall consider comprehensive permit applications from for-profit developers sequentially in the order in which they are submitted. This section shall only apply when in the prior calendar year, the town met all the standards for For-profit developers – Limits as set forth in G.L. 1956 §45-53-4.

Sec. 10.5-34. Municipal government subsidies.

~~At a minimum,~~ The following zoning incentives shall be allowed for projects submitted under this article:

¹Cross reference(s)—The ordinance from which this article is derived amends the Town of Burrillville Comprehensive Plan, Chapter V, Housing & Affordable Housing Plan, and is included here for ease of reference.

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- (a) Density bonus. The following density bonuses apply for projects submitted under this article, provided that the total land utilized 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 properties connected to public sewer and water, or eligible to be connected to public sewer and water based on written confirmation from each respective service provider, the density bonus for a project which provides at least twenty-five percent (25%) low- and moderate-income housing shall be at least five (5) units per acre;
 - (2) For properties connected to public sewer and water, or eligible to be connected to public sewer and water based on written confirmation from each respective service provider, the density bonus for a project which provides at least fifty percent (50%) low- and moderate-income housing shall be at least nine (9) units per acre;
 - (3) For properties connected to public sewer and water, or eligible to be connected to public sewer and water based on written confirmation from each respective service provider, the density bonus for a project which provides one hundred percent (100%) low- and moderate-income housing shall be at least twelve (12) units per acre;
 - (4) 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 facilities to service the dwelling units from the applicable state agency, the density bonus for a project which provides at least twenty-five percent (25%) low- and moderate-income housing shall be at least three (3) units per acre;
 - (5) 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 facilities to service the dwelling units from the applicable state agency, the density bonus for a project which provides at least fifty percent (50%) low- and moderate-income housing shall be at least five (5) units per acre;
 - (6) 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 facilities to service the dwelling units from the applicable state agency, the density bonus for a project which provides one hundred percent (100%) low- and moderate-income housing shall be at least eight (8) units per acre;
- (b) Parking. No more than one (1) off-street parking space shall be required per dwelling unit for units up to and including two (2) bedrooms in applications submitted under this article.
- (c) Bedrooms. There shall be no limit on the number of bedrooms per dwelling unit in applications submitted under this article.
- (d) Floor area. Except as provided by § 45-24.3-11 (the State's Housing Maintenance and Occupancy Code), floor area requirements shall not be used to limit any application.

Sec. 10.5-35. Application and review process.

- (a) For proposals in which at least twenty-five percent (25%) of the housing is low- or moderate-income housing, an applicant may submit to the local review board a single application for a comprehensive permit to build that housing in lieu of separate applications to the applicable local boards.
- (b) Preliminary plan review
- (1) Submission requirements. Applications for preliminary plan review under this article shall include:

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- a. A letter of eligibility issued by the Rhode Island housing and 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 for a municipal government subsidy;
 - b. 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;
 - c. A proposed timetable for the commencement of construction and completion of the project;

~~A completed application shall, at a minimum, consist of 15 copies of the following:~~

- ~~(1) A written request to submit a single application to build or rehabilitate low or moderate income housing in lieu of separate applications to the applicable board. The written request shall include a list of requested exceptions to local requirements and regulations, including local codes, ordinances, by-laws or regulations and a proposed timetable for completion of the project;~~
- d. Evidence of site control;
- e. Evidence of eligibility for a state or federal subsidy, including a letter from the funding agency indicating the eligibility of the applicant and the project;
- f. Evidence of incorporation and nonprofit status, if applicable or, statement that application is being made by a for profit developer;
- g. Soils map of the site including soil classifications and acreage in each soil classification; soil classifications and acreage within applicable development limitations districts;
- h. Site development plans showing the locations and outlines of proposed buildings, proposed final elevations, proposed locations, general dimensions and materials for streets, drives, parking areas, walks and paved areas; and proposed landscaping improvements and open areas within the site; plans shall be signed whenever required by the Rhode Island State Building Code (i.e. professional engineer, architect, land surveyor, etc.);
- i. A report on the existing site conditions and a summary report of the surrounding areas within a 500-foot radius of the proposed development, showing the location and nature of existing buildings, existing street elevations, traffic patterns, and character of open areas, including wetlands and floodplain;
- j. Final scaled architectural drawings; for each building the drawings shall be signed in accordance with the Rhode Island State Building Code and shall include typical floor plans, typical elevations and sections and shall identify construction type and exterior finish;
- k. A tabulation of proposed buildings by type, size (number of bedrooms, floor area) and ground coverage and a summary showing the percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas and by open spaces;
- l. Where a subdivision of land is involved, a final subdivision plan in accordance with the Town of Burrillville Subdivision and Land Development Regulations with supporting documents;
- m. A utilities plan showing the proposed location and types of sewage, drainage, water facilities, hydrants and lighting;
- n. A signage plan including any entrance signage, street name(s) and private development sign, if applicable;
- o. Approval from the department of environmental management, wetlands division, for proposed wetland determinations/alterations;

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- p. Letter from the applicable water supplier as to availability, including pressure, flow and volume;
 - q. Assessment of the fire flow requirement from the fire department;
 - r. Approval of the sewage disposal system from the department of environmental management, ISDS division, for any development other than single-family, and/or in the case of a detached single-family development, a preliminary suitability from the department of environmental management, ISDS division, providing preliminary suitability for all proposed lots with ISDS systems when applicable;
 - s. Delineation of flood plain(s) in accordance with the Federal Emergency Management Agency delineation; and
 - t. Map of all parcels and list of all persons owning real property located within 200 feet of each parcel(s) which is the subject of the application.
 - u. Appropriate application fee.
 - v. Notwithstanding the submission requirements set forth above, the local review 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, statements and advice from other local boards and officials.

(2) Certification of completeness. The preliminary plan application shall be certified complete or incomplete by the administrative officer according to the provisions of § 45-23-36 (subdivision of land - application for development and certification of completeness); 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.

(3) Review of applications. An application filed in accordance with this article shall be reviewed in accordance with the following provisions:

- a. Public hearing. A public hearing shall be noticed and held as soon as practicable after the issuance of a certificate of completeness.
- b. Notice. Public notice for the public hearing will be the same notice required under local regulations for a public hearing for a preliminary plan promulgated in accordance with § 45-23-42 (subdivision of land -Major land development and major subdivision – Public hearing and notice). The cost of notice shall be paid by the applicant.
- c. Timeframe for review. The local review 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 a written consent.
- d. Failure to act. Failure of the local review 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 local review 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 herein, the application is deemed to have been allowed and the preliminary plan approval shall be issued immediately.

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- (4) Required findings for approval. In approving an application, the local review board shall make positive findings, supported by legally competent evidence on the record that discloses the nature and character of the observations upon which the fact finders acted, on each of the following standard provisions, where applicable.
- a. The proposed development is consistent with local needs as identified in the local comprehensive community plan with particular emphasis on the community's affordable housing plan and/or has satisfactorily addressed the issues where there may be inconsistencies.
 - b. The proposed development is in compliance with the standards and provisions of Burrillville's zoning ordinance and subdivision and land development 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.
 - c. 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.
 - d. 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 run-off, and the preservation of natural, historical, or cultural features that contribute to the attractiveness of the community. To this end, the developer must demonstrate that the proposed development will be connected to public water and sewer. In addition, the developer must demonstrate that there are adequate public facilities to support the development, including, but not limited to, adequate capacity of public water and sewer, roadways, sidewalks, etc., and if not, demonstrate how the developer will ensure adequate public facilities.
 - e. All proposed land developments and all subdivision lots will have adequate and permanent physical access to a public street in accordance with the requirements of § 45-23-60(5) (Subdivision of land - Required findings).
 - f. 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.
- (5) Conditions. Approvals may be made with conditions dealing with, but not limited to, height, size, site plan, shape or building materials. As provided for in the Burrillville Zoning Ordinance, the local review board may provide for the issuance of conditional zoning approval and where the proposed application would otherwise be approved except that one or more state or federal agency or other applicable entities' approvals which are necessary are pending.
- (6) Required findings for denial. In reviewing the comprehensive permit request, the local review board may deny the request for any of the following reasons:
- a. If 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 that housing plan;
 - b. 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 ordinances and procedures promulgated in conformance with the comprehensive plan;

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- c. The proposal is not in conformance with the comprehensive plan;
 - d. The town has met or has plans to meet the goal of ten percent (10%) of the year-round units as defined in § 45-53-3(4)(i) being low- and moderate-income housing; provided that, the local review board also finds that the community has achieved or has made significant progress towards meeting the goals required by this section;
 - e. Concerns for the environment and the health and safety of current residents, including the standards of section 10.5-35(b)(4)d above, have not been adequately addressed.
 - (7) Vesting. The approved preliminary plan is vested for a period of two (2) years with the right to extend for two (2), one-year extensions 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 local review board. The vesting for the preliminary plan approval includes all ordinance provisions and regulations at the time of the approval, general and specific conditions shown on the approved preliminary plan drawings and supporting material.
 - (c) Final plan review. 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 local review board's discretion, it may vote to require the applicant to return for final plan review and approval.
 - (1) Submission requirements. Applications for final plan review under this article shall include:
 - a. All required state and federal permits must be obtained prior to the final plan approval or the issuance of a building permit; and
 - b. 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 § 45-53-3.2 (Approved monitoring agent program); and
 - c. 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; and
 - d. Plus, all submission requirements found under "Final Plan Requirements, Major Subdivision/Land Development" (see the Town of Burrillville Subdivision & Land Development regulations Section 15-6.5.C).
 - (2) Certification of completeness. The preliminary plan application shall be certified complete or incomplete by the administrative officer according to the provisions of § 45-23-36 (subdivision of land - application for development and certification of completeness); 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.
 - (3) Review of applications. An application filed in accordance with this article shall be reviewed in accordance with the following provisions:
 - a. 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.

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- b. 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.
- (4) Modifications and changes to plans:
- a. Minor changes. Minor changes, as defined in the Burrillville Subdivision and Land Development Regulations, to the plans approved at preliminary plan may be approved administratively, by the administrative officer, whereupon final plan approval may be issued. The changes may be authorized without additional public hearings, at the discretion of the administrative officer. All changes shall be made part of the permanent record of the project application. This provision does not prohibit the administrative officer from requesting a recommendation from the local review board. Denial of the proposed change(s) shall be referred to the local review board for review as a major change.
- b. Major changes. Major changes, as defined in the Burrillville Subdivision and Land Development Regulations, to the plans approved only by the local review board and must follow the same review and public hearing process required for approval of preliminary plans as described herein.
- c. The administrative officer shall notify the applicant in writing within fourteen (14) days of submission of the final plan application if the administrative officer is referring the application to the local review board under this subsection.
- (4) 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 approvals 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.
- (5) 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.
- (d) 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 § 45-53-3 (LMI Housing Act – definitions). Upon request, the applicant shall be provided a reasonable opportunity to respond to such proposed conditions prior to a final vote on the application.
- (e) Fees. Any fees imposed on comprehensive permit applications shall not exceed fees that would otherwise be assessed for a project of the same scope and type, but not proceeding under this chapter; provided, however, the imposition of such fees shall not preclude a showing by an applicant that the fees make the project financially infeasible.
- (f) Majority vote required. All local review board decisions on comprehensive permits shall be by majority vote of the members present at the proceeding; provided that, there is at least a quorum of the local review board present and voting at the proceeding.
- (g) Construction timetable. A comprehensive permit shall expire unless construction is started within twelve (12) months and completed within sixty (60) months of the recording of the final plan unless a longer and/or

phased period for development is agreed to by the local review 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.

~~(b) Entities eligible to file a single application for approval of construction or rehabilitation of low or moderate income housing as defined by G.L. 1956, § 45-53, the Rhode Island Low and Moderate Income Housing Act, are:~~

~~(1) Any public agency, nonprofit organization or limited equity housing cooperative proposing to build or rehabilitate low or moderate income housing; or~~

~~(2) Any private developer proposing a low or moderate income housing which will remain as low or moderate income housing for a period of not less than 30 years from initial occupancy.~~

~~(c) Projects are eligible if sponsored by an eligible entity and they:~~

~~(1) Are eligible for a subsidy from the state or federal government under any program to assist the construction or rehabilitation of low or moderate income housing; and;~~

~~(2) Have at least the minimum number of units reserved for low or moderate income housing as defined by the program providing the subsidy or 20 percent of the total number of units reserved for low or moderate income housing, whichever is greater.~~

~~{Ord. of 1-26-2005, § B; Ord. of 9-12-2007(1)}~~

~~Sec. 10.5-33. Notice and hearing requirements.~~

~~Upon receipt of an application, the zoning board of review or the planning board, as the case may be, shall:~~

~~(1) Notify each local board, as applicable, including but not limited to, the planning board, zoning board of review, the town council, the conservation commission, the building official and town engineer, of the filing of the application and provide each with a copy of the application and pertinent accompanying documents;~~

~~(2) Commence a public hearing within 30 days of the receipt of the completed application in accordance with the advertising requirements set forth in G.L. 1956, § 45-24-41.~~

~~(3) Notify all parties entitled to notice of such hearings in accordance with those notice provisions contained in G.L. 1956, § 45-24-53.~~

~~{Ord. of 1-26-2005, § C}~~

Sec. 10.5-~~34~~36. Records of the proceedings.

All written decisions on applications under this article shall be recorded in the land evidence records within twenty (20) days after the local review board's vote or the administrative officer's decision, as applicable. A copy of the recorded decision shall be mailed within one business day of recording, by any method that provides confirmation of receipt, to the applicant and to any objector who has filed a written request for notice with the administrative officer. In hearing and deciding applications for comprehensive permits as contemplated by this article, the zoning board of review or the planning board, as the case may be, Written decisions shall keep include a record of the proceeding, including any examination of witnesses, findings of fact and other official actions taken pertaining to the application, either taken by stenographer or recorded by a sound recording and shall keep written minutes of the proceedings showing the vote of each member on any matters brought to a vote and indicating those members absent or failing to vote.

~~Sec. 10.5-35. Decisions.~~

- ~~(a) The zoning board of review or the planning board, as the case may be, shall render a decision by majority vote of the membership of the board within 40 days after the official termination of the public hearing. The applicable board shall terminate the hearing when all public testimony has been received and all information requested by the applicable board has been received. In rendering a decision, the applicable board may take the following actions:~~
- ~~(1) Approve a comprehensive permit on the terms and conditions set forth in the application;~~
 - ~~(2) Approve a comprehensive permit with conditions dealing with, but not limited to, height, size, site plan, shape or building materials. As provided for in the Burrillville Zoning Ordinance, the zoning board of review or planning board, as the case may be, may provide for the issuance of conditional zoning approval and where the proposed application would otherwise be approved except that one or more state or federal agency or other applicable entities' approvals which are necessary are pending;~~
 - ~~(3) Deny a comprehensive permit for any of the following reasons:~~
 - ~~a. If the proposal is inconsistent with local needs, including but not limited to, the needs identified in the comprehensive plan; or~~
 - ~~b. If the proposal will not be in conformance with the comprehensive plan; or;~~
 - ~~c. If the Town of Burrillville has met, or has a plan approved by the Rhode Island Department of Administration, Division of Statewide Planning, to meet the standard of ten percent of its housing units being low and moderate income housing; or~~
 - ~~d. If the concerns for the environment and the health and safety of current residents have not been adequately addressed.~~
- ~~(b) Upon making its decision, the zoning board of review or the planning board, as the case may be, shall immediately issue either a comprehensive permit which includes all conditions imposed, (if any) or if the comprehensive permit is denied, a written decision including the reasons for denial.~~
- ~~(c) If the hearing is not convened or a decision rendered within the time allowed (if not extended by agreement of the applicant), the application shall be considered to be allowed and approved.~~
- ~~(d) The decision shall be recorded with the land evidence records of the town within ten days of the decision being rendered.~~
- ~~(e) An approved comprehensive permit, with or without conditions, shall not be exempt from submitting final plans as required by the zoning board of review or planning board, including but not limited to: the appropriate final subdivision checklist and fees, approved soil and erosion control plans, zoning board of review or planning board stipulations or conditions, final approvals from all state and federal agencies, final site development plans, final architectural drawings and all other drawings and information necessary for issuance of a building permit.~~

~~(Ord. of 1-26-2005, § E)~~

Sec. 10.5-~~36~~37. Appeals.

- (a) The appeals process is effective as of January 1, 2024, per the provisions of G.L. 1956, § 45-53-5.1. Any appeal sought prior to January 1, 2024, is subject to the provisions of G.L. 1956, § 45-53-5, until January 1, 2024, at which time that section shall sunset and be repealed and replaced by G.L. 1956, § 45-53-5.1.
- (b) A decision of a local review board may be appealed by the applicant or an aggrieved party, as defined by G.L. 1956, § 45-24-31 to the superior court for the county in which the property is situated. The appeal shall be taken within twenty (20) days after the date of the recording and posting of the decision by the local review board by filing with the superior court, a complaint which contains a statement of the prior proceedings and the reasons upon which the appeal is based. The complaint shall name the local review board as the appellee and serve the local review board with the appeal within twenty (20) days of filing of the appeal. If an aggrieved party who is not the applicant files an appeal, the original applicant shall be named as a party and served in the same manner as the local review board.
- (c) The local review board shall not be required to answer the complaint, but it shall submit the complete local review board record to superior court within thirty (30) days of receiving service of the complaint. Should the local review board fail to file the record within thirty (30) days, the applicant may move for default.
- (d) The court shall not substitute its judgment for that of the local review board as to the weight of the evidence on questions of fact. The court may affirm the decision of the local review board or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions, or decisions that were arbitrary, capricious or unreasonable.
- (e) An aggrieved party may, within twenty (20) days from the date of entry of the judgment of superior court, petition the supreme court of the state of Rhode Island for a writ of certiorari to review any questions of law involved. The petition for a writ of certiorari shall set forth the errors claimed. Upon the filing of such a petition with the clerk of the supreme court, the supreme court may, if it sees fit, issue its writ of certiorari to the superior court to certify to the supreme court the record of the record under review, or so much thereof as was submitted to the superior court by the parties, together with any additional record of the proceedings in the superior court.

~~Any person aggrieved by the issuance of an approval may appeal to the supreme court.~~

- ~~(b) An appeal may be filed by an applicant with the state housing appeals board if the application for comprehensive permit was filed under the provisions of G.L. 1956, § 45-53-4, wherever such application is:
 - (1) Denied; or
 - (2) Granted with such conditions and requirements so as to make the building and/or operation of such housing infeasible.~~

~~(Ord. of 1-26-2005, § F)~~

Sec. 10.5-37. Procedure for filing appeal with state housing appeals board.

- ~~(a) An appeal shall be taken within 20 days after the date of notice of the decision of the zoning board of review or planning board, as the case may be, by filing with the state housing appeals board the following documents and information:
 - (1) A statement from the applicant describing the prior proceedings and the reasons upon which the appeal is based; and~~

~~(2) A copy of the application for a comprehensive permit as it was submitted to the zoning board of review or planning board, as the case may be, with a copy of all documents and materials accompanying the application.~~

~~(b) The state housing appeals board shall forthwith notify the zoning board of review and the planning board of the filing of the application for appeal.~~

~~(c) Within ten days of the receipt of such notice, the zoning board of review or the planning board, as the case may be, shall transmit to the state housing appeals board, a transcript describing its decision, the reason for the decision, who was present and a record of their vote, and findings of facts as required herein. The chair of the state housing appeals board may waive submission for good cause.~~

~~(Ord. of 1-26-2005, § G)~~

~~Sec. 10.5-38. Proceedings and decision of the state housing appeals board.~~

~~The proceedings and decisions of the state housing appeals board may be appealed to the supreme court.~~

~~(Ord. of 1-26-2005, § H)~~

CHAPTER X SUBDIVISION/LAND DEVELOPMENT

15-1. Authority. These Subdivision and Land Development Regulations are adopted pursuant to the authority contained in Title 45, Chapter 23, Sections 25 through 74 of the Rhode Island General Laws, known as the Rhode Island Development and Subdivision Review Enabling Act of 1992 and by Burrillville General Ordinance Chapter X adopted August 23, 1995. This Chapter shall be known and may be cited as the "Subdivision & Land Development Regulations of the Town of Burrillville".

15-2. Town of Burrillville Enabling Ordinance. The Town Council does hereby empower the Planning Board, pursuant to Rhode Island General Law 45-23-51, to adopt, modify and amend regulations and rules governing land development and subdivision projects within the Town of Burrillville and to control land development and subdivision projects pursuant to these regulations and rules.

15-3. General Conditions.

15-3.1 Purpose. The purpose of these Regulations is to establish procedural and substantive provisions for the subdivision and development of land that will, consistent with the provisions of the Comprehensive Community Plan and the Zoning Ordinance, accomplish the following:

1. Provide for the orderly, thorough and expeditious review and approval of subdivisions and land development projects.
2. Promote high quality, and appropriate design and construction of subdivisions and land development projects.
3. Protect existing natural and built environments and mitigate the significant negative impacts of proposed development on those environments.
4. Promote subdivision and land development designs that are well integrated into surrounding neighborhoods, and concentrate development in areas that can best support intensive use because of natural characteristics and existing infrastructure.
5. Mandate design and improvement standards, which reflect the intent of the Town's Comprehensive Plan with regard to the physical character of the various villages and neighborhoods of Burrillville.
6. Require measures for mitigating the impact of new development on the community that are based on clear documentation of needs and are fairly applied and administered.

7. Promote thorough review of all proposed land developments and subdivisions by appropriate local officials.
8. Encourage the establishment and consistent application of procedures for local record keeping for all land development and subdivision review, approval and construction.
9. Protect the public health, safety and welfare of the community.
15. Direct the development of land consistent with state of the art practices that promote and foster growth in a manner that protects the Town's distinctive character while at the same time accommodating economic growth.
11. Guide land development with an emphasis on siting improvements so as to redevelop and preserve existing dense neighborhoods and village centers while preserving the undeveloped, natural landscapes of the rural areas outside of the village areas with a focus on protecting physical constraints to development, such as rock outcrops, steep slopes, wetlands and field areas.
12. Insure that proposed designs institute best management practices and low impact development practices that acknowledge existing site constraints and the natural setting.
13. Encourage local requirements for dedications of public land, and payment-in-lieu thereof, to be based on clear documentation of needs and to be fairly applied and administered.

15-3.2 Construction and Intent.

1. These Regulations are not intended to supersede, abrogate, or interfere with any provision of any ordinance of the Town of Burrillville, other than those dealing with land development projects and the subdivision of land, in which case these Regulations shall apply.
2. These Regulations are intended to be interpreted so as to be consistent with the Burrillville Zoning Code and further the implementation of, the Town of Burrillville Comprehensive Plan and the Rhode Island Land Development and Subdivision Review Enabling Act of 1992. Consistency with the Comprehensive Plan means in accordance with the goals, policies, procedures, maps and other policy statements in the Plan.
3. If any section or subsection of these Regulations is held invalid by a court of competent jurisdiction, such invalidity shall not affect the validity of the remainder of these Regulations.

4. The ~~Site Plan Review standards~~ design standards including the development plan review regulations contained herein are considered minimum standards.

15-3.3 Effective Date. These Regulations shall take effect on **January 5, 2009** and shall supersede all other Subdivision Regulations in effect at the time of such adoption.

15-3.4 Vested Rights-Continuation of Prior Regulations. Subdivisions and Land Developments which have been submitted to the Planning Board for approval under the provisions of the regulations in effect prior to **January 5, 2009** may be continued to be reviewed by the Planning Board and approved under those regulations in accordance with the following:

1. Final Approvals - Any subdivision or development which, at the time of adoption of these amendments, has received final approval, or final approval with conditions, from the Planning Board, may initiate or construct any part of the development, or record plans in accordance with the Subdivision and Land Development Regulations in effect at the time final approval was granted. The Planning Board, may in its discretion, grant extensions to any such final approval in accordance with the procedure for such extensions as set forth in the regulations in effect at the time of final approval.
2. Preliminary Approvals - Any subdivision or development which at the time of adoption of these amendments, has received preliminary approval, or preliminary approval with conditions, from the Planning Board, may continue to be reviewed by the Planning Board in accordance with the Subdivision and Land Development Regulations in effect at the time preliminary approval was granted provided any one of the following conditions have been met.
 - a. The final plat, including all the material required in the Final Plat Checklist, is filed with the Planning Department within one (1) year from the date of preliminary approval; or
 - b. If the development is located within a jurisdictional area of the Rhode Island Department of Environmental Management (RIDEM), the preliminary plans as approved by the Planning Board must have been filed with RIDEM for approval as required by the Freshwater Wetlands Act and final decision has not been received; or
3. Other Status - Any subdivision or development which, at the time of adoption of these Regulations has not received final or preliminary approval; or for which only pre-application conference(s) has (have) been conducted shall be required to be reviewed under the revisions to the Subdivision and Land Development Regulations adopted on **January 5, 2009** pursuant to the Rhode Island Land Development and Subdivision Review Enabling Act of 1992.

The Planning Board shall determine vested rights for subdivisions or developments submitted for approval prior to **January 5, 2009**. Appeals from a decision regarding the application status and vested rights of any subdivision shall be made to the Planning Board of Appeal as herein provided.

15-4. Definitions.

~~**Best Management Practice.** State-of-the-art technology applied to developments in order to protect the natural environment particularly common with respect to non-point source pollution control.~~

~~**Cluster.** A site planning technique that concentrated buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, and/or preservation of environmentally, historically, culturally, or other sensitive features and/or structures. The techniques used to concentrate buildings shall be specified in the ordinance and may include, but are not limited to, reduction in lot areas, setback requirements, and/or bulk requirements, with the resultant open land being devoted by deed restrictions for on or more uses. Under cluster development there is no increase in the number of lots that would be permitted under conventional yield plan development except where ordinance provisions include incentive bonuses for certain types or conditions of development.~~

Administrative Officer. The municipal official(s) designated by the local regulations to administer the land development and subdivision regulations and to review and approve qualified applications and/or coordinate with local boards and commissions, municipal staff and state agencies as set forth herein~~The municipal official designated by the local regulations to administer the Land Development and Subdivision Regulations and to coordinate with local boards and commissions, municipal staff and state agencies.~~ The Administrative Officer may be a member of, or the chair, of the Planning Board, or an appointed official of the municipality. The Town Planning Director and Deputy Planner shall serve as Administrative Officers.

Administrative Subdivision. Subdivision of existing lots which yields no additional lots for development and involves no creation or extension of streets. This subdivision only involves division, mergers, mergers and division, or adjustments of boundaries of existing lots~~Re-subdivision of existing lots that yield no additional lots for development, and involves no creation or extension of streets. Such re-subdivision shall only involve divisions, mergers, mergers and division, or adjustments of boundaries of existing lots.~~

Applicant. A person, corporation or similar entity who applies to the Planning Board for subdivision or land development approval. Said person shall either be the owner or have expressed written permission from the owner to submit plans for the subdivision or property.

~~**Best Management Practice.** State-of-the-art technology applied to developments in order to protect the natural environment particularly common with respect to non-point source pollution control.~~

Block. A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

Board of Appeal. ~~The local review authority for appeals of certain actions of the administrative officer, which shall be the local zoning board of review constituted as the board of appeal (see § 45-23-57). The local review authority for appeals of actions of the Administrative Officer and the Planning Board on matters of land development or subdivision, which shall be the Zoning Board of Review, constituted as the Board of Appeal.~~

Bond. A form of improvement guarantee.

Buildable Lot. A lot where construction for the use(s) permitted on the site under the Zoning Ordinance is considered practicable by the Planning Board, considering the physical constraints to development of the site as well as the requirements of the pertinent federal, state and local regulations.

Certificate of Completeness. ~~A notice issued by the administrative officer informing an applicant that the application is complete and meets the requirements of the municipality's regulations, and that the applicant may proceed with the review process. A notice issued by the Administrative Officer informing an applicant that the application is complete and meets the requirements of the municipality's regulations, and that the applicant may proceed with the approval process.~~

Cluster. A site planning technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space and/or preservation of environmentally, historically, culturally, or other sensitive features and/or structures. The techniques used to concentrate buildings shall be specified in the ordinance and may include, but are not limited to, reduction in lot areas, setback requirements and/or bulk requirements with the resultant open land being devoted by deed restrictions for one (1) or more uses. Under cluster development there is no increase in the number of lots that would be permitted under conventional development except where ordinance provisions include incentive bonuses for certain types or conditions of development.

Common Ownership. Either ownership by one (1) or more individuals or entities in any form of ownership of two (2) or more contiguous lots, or ownership by any association (such ownership may also include a municipality) of one (1) or more lots under specific development techniques.

Concept Plan. A drawing with accompanying information showing the basic elements of a proposed land development plan or subdivision as used for pre-application meetings and early discussions, and classification of the project within the approval process.

Consistency with the Comprehensive Plan. A requirement of all local land use regulations which means that all such regulations and subsequent actions shall be in accordance with the public policies arrived at through detailed study and analysis and adopted by the municipality

as the comprehensive community plan.

Dedication, fee-in-lieu-of. Payments of cash which are authorized in the local regulations when requirements for mandatory dedication of land are not met because of physical conditions of the site or other reasons. The conditions under which such payments will be allowed and all formulas for calculating the amount shall be specified in advance in the local regulations.

Density, Residential. The number of dwelling units per parcel of land.

Development Plan Review. Design or site plan review of a development of a permitted use. A municipality may utilize development plan review under limited circumstances to encourage development to comply with design and/or performance standards of the community under specific and objective guidelines, for all types of development as described in the Town of Burrillville Zoning Ordinance per Section 30-201 Development plan review, subsection (c) Applicability.

A process authorized in Section 30-201 of the Zoning Regulations for the review of commercial, industrial and residential projects, which may or may not involve subdivision for compliance with local zoning and development regulations. The review is accomplished through the Land Development Project review process. See Land Development Project.

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

Division of Land. A subdivision.

Earth Removal. See 12-102 of Part II, Chapter 12, Article III of the Burrillville General Ordinances.

Environmental Constraints. shall mean natural features, resources, or land characteristics that are sensitive to change and may require cluster techniques to prevent degradation of the site, or may require limited development, or in certain instances, may preclude development. Such features include: rock outcroppings, ledge, hydric soils, wetlands and jurisdictional buffers, old growth forests, archeological sites, scenic meadow areas or slopes exceeding 15 percent in steepness.

Final Plan. The final stage of land development and subdivision review.

Final Plat. The final drawing(s) of all or a portion of a subdivision to be recorded after approval by the Planning Board and any accompanying material as described in the community's regulations and/or required by the Planning Board.

Floodplains or Flood Hazard Area. As defined in R.I.G.L. Section 45-22.2-4 (12) an area that has a one percent (1%) or greater chance of inundation in any given year, as delineated by the federal emergency agency pursuant to the National Flood Insurance Act of 1968, as

amended.

Floor Area, Gross. Gross floor area shall be the floor area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns or other features or as amended by State Building Code.

Governing Body. The body of the local government, generally the Town Council, having the power to adopt ordinances, accept public dedications, release public improvement guarantees, and collect fees.

Groundwater. Groundwater and associated terms as defined in R.I.G.L. Section 46-13.1-3 to include the water found underground which completely fills the open spaces between particles of sand, gravel, clay, silt and consolidated rock fractures. The zone of materials filled with groundwater is called the "zone of saturation".

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

Historic Site. Any real property, built structure, natural object, or configuration or any portion or group of the foregoing which has been registered, or is deemed eligible to be included, on the state register of historic places.

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

Improvement Guarantee. A security instrument accepted by a municipality to ensure that all improvements, facilities, including inspections of construction required by the Land Development and Subdivision Regulations, or required by the municipality as a condition of approval, will be completed in compliance with the approved plans and specifications of a development.

Land Development Project. A project in which one or more lots, tracts, or parcels of land or a portion thereof are developed or redeveloped as a coordinated site for one or more uses, units, or structures, including but not limited to, planned development or cluster development for residential commercial, institutional, recreational, open space, or mixed uses. A project in which one (1) or more lots, tracts, or parcels of land are to be developed or redeveloped as a coordinated site for a complex of uses, units, or structures, including but not limited to: planned development and/or cluster development for residential, commercial, institutional, recreational, open space, and/or mixed uses as may be provided for in the Zoning Ordinance. (Includes Development Plan Review)

Local Regulations. The land development and subdivision review regulations adopted under the provisions of R.I.G.L. Section 45-23-25 through 74.

Lot Area. The total area within the boundaries of a lot, excluding any street rights-of-way, usually reported in acres or square feet.

Lot Building Coverage. That portion of the lot that is or may be covered by buildings and accessory buildings.

Lot, Corner. A lot at the junction of and fronting on two (2) or more intersecting streets.

Lot Depth. The distance measured from the front lot line to the rear lot line. For lots where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

Lot Frontage. That portion of a lot abutting a street. For the purpose of dimensional regulations, lot frontage shall be the uninterrupted distance between side lot lines, not counting abrupt jogs not running with the direction of travel of the adjacent street. In the case of a corner lot, frontage shall be measured along either street line from the side lot line to the point of intersection of the abutting street line.

Lot Line. A line of record, bounding a lot, which divides one (1) lot from another lot or from a public or private street or any other public or private space and shall include:

- a. **Front.** The lot line separating a lot from a street right-of-way.
- b. **Rear.** The lot line opposite and most distance from the front lot line, or in the case of triangular or otherwise irregularly shaped lots, an assumed line at least ten feet (15') in length entirely within the lot, parallel to and at a maximum distance from the front lot line.
- c. **Side.** Any lot line other than a front or rear lot line.

Lot, Through. A lot which fronts upon two (2) parallel streets.

Lot Width. The horizontal distance between the sidelines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum front setback line.

Low Impact Development. A set of strategies that seek to maintain the natural systems during the development process. The idea is to create homes and businesses that are integrated into the landscape, not imposed on it. Natural areas and important features are protected, and stormwater is managed with a distributed network of swales and rain gardens, rather than a centralized system of pipes and ponds. As a result of LID, aquifers are recharged, water quality is protected better, development has a more natural appearance, and maintenance costs are reduced by having fewer stormwater pipes and basins (see Appendix B LID Resources).

Maintenance Guarantee. Any security instrument, which may be required and accepted by a municipality to ensure that necessary improvements will function as required for a specific

period of time.

Major Land Development ~~Plan~~Project. A land development project which exceeds the thresholds for a minor land development project as set forth in this section. Any land development plan not classified as a minor land development plan.

Major Subdivision. A subdivision creating ten (10) or more buildable lots. Any subdivision not classified as either an administrative subdivision or a minor subdivision.

Master Plan. An overall plan for a proposed project site outlining general, rather than detailed, development intentions. It describes the basic parameters of a major development proposal, rather than giving full engineering details. Required in major land development or major subdivision review only. It is the first formal review step of the major land development or major subdivision process and the step in the process in which the public hearing is held (see §45-23-39). An overall plan for a proposed project site outlining general, rather than detailed, development intentions. It describes the basic parameters of a major development proposal, rather than giving full engineering detail required in major land development or major subdivision review.

Minor Land Development ~~Plan~~Project. A land development project involving any one of the following: A development plan for a residential project provided that such development does not require waivers or modifications. All nonresidential land development projects shall be considered as major land development plans.

- SevenTen thousand five hundred (710,0500) gross square feet of floor area of new commercial, manufacturing, or industrial development or less; or
- An expansion of up to fifty percent (50%) of existing floor area or up to ten thousand (10,000) square feet for commercial, manufacturing, or industrial structures; or
- Mixed-use development consisting of up to six (6) dwelling units and two thousand five hundred (2,500) gross square feet of commercial space or less; or
- Multi-family residential or residential condominium development of nine (9) units or less; or
- Change in use at the property where no extensive construction of improvements are sought; or
- An adaptive reuse project of up to twenty-five thousand (25,000) square feet of gross floor area located in a commercial zone where no extensive exterior construction of improvements is sought; or
- An adaptive reuse project located in a residential zone which results in less than nine (9) residential units.

Minor Subdivision. A subdivision of land creating nine (9) or fewer buildable lots. A plan for a subdivision of land consisting of five (5) or fewer units or lots, provided that such subdivision does not require waivers or modifications.

Modification of Requirements. A waiver from the requirements for subdivision or development plan approval.

Commented [JD1]: Note: A municipality can increase, but not decrease these thresholds.

Commented [JD2]: Increased from the state mandated 7,500 SF per discussion with Town Staff.

Notice Area. Properties located in or within not less than 200 feet of the perimeter of the area proposed for change whether within the Town of Burrillville or within an adjacent town.

Open Space. Any parcel or area of land or water set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners or occupants of land adjoining or neighboring such open space; provided that the area may be improved with only those buildings, structures, streets, and off-street parking, and other improvements that are designed to be incidental to the natural openness of the land.

Overlay District. A district established in a zoning ordinance that is superimposed on one (1) or more districts or parts of districts and that imposes specified requirements in addition to but not less than those otherwise applicable for the underlying zone.

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

Parking Area or Lot. All that portion of a development that is used by vehicles; the total area used for vehicular access, circulation, parking, loading and unloading.

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

Phased Development. Development, usually for large-scale projects, where construction of public and/or private improvements proceeds by section(s) subsequent to approval of a master plan for the entire site.

Physical Constraints to Development. Characteristics of a site or area, either natural or built, which present significant difficulties to construction of the uses permitted on that site, or would require extraordinary construction methods. See also environmental constraints.

Planning Board. The official planning agency of a municipality, whether designated as the plan commission, planning commission, plan board, or as otherwise known.

Plat. A drawing or drawings of a land development or subdivision plan showing the location, boundaries, and lot lines of individual properties, as well as other necessary information as specified in the local regulations.

Pre-Application Conference. An initial meeting between developers and municipal representatives, which affords developers the opportunity to present their proposals informally and to receive comments and directions from the municipal officials and others.

Preliminary Plan. ~~A required stage of land development and subdivision which generally requires engineered drawings. The required stage of land development and subdivision review, which shall require detailed engineered drawings and all required state and federal permits.~~

Public Improvement. Any street or other roadway, sidewalk, pedestrian way, tree, lawn, off-street parking area, drainage feature, or other facility or landscaping element for which the local government or other governmental entity either is presently responsible, or will ultimately assume the responsibility, for maintenance and operation upon municipal acceptance.

Public Informational Meeting. ~~A meeting of the Planning Board or governing body preceded by a notice, open to the public and at which the public shall be heard.~~

Receipt of Plan. Submission for inclusion onto the agenda of the Planning Board must be made to the Administrative Officer. The Administrative Officer will review the submission for completeness.

Re-Subdivision. ~~Any change of an approved or recorded subdivision plat or in a lot recorded in the municipal land evidence records, or that affects the lot lines of any areas reserved for public use, or that affects any map or plan legally recorded prior to the adoption of the local land development and subdivision regulations. For the purposes of this act any such action shall constitute a subdivision.~~

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

Storm Water Detention. A provision for storage of storm water runoff and the controlled release of such runoff during and after a flood or storm.

Storm Water Retention. A provision for storage of storm water runoff.

Street. A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles. Streets are further classified by the functions they perform as defined in the Street Classifications section of these Regulations.

Street Line. A lot line that separates a lot from a street.

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

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

Street, Cul-De-Sac. A local street with only one outlet and having an appropriate vehicular turnaround, either temporary or permanent, at the closed end.

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

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

Street, Public. All public property reserved or dedicated for street traffic.

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

Street Classification. A method of roadway organization which identifies a street hierarchy according to function within a road system, that is types of vehicles serviced and anticipated volumes, for the purposes of promoting safety, efficient land use and the design character of neighborhoods and districts. Local classifications shall use the major categories as outlined in the Design and Public Improvement Standards.

Street Right-of-Way. The area between street lines.

Subdivider. Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2) directly or indirectly sells, leases, or develops, or offers to sell, lease, or develop or advertises to sell, lease, or develop, any interest, lot, parcel, site, unit, or plat in a subdivision, or who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel, site, unit or plat in a subdivision.

Subdivision. ~~The division of a lot, tract or parcel of land into two or more lots, tracts, or parcels or any adjustment to existing lot lines is considered a subdivision. The division or re-division of a lot, tract or parcel of land into two or more lots, tracts, or parcels. Any adjustment to existing lot lines of a recorded lot by any means shall be considered a subdivision. All re-subdivision activity shall be considered a subdivision. The division of property for purposes of financing constitutes a subdivision.~~

Temporary Improvement. Improvements built and maintained by a developer during construction of a development project and prior to release of the improvement guarantee, but not intended to be permanent.

Town-accepted Street. Whether public or private, a street that has been formally accepted by the Town Council as constructed per the Town's road design standards.

Use. The purpose or activity for which land or buildings are designed, arranged, or intended,

or for which land or buildings are occupied or maintained.

Vested Rights. The right to initiate or continue the development of an approved project for a specified period of time, under the regulations that were in effect at the time of approval, even if, after the approval, the regulations change prior to the completion of the project.

Waiver of Requirements. A written request for a change or modification from the requirements of these Regulations.

Waters. As defined in R.I.G.L. Section 45-12-1 (23), i.e., all surface waters including all inland waters of any river, stream, brook, pond, or lake, and wetlands.

Wetland, Freshwater. As defined in R.I.G.L. Section 2-1-20, i.e., marshes; swamps; bogs; ponds; rivers; river and stream floodplains and banks; areas subject to flooding or storm flowage; emergent and submergence plant communities in any body of fresh water including rivers and streams and that area of land within fifty feet (50') of the edge of any bog, marsh, swamp or pond.

Yard. An open space on the same lot with a principal building or structure, unoccupied and unobstructed.

Yard, Front. A required yard extending along the entire lot street frontage.

Yard, Rear. A required yard extending along the entire rear lot line or lines.

Yard, Side. A required yard extending from the rear of the required front yard to the front of the rear yard.

Yield Plan. The total number of parcels yielded by dividing the total developable land area (minus environmental constraints) by the base zone district minimum lot size requirement.

Zoning Map. The map, or maps, which are part of the Zoning Ordinance and which delineate the boundaries of all mapped zoning districts within the physical boundary of the Town.

Zoning Ordinance. An ordinance enacted by the Town Council pursuant to R.I.G.L. Section 45-24 and in the manner providing for the adoption of ordinances in the Town's charter, which sets forth regulations and standards relating to the nature and extent of uses of land and structures, which is consistent with the Comprehensive Plan of the Town, which includes a zoning map, and which complies with the provisions of R.I.G.L. Section 45-24.

Zoning Use Districts. The basic unit in zoning, either mapped or unmapped, to which a uniform set of regulations applies, or a uniform set of regulations for a specified use. Each district may include sub-districts. Districts may be combined.

15-5. ADMINISTRATION OF THESE REGULATIONS.

15-5.1 General Provisions. No ~~land development project~~plan, subdivision plat or portion thereof shall be filed or recorded in the office of the Town Clerk without written approval of the Planning Board.

15-5.2 Planning Board. The duties of the Planning Board are as outlined in the Burrillville Town Charter, Town Ordinances and State statutes.

15-5.3 Administrative Officer. The Administrative Officer shall be responsible for the administration of these Subdivision and Land Development regulations; and shall report to the Planning Board. ~~The Town Planner and Deputy Planner in the Town of Burrillville are hereby designated as the Administrative Officers.~~

The duties and responsibilities of the Administrative Officer are as follows:

- a. Coordination of the review, approval, recording and enforcement provisions of these Regulations.
- b. Coordination of the review and approval procedures for subdivision and land development projects with adjacent municipalities, local governing boards and commissions, state and federal permitting agencies, abutters and as directed by these Regulations and/or the Planning Board.
- c. Enforcement of these Regulations.
- d. Coordinate with the Director of Public Works.

15-5.4 ~~Planning Board of Appeal~~Appeals. ~~Appeals of the Planning Board or the Administrative Officer on matters of review and approval of land development and subdivision projects shall be made to the Planning Board of Appeal in accordance with the provisions of R.I.G.L. Section 45-23-57 and R.I.G.L. Section 45-23-66 through 70 et seq., and in accordance with these Subdivision and Land Development Regulations, approved by the Planning Board on September 15, 2007.~~

A. Appeals from decision of administrative officer.

1. ~~Decisions by the administrative officer approving or denying projects made pursuant to RIGL §§45-23-38 or 45-23-50 shall not be subject to this section and shall proceed directly to Superior Court as set forth in RIGL §45-23-71~~**Right of Appeal.** ~~There shall be a Subdivision & Land Development Board of Review as established by Chapter X of the Town Ordinances. An appeal from any decision of the Planning Board, or Administrative Officer charged in the regulations with enforcement of any provisions, except as provided herein, may be taken to the Board of Appeal by an aggrieved party. An appeal from a decision of the Board of Appeal may be taken by an~~

~~aggrieved party to the Superior Court of Providence County. Appeals from a decision granting or denying approval of a final plan shall be limited to elements of such approval or disapproval not contained in the decision reached by the Planning Board at the preliminary stage, providing that a public hearing has been held on the plan pursuant to R.I.G.L. Section 45-23-42.~~

~~a. An appeal to the board of appeal from a decision or action of the administrative officer may be taken by an aggrieved party to the extent provided in RIGL §45-23-66. The appeal must be taken within twenty (20) days after the decision has been recorded in the Town's land evidence records and posted in the office of the Town Clerk.~~

~~a.b. The appeal shall be in writing and state clearly and unambiguously the issue or decision that is being appealed, the reason for the appeal, and the relief sought. The appeal shall either be sent by certified mail, with a return receipt requested, or be hand-delivered to the board of appeal. The Town Clerk shall accept delivery of an appeal on behalf of the board of appeal if the local regulations governing land development and subdivision review so provide.~~

~~c. Upon receipt of an appeal, the board of appeal shall require the administrative officer to immediately transmit to the board of appeal, all papers, documents and plans, or a certified copy thereof, constituting the record of the action which is being appealed.~~

~~**B. — Process of Appeal.** An appeal to the Board of Appeal from a decision or action of the Planning Board or Administrative Officer may be taken by an aggrieved party to the extent provided in Section 15-5.4.A. Such appeal must be taken within twenty (20) days after the decision has been filed and posted in the Office of the Town Clerk.~~

~~The appeal shall be in writing and shall state clearly and unambiguously the issue or decision, which is being appealed, the reason for the appeal and the relief sought. The appeal shall either be sent by certified mail, with a return receipt requested, or shall be hand-delivered to the Board of Appeal. The Town Clerk shall accept delivery of an appeal on behalf of the Board of Appeal.~~

~~Upon receipt of an appeal, the Board of Appeal shall require the Planning Board or Administrative Officer to transmit forthwith to the Board of Appeal, all papers, documents and plans, or a certified copy thereof, constituting the record of the action which is being appealed.~~

2. **Stay of Proceedings.** An appeal ~~shall stay~~ all proceedings in furtherance of the action being appealed.
3. **Public Hearing.**
 - a. The Board of Appeal shall hold a ~~public~~ hearing on the appeal within forty-five (45) days of the receipt of the appeal, give public notice ~~thereof of the hearing~~, as well as due notice to the parties of interest. At the hearing ~~any parties~~ may appear in person, or ~~may~~ be represented by an agent or attorney. The Board shall render a decision within ten (10~~5~~) days of the close of the public hearing. The cost of any notice required for the hearing shall be borne by the appellant.
 - b. The Board of Appeal shall only hear appeals of the actions of the ~~Planning Board or~~ Administrative Officer at a meeting called especially for the purpose of hearing ~~thesuch~~ appeals and which has been so advertised.
 - c. The hearing, which may be held on the same date and at the same place as a meeting of the Zoning Board of Review, must be held as a separate meeting from any Zoning Board of Review meeting. Separate minutes and records of votes as required by RIGL §45-23-70(d) shall be maintained by the Board of Appeal.
4. **Standards of Review.**
 - a. As established by this chapter, in instances of ~~a~~ Board of Appeal's review of ~~an~~ ~~Planning Board or~~ Administrative Officer's decision on matters subject to this chapter, the Board of Appeal shall not substitute its own judgment for that of the ~~Planning Board or the~~ Administrative Officer but must consider the issue upon the findings and record of the ~~Planning Board or~~ Administrative Officer. The Board of Appeal shall not reverse a decision of the ~~Planning Board or~~ Administrative Officer except on a finding of prejudicial procedural error, clear error, or lack of support by the weight of the evidence in record.
 - b. The concurring vote of three (3) of the five (5) members of the Board of Appeal, sitting at a hearing, ~~is shall be~~ necessary to reverse any decision of the ~~Planning Board or~~ Administrative Officer.
 - c. In the instance where the Board of Appeal overturns a decision of the ~~Planning Board or~~ Administrative Officer, the proposed project application ~~is shall~~ be remanded to the ~~Planning Board or~~ Administrative Officer, at the stage of processing from which the appeal was taken, for further proceedings before the ~~Planning Board or~~ Administrative Officer and/or for the final disposition, which shall be

consistent with the Board of Appeal's decision.

- d. The Board of Appeal shall keep complete records of all proceedings including a record of all votes taken, and shall put all decisions on appeals in writing. The Board of Appeal shall include in the written record the reasons for each decision.

C.B. Appeals to the Superior Court.

1. An aggrieved party may appeal a decision of the Board of Appeal, a decision of an administrative officer made pursuant to RIGL §§45-23-38 or §45-23-50 where authorized to approve or deny an application, or a decision of the planning board, to the Superior Court for Providence County by filing a complaint setting forth the reasons of appeal within twenty (20) days after the decision has been recorded and posted in the Office of the Town Clerk. Recommendations by any public body or officer under this chapter are not appealable under this section. The authorized permitting authority Board of Appeal shall file the original documents acted upon by it and constituting the record of the case appealed from, or certified copies of the original documents thereof, together with such-any other facts as-that may be pertinent, with the Clerk of the Court within thirty (30) days after being served with a copy of the complaint. When the complaint is filed by someone other than the original applicant or appellant, such-the original applicant or appellant and the members of the Planning Board shall be made parties to the proceedings. No responsive pleading is required for an appeal filed pursuant to this section. The appeal doesshall not stay proceedings upon the decision appealed from, but the court may, in its discretion, grant a stay on appropriate terms and make such-any other orders as deemed necessary for an equitable disposition of the appeal.
2. Appeals from a decision granting or denying approval of a final plan shall be limited to elements of the approval or disapproval not contained in the decision reached by the planning board at the preliminary stage; providing that, a public hearing has been held on the plan, if required pursuant to this chapter.
3. The review shall be conducted by the Superior Court without a jury. The court shall consider the record of the hearing before the Planning Board and, if it shall appears to the court that additional evidence is necessary for the proper disposition of the matter, it may allow any party to such appeal to present such evidence in open court, which evidence, along with the report, shall constitute the record upon which the determination of the court shall be made.
4. The court shall not substitute its judgment for that of the Planning Board as to the weight of the evidence on questions of fact. The court may affirm the

decision of the Board of Appeal or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions or decisions which are:

- a. In violation of constitutional, statutory, ordinance or Planning Board regulations or provisions;
- b. In excess of the authority granted to the Planning Board by statute or ordinance;
- c. Made upon unlawful procedure;
- d. Affected by other error of law;
- e. Clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or
- f. Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

D.C. Appeals to the Superior Court – Enactment of or Amendment of Local Regulations. An appeal of an enactment of or an amendment of local regulations may be taken to the Superior Court for Providence County by filing a complaint, as set forth herein, within thirty- (30) days after such enactment, or amendment has become effective. The appeal may be taken by a legal resident or landowner of the Town of Burrillville or by any association of residents or landowners of the Town.

The appeal shall not stay the enforcement of the local regulations, as enacted or amended, but the court may, in its discretion, grant a stay on appropriate terms, which may include the filing of a bond, and make such other orders as it deems necessary for an equitable disposition of the appeal.

The complaint shall set forth with specificity the area or areas in which the enactment or amendment is not consistent with the Comprehensive Planning Act, the Zoning Enabling Act of 1991, the Town of Burrillville's Comprehensive Plan; or the Town of Burrillville's Zoning Ordinance.

The review shall be conducted by the court without a jury. The court shall consider whether the enactment or amendment of the local regulations is consistent with the Comprehensive Planning Act, the Zoning Enabling Act of 1991, the Town of Burrillville's Comprehensive Plan, or the Town of Burrillville's Zoning Ordinance. If the enactment or amendment is not consistent, then the court shall invalidate the enactment or the amendment, or those parts of such enactment or amendment, which are not consistent. The court shall not revise the local regulations to be consistent, but may suggest appropriate language as part of the court decisions.

The court may in its discretion, upon motion of the parties or on its own motion,

award reasonable attorney's fees to any party to an appeal, as set forth herein, including the Town of Burrillville.

F.D. **Appeals to the Superior Court – Priority in Judicial Proceedings.** Upon the entry of any case or proceeding brought under the provisions of this chapter, including pending appeals and appeals hereinafter taken to the court, the court shall, at the request of either party, advance the case, so that the matter shall be afforded precedence on the calendar and shall thereupon be heard and determined with as little delay as possible.

F.E. **Severability.** If any provision of these rules or any regulation or determination made hereunder, or the application thereof to any person, agency or circumstances, is held invalid by a court of competent jurisdiction, the remainder of the rule, regulation, or determination and the application of such provisions to other persons, agencies, or circumstances shall not be affected thereby. The invalidity of any section or sections of these regulations shall not affect the validity of the remainder of the chapter.

15-5.5

REVIEW & APPROVAL OF PLANS AND PLATS CLASSIFICATION & CERTIFICATION OF COMPLETENESS.

A. Classification. ~~The administrative officer shall advise the applicant as to which category of approval is required for a project. An applicant shall not be required to obtain both land development review and development plan review for the same project. The following categories of applications may be filed: The Administrative Officer shall advise the applicant as to which approvals are required and the appropriate board for hearing an application for a land development or subdivision project. Review stages for a Minor Subdivision or Land Development Project or a Major Subdivision or Land Development may be combined at the written request of the applicant and presentation of the proposed project and supporting reasons for the combination at a Planning Board meeting. Fees normally collected at each stage of the review process will not be waived. The following types of applications may be filed:~~

- 1. Administrative Subdivisions**
~~Administrative subdivisions, minor subdivisions, or major subdivisions; The Administrative Subdivision consists of a single stage review, made by the Administrative Officer, to determine that the proposed subdivision conforms to applicable zoning and subdivision requirements.~~

~~If the proposed subdivision does not conform to applicable zoning and subdivision regulations, the subdivision must be referred for review and approval to the Planning Board.~~

2. ~~Minor Subdivision or Minor Land Development Projects~~
Minor land development or major land development; and Minor Subdivision/Minor Land Development shall consist of two (2) stages, preliminary and final. The Planning Board may, at its discretion, combine the approval stages, providing that all of the requirements of both sections have been met. If a street extension or creation is required, then a Public Hearing must be held.

3. ~~Major Subdivision or Major Land Development Plan~~ Review
A major subdivision/major land development shall consist of the following submissions:

- ~~a. Pre Application or Concept Plan Meeting;~~
- ~~b. Master Plan;~~
- ~~c. Preliminary Plan; and~~
- ~~d. Final Plan.~~

~~A public informational meeting and a public hearing are also required. The Planning Board may, at its discretion, combine the approval stages, providing that the requirements of those stages have been met.~~

- B. **Certification of a Complete Application.** An application shall be complete for purposes of commencing the applicable time period for action when so certified by the administrative officer. Every certification of completeness required by this chapter shall be in writing. In the event the certification of the application is not made within the time specified in this chapter for the type of plan, the application is deemed complete for purposes of commencing the review period unless the application lacks information required for these applications as specified in the local regulations and the administrative officer has notified the applicant, in writing, of the deficiencies in the application.
~~An application shall be complete for purposes of commencing the applicable time period for action when so certified by the Administrative Officer. Every certification of completeness required by these regulations shall be in writing. In the event such certification of the application is not made within the time specified in these Regulations for the type of plan, the application shall be deemed complete for purposes of commencing the review period unless the application lacks information required for such applications as specified in the local regulations and the Administrative Officer has notified the applicant, in writing, of the deficiencies in the application.~~

~~Notwithstanding subsections (A) and (B) above, the Planning Board may subsequently require correction of any information found to be in error and submission of additional information specified in the Regulations but not~~

~~required by the Administrative Officer prior to certification, as is necessary to make an informed decision.~~

~~Where the review is postponed with the consent of the applicant, pending further information or revision of information, the time period for review shall be stayed and shall resume when the Administrative Officer or the Planning Board determines that the required application information is complete.~~

~~For the purposes of calculating the mandatory review periods as provided in these Regulations, all days shall be considered calendar days.~~

15-5.6

Administrative Fees. The following administrative fees are required to be paid by the applicant at the time of submission of any subdivision or land development project or request for placement on the Planning Board agenda.

Type of Application	Fee
Administrative Subdivision	
Review by Planner	\$ 50
Review by Planning Board	\$ 150
Minor Subdivision or Land Development (no road)	
Preapplication/Concept (optional)	\$ 150
Preliminary Plan	\$ 300 & \$20 per lot
Final Plan	\$ 200
Minor Subdivision or Land Development (with road, public hearing req'd)	
Preapplication/Concept	\$ 350 & \$ 20 per lot
Preliminary Plan	\$ 600 & \$ 20 per lot
Final Plan	\$ 200
Major Subdivision or Land Development	
Preapplication/Concept	\$ 350 & \$ 20 per lot
Master Plan	\$ 600 & \$ 20 per lot
Preliminary Plan	\$ 600 & \$ 20 per lot
Final Plan	\$ 200
Other Fees	
Reinstatement of Subdivision Approval	\$ 200 & Mtg. Costs
Special Meetings (bond release, advisory opinion, request to combine review stages, etc.)	\$ 50 & Mtg. Costs
Resubmission Fee	\$ 40
Inspection Fees	*
Recording of Subdivision Plan	As provided in R.I.G.L. Title 34, Chapter 13
Unified Development Review	\$ 200 & Mtg. Costs

* The inspection fee shall be two percent (2%) of the total amount of the original performance bond for all required improvements, minus the estimated sewer construction cost. In the absence of a performance bond, inspection fees shall be two

percent (2%) of the total estimated cost of all required improvements, minus the estimated sewer construction costs. Inspection fees shall be paid in full for the phase or phases to be constructed before construction begins of any improvements requiring inspection. Upon completion of the project, any unexpended inspection fees shall be returned to the developer.

Fees will not be reimbursed for Applications that are not approved. Applications that are not complete (as indicated by the Certificate of Completeness marked "Incomplete") will be returned to the applicant. Applications, which are resubmitted, must be accompanied by the appropriate submission fee in addition to a resubmission fee of \$20.

15-5.7 Project Review Fees. Project review fees are separate from, and in addition to, fees imposed by the Town for application submission and inspection of a project during construction. Project Review Fees are determined on a case by case basis by the Planning Board and may fund information required by the Planning Board such as, but not necessarily limited to: traffic studies, demographic analysis, economic impact analysis, archeological studies, historical analysis, civil engineering evaluation etc.

15-5.8 Meetings, Votes, Decisions and Records.

1. All records of the Planning Board proceedings and decisions shall be written and kept permanently available for public review. Completed applications for proposed land development and subdivision projects under review by the Planning Board shall also be available for public review.
2. Participation in a Planning Board meeting or other proceedings by any party shall not be cause for civil action or liability except for acts not in good faith, intentional misconduct, knowing violation of law, transactions where there is an improper personal benefit, or malicious, wanton, or willful misconduct.
3. All final written comments to the Planning Board from the Administrative Officer, municipal departments, state and federal agencies, and local boards of commissions shall be part of the permanent record of the development application.
4. All votes of the Planning Board shall be made part of the permanent record and shall show the members present and their votes. A decision by the Planning Board to approve any land development or subdivision application shall require a vote for approval by a majority of Planning Board members present at the time of the vote. A decision by the planning board to approve a variance or special-use permit pursuant to unified development review requires a vote for approval by a majority of the planning board members that were present at the public hearing at which the request was heard.

the current Planning Board membership.

5. All written decisions of the Planning Board shall be recorded in the Land Evidence Records within ~~thirty five (35)~~ **twenty (20) days** after the Planning Board vote. A copy of the recorded decision shall be mailed within one business day of recording, by any method that provides confirmation of receipt, to the applicant and to any objector who has filed a written request for notice with the Administrative Officer.

15-5.9

Findings. Prior to approval of any subdivision or land development project, the Board shall make positive findings on all ~~of~~ the standards listed below, as part of the proposed project's record. If a negative findings of any of these standards ~~is~~ **are** made, the Planning Board shall have grounds for denial. The requirements listed below are applicable to all subdivisions and land development projects in the Town of Burrillville.

1. Each proposed development shall be consistent with the Burrillville Comprehensive Plan and/or shall satisfactorily address the issues should inconsistencies exist.
2. Each lot in the subdivision shall conform to the standards and provisions of the Town of Burrillville Zoning Ordinance.
3. There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval.
4. The subdivision or development, as proposed, will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. Lots with such physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans and noted as "Not a Buildable Lot" on said plans.
5. All proposed land developments and all subdivision lots shall have adequate and permanent physical access to a Town-accepted street. Subdivision lot frontage on a Town-accepted street without physical access shall not be considered compliance with this requirement.
6. ~~Each subdivision or development shall provide for safe circulation of pedestrian and vehicular traffic, for adequate storm water runoff management plan, for suitable building sites, and for preservation of natural, historical, or architectural features that contribute to the Town's historic character.~~
7. ~~The design and location of street, building lots, utilities, drainage improvements and other improvements in each subdivision or development shall be~~

harmonious with the natural surroundings.

Commented [JD3]: From Amy Goins, UTR: These extra findings are not authorized by state law, 45-23-60, and the Superior Court has previously found such extra findings unenforceable. Recommend deleting.

15-5.10

Waivers and Modifications.

Authority. The Planning Board shall have the authority to waive or modify one or more of the requirements for subdivision or land development approval contained in these Regulations if the Planning Board finds that:

- a. The waiver or modification is reasonable and within the general purposes and intents of these Regulations; or~~and~~
- b. Literal enforcement of the regulation is impracticable and will exact undue hardship because of peculiar conditions pertaining to the land in question; or waiver or modification of the regulation is in the best interest of good planning practice or design as evidenced by consistency with the Comprehensive Community Plan and the Zoning Ordinance.

All requests for waivers, or modifications, along with supporting reasons, shall be made in writing prior to the meeting in which they are to be discussed.

Decisions on Waivers and Modifications. The Planning Board shall approve, approve with conditions, or deny a request for a waiver or modification by the following procedure:

- a. The Planning Board's decision shall be made within **45 days** of the date the request for the waiver or modification was first considered by the Planning Board, unless the applicant waives that deadline.
- b. The Planning Board's decision shall be in writing, and shall contain findings of fact.

15-5.11

Reinstatement of Applications. When an applicant has exceeded a deadline established by these Regulations for submission of material thereby rendering a previously granted approval invalid, the application may be reinstated by the Planning Board under the following conditions:

- a. The development is consistent with the Town of Burrillville's Comprehensive Plan;
- b. The Subdivision and Land Development Regulations are the same as they were at the time of original approval;
- c. The zoning of the parcel is the same as it was at the time of original approval;

- d. Physical conditions on the parcel are the same as they were at the time of original approval; and,
- e. Any applicable State or Federal Regulations are the same as they were at the time of original approval.

Application for reinstatement of a previously approved subdivision or land development shall be made to the Planning Board in writing. The Planning Board, in approving or denying the request for reinstatement, shall make findings of fact, which shall be made part of the record.

Where there have been changes in zoning, Subdivision and Land Development Regulations, etc., the Planning Board may grant reinstatement only after a Public Hearing with the abutters [per Section 15-6.8 \(Public Hearings\)](#).

15-5.12 Procedures for Recording Plats and Plans.

A. Endorsement. All approved plans and plats for land development and subdivision projects shall be endorsed by the Planning Board Chairman or Administrative Officer as an indication of final approval. Plats and plans for major land developments and major subdivisions, and for minor land developments and minor subdivisions shall be signed by the Planning Board Chairperson, or designee. Plats and plans for administrative subdivisions shall be signed by the Administrative Officer or designee. All endorsements shall include the date of such endorsement.

No endorsement of plans and plats shall be made until (a) the Administrative Officer has certified in writing that all ~~of~~ the required improvements have been made, or (b) where applicable, the Director of Finance or Town Solicitor has certified in writing that acceptable improvement guarantees have been received.

B. Recording. Upon Final Approval, two sets of mylars and three paper copies sized 18 x 24 inches of all plans and plats shall be submitted to the Administrative Officer prior to recording in the Land Evidence Records of the Town. The material to be recorded shall include all plat drawings and other pertinent information as indicated on the appropriate Final Plat Checklist Requirements. Deeds with a metes and bounds description for each of the new or reconfigured parcels and a copy of the written decision of the Board, signed by the Planning Board Chairman or Administrative Officer, including all conditions of approval, shall also be recorded. No plans, plats or supporting materials shall be recorded until the Administrative Officer has certified, in writing, that all required fees have been paid.

Other parts of the application process including all meeting records,

approved master plan and preliminary plans, site analysis, impact analysis, environmental impact statements, all legal agreements, records of the public hearing and the entire final approval set of drawings shall be kept permanently by the Town Departments responsible for implementation and enforcement. One copy shall be kept on file by the Planning Department.

Construction drawings need not be recorded. However, a complete blue-line or photocopy set of construction drawings, including street plans and profiles, cross sections, grading plans, drainage plans, landscaping plans, soil erosion and sediment control plans, utility plans and any other construction plans, details and specifications required as a condition of approval shall be filed with the Administrative Officer prior to recording of the plat. One copy of all construction drawings shall be kept by the Department of Public Works.

The Administrative Officer shall notify the statewide "911" emergency authority and the local police and fire authorities servicing the new plat with the information required by each of the authorities.

C. Acceptance of Public Improvements. The signature of the Planning Board and recording of the final plat as specified in R.I.G.L. Section 45-23-64 shall constitute the acceptance by the Town of any street or other public improvement or other land intended for dedication. Final plan approval shall not impose any duty upon the Town to maintain or improve those dedicated areas until the Burrillville Town Council formally accepts the completed public improvements as constructed in compliance with the final plans.

D. Validity of Recorded Plans. The approved final plan, once recorded, shall remain valid as the approved plan for the site unless and until an amendment to the plan is approved or a new plan is approved by the Planning Board.

15-5.13 Changes to Recorded Plats and Plans.

A. General. For all changes to the approved plans of land development projects or subdivisions subject to these Regulations, an amendment of the final development plans shall be required prior to the issuance of any building permits for construction upon the subject property. Any changes approved in the final plan shall be recorded as amendments to the final plan in accordance with the procedure established for recording of plats and plans.

B. Minor Changes. Minor changes to a land development or subdivision plans shall be approved administratively by the Administrative Officer. The Administrative Officer may, at his/her discretion, authorize such changes without review and approval of the Planning Board and without a public hearing thereon. All such changes shall be made a part of the permanent record of the

project application. This provision shall not prohibit the Administrative Officer from referring to the Planning Board the matter for review as a major change. Upon written authorization of the approval of a minor change by the Administrative Officer, the Building Official may issue a building permit for any proposed construction upon the subject property.

For the purpose of these Regulations, the term "minor changes" shall mean any change, which, in the opinion of the Administrative Officer, is consistent with the intent of the original approval. Such minor changes shall include, but are not necessarily limited to the following:

- a. Amendments to utility plans, which are acceptable to the appropriate utility company;
- b. Lot line revisions, which can be reviewed and approved as an administrative subdivision;
- c. Amendments to grading plans or drainage plan which are acceptable to the Planning Board and its Engineer and which do not require approval of any state or federal reviewing authorities;
- d. Amendments to construction plans which are required because of unforeseen physical conditions on the parcel being subdivided;
- e. Modifications to any construction plans for off-site improvements which are acceptable to the Administrative Officer and considered minor in nature; or,
- f. Modifications, which are required by outside permitting agencies such as, but not limited to the RIDEM and the RIDOT.

C. Major Changes. Major changes to a land development or subdivision plan may be approved only by the Planning Board. The procedure for approval of any such major changes shall follow the same review and public hearing process as required for ~~preliminary approval to~~ a major land development and major subdivision.

For the purpose of these Regulations, the term "major changes" shall mean changes, which, in the opinion of the Administrative Officer, are clearly contrary to the intent of the original approval. Such major changes shall include, but are not necessarily limited to the following:

- a. Changes, which would have the effect of creating additional lots or dwelling units for development;

- b. Changes which would be contrary to any applicable provision of the Zoning Ordinance or which require a variance or special use permit ~~from the Zoning Board of Review~~;
- c. Changes which may have significant negative impacts on abutting property or property in the vicinity of the proposed subdivision or land development project; or
- d. Significant re-alignment of road or entrance changes.

15-5.14 Precedence of Approvals Between Planning Board and Other Local Permitting Authorities.

A. Zoning Board. Where an applicant requires both a variance from the Zoning Ordinance and Planning Board approval and the application is not undergoing unified development review, the applicant shall first obtain ~~a concept plan approval and~~ an advisory recommendation from the Planning Board, as well as conditional planning~~Planning board~~ approval for the first stage of the proposed project, which may be simultaneous, then obtain conditional Zoning Board relief, and then return to the Planning Board for subsequent required approval(s).

Where an applicant requires both a special-use permit under the Zoning Ordinance and Planning Board approval and the application is not undergoing unified development review, the applicant shall first obtain an advisory recommendation from the Planning Board as well as conditional Planning Board approval for the first approval stage for the proposed project, which may be simultaneous, then obtain a conditional special-use permit from the Zoning Board, and then return to the Planning Board for subsequent required approval(s).

B. Town Council. Where an applicant requires both Planning Board approval and Town Council approval for a Zoning Ordinance or Zoning Map change, the applicant shall first obtain an advisory recommendation on the zoning change from the Planning Board, as well as conditional Planning Board approval for the first approval stage for the proposed project, which may be simultaneous, then obtain a conditional zoning change from the Town Council, and then return to the Planning Board for subsequent required approval(s).

15-5.15 Enforcement and Penalties.

A. Violations. Any person who fails or refuses to adhere to all ~~of~~ the terms and conditions of any subdivision of land or development plan that has been approved by the Burrillville Planning Board or the Administrative Officer shall be in violation of these Regulations.

Any owner, or agent of the owner, who transfers, sells, or negotiates to sell any land by reference to or exhibition of, or by other use, a plat of the subdivision before the plat has been approved by the Planning Board and recorded in the Land Evidence Records shall be in violation of these Regulations.

Any person who, having submitted an application for subdivision or development approval, begins construction of the subdivision or development, or constructs any structure or improvement on the parcel, without having first received approval from the Planning Board or the Administrative Officer, shall be in violation of these Regulations.

B. Penalties for Violations. Any person adjudged in violation of these Regulations shall be liable for penalties not to exceed five hundred dollars (\$500) per day, and each day of existence of a violation shall be deemed a separate offense.

C. Injunctive Relief. The Town of Burrillville shall have the authority to bring suit in Providence County Superior Court to restrain the violation of, or compel compliance with, the provisions of these Regulations.

An action for injunctive relief brought by the Town of Burrillville in the Superior Court may be consolidated with an action seeking penalties for violations of these Regulations.

15-6. Application Stages and Requirements.

15-6.1 Requirements Common to all Submissions. The applicant shall submit to the Administrative Officer ~~at least thirteen (13) copies~~ 14 PDF and three (3) hard copies of the required plans and any supporting materials. The scale of the plans shall be sufficient to clearly show all of the information required and shall be subject to the approval of the Administrative Officer. Each sheet shall be no larger than 24 x 36 inches, and each sheet shall be numbered sequentially, e.g. Sheet 1 of 3, 2 of 3, etc. The plans must illustrate all parcels, in their entirety, involved in the proposed subdivision or land development. Plans shall include a certification that all plans and proposed improvements conform to all existing and amended standards of the State of Rhode Island and Providence Plantations, Board of Registration for Professional Engineers and Board of Registration of Land Surveyors, as appropriate.

Every submission should also be accompanied by a General Application for Subdivision or Land Development, as contained in the Appendices. The specific submission requirements for each stage of a proposed development are contained in the [Appendices](#).

15-6.2 Modifications and changes to plans.

Minor changes to the plans for Major Subdivision/Major Land Development, Minor Subdivision/Minor Land Development, and Development Plan Review approved at any stage may be approved administratively, by the administrative officer. The changes may be authorized without an additional planning board meeting, to the extent applicable, at the discretion of the administrative officer. All changes shall be made part of the permanent record of the project application. This provision does not prohibit the administrative officer from requesting recommendation from the planning board. Denial of the proposed change(s) shall be referred to the planning board for review as a major change.

Minor changes are defined as a change to a plan, which in the opinion of the Administrative Officer, does not substantially impact the project and is consistent with the intent of the original approval.

Denial of the proposed change(s) shall be referred to the Planning Board for review as a major change. Major changes to the plans approved at any stage may be approved only by the planning board and must include a public hearing per Section 15-6.8 (Public Hearings). Major changes include the following:

- Changes that have the effect of creating additional lots or units.
- Changes to any dimension contained in the plan exceeding 20%.
- Changes that would require a waiver from these Regulations or a variance or special use permit.
- Significant realignment of streets or entrance changes.
- Exceeding the limits of disturbance as specified in the Final Plan.

The administrative officer shall notify the applicant in writing within fourteen (14) days of submission of the final plan application if the administrative officer determines the change to be a major change of the approved plans.

15-6.23

Pre-Application Meetings and Concept Review. One or more pre-application meetings must be held for major subdivision/land development applications. Pre-application meetings may be held for administrative or minor subdivision/land development applications, upon request of either the municipality or the applicant. Pre-application meetings shall allow the applicant an opportunity to meet with appropriate officials for advice as to the required steps in the approvals process, the pertinent local plans, ordinances, regulations, rules and procedures and standards which may bear upon the proposed development project.

At the Pre-application stage the applicant may request the Planning Board for an informal concept plan review for a development. The purpose of the concept plan review is also to provide the Planning Board with input in the formative stages of subdivision and land development concept design.

Applicants seeking a Pre-application meeting or an informal concept review shall submit materials in advance of the meeting(s) as described in the Appendixes ~~under "Checklist for Preapplication Meetings/Concept Plan Review – Minor/Major Subdivision Plan/Land Development Project."~~ The Administrative Officer shall have **fifteen (15) days** to certify that a Pre-application submission is complete or incomplete. Within **forty-five (45) days** after a submission has been certified as complete, the Preapplication meeting will be held.

Pre-application meetings shall aim to encourage information sharing and discussion of project concepts among the participants. Pre-application discussions are intended for the guidance of the applicant and shall not be considered approval of a project or its elements.

15-6.34 Administrative Subdivision - Review Procedures. The application shall be certified, in writing, by the Administrative Officer as complete or incomplete within **fifteen (15) days** after submission by the applicant.

Within **fifteen (15) days** of certification of completeness, the Administrative Officer shall review the application and approve, deny, or refer it to the Planning Board with recommendations at its next regular meeting. If no action is taken by the Administrative Officer within the **fifteen (15) day** period, the application shall be placed on the next regularly scheduled Planning Board agenda.

If referred to the Planning Board, the Board shall consider the application and the recommendations of the Administrative Officer ~~and/or the technical review committee~~ and shall either approve, approve with conditions, or deny the application within **sixty-five (65) days** of certification of completeness. Failure of the Planning Board to act within the period prescribed shall constitute approval of the administrative subdivision plan and 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.

Denial of an application by the Administrative Officer shall not be appealable and shall require the plan to be submitted as a minor subdivision application.

Any approval of an administrative subdivision shall be evidenced by a written decision, which shall be filed and posted in the Town Clerk's office. Approval of the administrative subdivision shall expire within **ninety- (90) days** from date of approval, unless said plat is recorded with the Land Evidence Records, Town of Burrillville. This time period may be extended, for cause shown, if requested by the applicant in writing, to the Planning Board, prior to the expiration date, and approved by the Planning Board.

15-6.45 Minor Subdivision/Minor Land Development - Review Procedures. Minor plan review consists of two (2) stages, preliminary and final; provided, that unless otherwise set forth in this section, if a street creation or extension is involved, or a request for

variances and/or special-use permits are submitted pursuant to a unified development application, a public hearing is required by the planning board. Where a street creation or extension is involved, the public hearing process shall be per Section 15-6.8. Where variances and/or special-use permits are submitted pursuant to a unified development application, the public hearing process for unified development shall be followed per Section 15-6.7.A.5.

A. Application types.

1. Applications requesting relief from the zoning ordinance.

- a. Applications under this section which require relief which qualifies only as a modification shall proceed by filing an application under this chapter and a request for a modification to the zoning enforcement officer. If such modification is granted the application shall then proceed to be reviewed by the administrative officer pursuant to the applicable requirements of this section. If the modification is denied or an objection is received, such application shall proceed under unified development plan review.
- b. Applications under this section which require relief from the literal provisions of the zoning ordinance in the form of a variance or special use permit, shall be reviewed by the planning board under unified development plan review, and a request for review shall accompany the preliminary plan application.
- c. Any application involving a street creation or extension shall be reviewed by the planning board and require a public hearing per Section 15-6.8 (Public Hearings).

2. Other applications. The administrative officer shall review and grant, grant with conditions or deny all other applications under this section.

B. Submission requirements. Any applicant requesting approval of a proposed minor subdivision or minor land development, as defined in this chapter, shall submit to the administrative officer the items required for such applications per the Appendices.

C. Certification. For each applicable stage of review, the application shall be certified, in writing, complete or incomplete by the administrative officer within twenty-five (25) days of the submission so long as a completed checklist of the requirements for submission are provided as part of the submission. If no street creation or extension is required, and/or unified development review is not requested, and a completed checklist of the requirements for submission are provided as part of the submission, such application shall be certified, in writing, complete or incomplete by the administrative officer within fifteen (15) days. The running of the time period set forth in this section 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.

D. Decision on preliminary plan. If no street creation or extension or unified development review is required, the administrative officer will approve, deny, or approve with conditions, the preliminary plan within sixty-five (65) days of certification of completeness, or within any further time that is agreed to by the applicant and the board. If a street extension or creation is

Commented [JD4]: RIGL §45-23-38(a)(2) states that local regulations shall specifically list what limited waivers an administrative officer is authorized to grant as part of their review. For example, EG allows waivers for physical design requirement and public improvement design standards.

Commented [JD5R4]: In discussion with Town staff, we determined that additional waivers are not needed. See 15-5.10 Waivers and Modifications, which already provides a process for waivers. Alternatively, we could specifically note that waivers are allowed for Sec. 15.9 Subdivision and Public Improvement Design Standards.

required, and/or the application is reviewed under the unified development plan review, the planning board will hold a public hearing prior to approval according to the requirements in Section 15-6.8 (Public Hearings) and will approve, deny, or approve with conditions, the preliminary plan within ninety-five (95) days of certification of completeness, or within any specified time that is agreed to by the applicant and the board, according to the requirements of Section 15-5.9 (Findings) and Section 15-5.8 (Meetings, Votes, Decisions and Records).

1. Failure to act. Failure of the planning board or administrative officer to act within the period prescribed constitutes approval of the preliminary plan and a certificate of the administrative officer as to the failure to act within the required time and the resulting approval will be issued on request of the applicant.
2. Re-assignment to major review. The planning board may re-assign a proposed minor project to major review only when the planning board is unable to make the positive findings required in Section 15-5.9 (Findings).
3. Final plan. Final plans shall be reviewed and approved by the administrative officer. The officer will report its actions, in writing to the planning board at its next regular meeting, to be made part of the record. The administrative officer shall approve, deny, approve with conditions, or refer the application to the planning board based upon a finding that there is a major change within twenty-five (25) days of the certificate of completeness.

E. Appeal. Decisions under this section shall be considered an appealable decision pursuant to Section 15-5.4 (Appeals).

F. Expiration of approvals. Approval of a minor land-development or subdivision plan expires one year from the date of approval unless, within that period, a plat or plan, in conformity with approval, and as defined in this act, is submitted for signature and recording as specified in Section 15-5.12 (Procedures for Recording Plats and Plans). Validity may be extended for a longer period, for cause shown, if requested by the application in writing, and approved by the planning board.

~~Minor subdivision/minor land development shall consist of two (2) stages, preliminary and final. As described above, a pre-application meeting may be held at the request of the municipality or applicant. The Planning Board may, at its discretion, combine the approval stages, provided that all of the requirements of both sections have been met. If a street extension or creation is required, then a Public Hearing must be held. The Planning Board may reassign a proposed minor project to major review only when the Planning Board is unable to make the positive findings.~~

~~A. **Preliminary Plan.** The submission shall be certified, in writing, complete or incomplete by the Administrative Officer within twenty-five (25) days or within fifteen (15) days if no street creation or extension is required. The running of the time period set forth herein shall be deemed stopped upon the issuance of a certificate of incompleteness and shall recommence upon the submission of a corrected application by the applicant. However, in no event shall the Administrative Officer be required to certify a corrected submission as complete or incomplete less than~~

~~fourteen (14) days after its resubmission.~~

~~If a street creation or extension is required, the Planning Board shall hold a Public Hearing, prior to approval, approval with conditions or denial of the preliminary plan within ninety-five (95) days of certification of completeness, or within any specified time that is agreed to by the applicant and the Board.~~

~~If no street creation or extension is required, the Planning Board shall approve, deny, or approve with conditions the preliminary plan within sixty-five (65) days of certification of completeness, or within any specified time that is agreed to by the applicant and the Board.~~

~~Failure of the Planning Board to act within the period prescribed 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 approve will be issued on request by the application.~~

~~**B. Final Plan.** Upon final plan submission a final plan review shall be performed by the Administrative Officer. The Administrative Officer shall be allowed fifteen (15) days for review. The Administrative Officer shall report his/her findings to the Planning Board, in writing, at their next regularly scheduled meeting, to be made part of the record.~~

~~**C. Vesting.** Approval of a minor land subdivision/minor land development shall expire ninety (90) days from date of approval unless within the said time period, a plat is submitted for signature and recorded in the Land Evidence Records, Town of Burrillville. This time period may be extended, for cause shown, if requested by the applicant in writing to the Planning Board, prior to the expiration date, and approved by the Planning Board.~~

15-6.56

Major Subdivision or Major Land Development – Review Procedures.

A. Stages of review. Major land development and major subdivision review consists of three stages of review, master plan, preliminary plan, and final plan, following the pre-application meeting(s). Also required is a public hearing at the master plan stage of review or, if combined, at the first stage of review per Section 15-6.8 (Public Hearings).

B. The administrative officer may combine review stages and to modify, but only the planning board may waive submission requirements as specified in Section 15-5.10 (Waivers and Modification). Review stages may be combined only after the administrative officer determines that all necessary requirements have been met by the applicant or that the planning board has waived any submission requirements not included by the applicant.

Major subdivision or major land development shall consist of all subdivisions of land, unless classified

as an administrative subdivision or minor subdivision or minor land development. A major subdivision/major land development shall consist of the following submission stages:

- a. Pre Application Meeting;
- b. Master Plan;
- c. Preliminary Plan; and
- d. Final Plan.

A pre-application meeting is mandatory for a major subdivision or land development project. Provided that at least one (1) pre application meeting has been held for major land development or subdivision application or sixty (60) days has elapsed from the filing of the pre-application submission and no pre-application meeting has been scheduled to occur within said sixty (60) days, nothing shall be deemed to preclude an applicant from thereafter filing and proceeding with an application for a land development or subdivision project in accordance with the next appropriate stage of the submission process. A public informational meeting and a public hearing are also required. The Planning Board may, at its discretion, combine the approval stages, providing that the requirements of those stages have been met.

AC. Master Plan.

1. Submission requirements.

- a. The applicant shall first submit to the administrative officer the items required by the application form for master plans per the Appendices.
- b. Requirements for the master plan and supporting material for this phase of review include, but are not limited to: information on the natural and built features of the surrounding neighborhood, existing natural and man-made conditions of the development site, including topographic features, the freshwater wetland and coastal zone boundaries, the floodplains, as well as the proposed design concept, proposed public improvements and dedications, tentative construction phasing; and potential neighborhood impacts, as required by the application form.
- c. Initial comments will be solicited from:
 - i. Local agencies including, but not limited to, the planning department, the department of public works, fire and police departments, the conservation and recreation commissions;
 - ii. Adjacent communities;
 - iii. State agencies, as appropriate, including the departments of environmental management and transportation and the coastal resources management council; and
 - iv. Federal agencies, as appropriate. The administrative officer shall coordinate review and comments by local officials, adjacent communities, and state and federal agencies.
- d. Applications requesting relief from the zoning ordinance.
 - i. Applications under this chapter which require relief which

qualifies only as a modification under Section 30-33 (Modifications) of the Burrillville Zoning Ordinance shall proceed by filing a master plan application under this section and a request for a modification to the zoning enforcement officer. If such modification is granted, the application shall then proceed to be reviewed by the planning board pursuant to the applicable requirements of this section. If the modification is denied or an objection is received as set forth in Section 30-33 (Modifications) of the Burrillville Zoning Ordinance, such application shall proceed under unified development plan review pursuant to Section 15-6.9.

ii. Applications under this section which require relief from the literal provisions of the zoning ordinance in the form of a variance or special use permit, shall be reviewed by the planning board under unified development plan review pursuant to Section 15-6.9.

2. Certification. The application must be certified, in writing, complete or incomplete by the administrative officer within twenty-five (25) days of the submission, according to the provisions of Section 15-5.5.B (Certification of a Complete Application), so long as a completed checklist of requirements are provided with the submission (see the relevant application form in the Appendices). 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.
3. Public hearing.
 - a. A public hearing shall be held per Section 15-6.8 (Public Hearings) prior to the planning board decision on the master plan. If the master plan and preliminary plan review stages are being combined, a public hearing shall be held during the combined stage of review.
4. Decision. The planning board shall, within ninety (90) days of certification of completeness, or within a further amount of time that may be consented to by the applicant through the submission of a written waiver, approve of the master plan as submitted, approve with changes and/or conditions, or deny the application, according to the requirements of Section 15-5.9 (Findings) and Section 15-5.8 (Meetings, Votes, Decisions and Records).
5. Failure to act. Failure of the planning board to act within the prescribed period constitutes approval of the master 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 will be issued on request of the applicant.
6. Vesting.
 - a. The approved master plan is vested for a period of two (2) years, with the right to extend for two (2), one-year extensions upon written request by the applicant, who must appear before the planning board for the

annual review. Thereafter, vesting may be extended for a longer period, for good cause shown, if requested by the applicant, in writing, and approved by the planning board. Master plan vesting includes the zoning requirements, conceptual layout, and all conditions shown on the approved master plan drawings and supporting materials.

- b. The initial four (4) year vesting for the approved master plan constitutes the vested rights for the development as required in RIGL § 45-24-44.

The submission requirements for the master plan are located in the Appendix under "Master Plan Requirements, Major Subdivisions/Land Development". The application shall be certified as either complete or incomplete by the Administrative Officer within ~~sixty (60)~~ **twenty-five (25)** days after submission by the applicant. The running of the time period set forth herein shall be deemed stopped upon the issuance of a certificate of incompleteness and shall recommence upon the submission of a corrected application by the applicant. However, in no event shall the Administrative Officer be required to certify a corrected submission as complete or incomplete less than ~~fourteen (14)~~ **ten (10)** days after its resubmission.

The Planning Board shall, within one hundred ~~twenty (20)~~ **ninety (90)** days of certification of completeness, either approve, approve with conditions or deny the master plan application. This time period may be extended by consent of the applicant through a written request for extension to the Planning Board by the applicant. Failure of the Planning Board to act in the above specified time period shall constitute approval of the master plan.

The Administrative Officer shall solicit comments from (a) local agencies such as, but not limited to; Police and Fire Departments; Planning Department; Department of Public Works; Conservation, Recreation and Economic Development Commissions; (b) abutting communities; (c) state agencies, such as Departments of Environmental Management and Transportation (d) federal agencies, where appropriate. It is the responsibility of the Administrative Officer to coordinate review comments and report to the Planning Board.

Informational Meeting. A public informational meeting shall be held prior to the Planning Board decision on the Master Plan, unless the Master Plan and Preliminary Plan approvals are being combined, in which case the public informational meeting shall be optional, based upon Planning Board determination.

Public notice for the informational meeting is required and shall be given at least ~~seven (7)~~ **seven (7)** days prior to the date of the meeting in a newspaper of general circulation within the Town. Postcard notice shall be mailed to the applicants and to all property owners within the notice area.

At the public informational meeting the applicant shall present the proposed

~~development project. The Planning Board shall allow oral and written comments from the general public. All public comments shall be made part of the public record of the project application.~~

BD. Preliminary Plan.

1. Submission requirements.

- a. The applicant shall first submit to the administrative officer the items required by the application form for preliminary plans per the Appendices.
 - b. Requirements for the preliminary plan and supporting materials for this phase of the review include, but are not limited to: engineering plans depicting the existing site conditions, engineering plans depicting the proposed development project, and a perimeter survey, as included on the checklist.
 - c. At the preliminary plan review phase, the administrative officer shall solicit final, written comments and/or approvals of the department of public works, the town engineer, the town solicitor, and other local government departments, commissions, or authorities as appropriate.
 - d. Prior to approval of the preliminary plan, copies of all legal documents describing the property, proposed easements, and rights-of-way.
 - e. Prior to approval of the preliminary plan, an applicant must submit all permits required by state or federal agencies, including permits related to freshwater wetlands, the coastal zone, floodplains, preliminary suitability for individual septic disposal systems, public water systems, and connections to state roads. 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.
 - f. If the applicant is requesting alteration of any variances and/or special-use permits granted by the planning board at the master plan stage of review pursuant to adopted unified development review provisions, and/or any new variances and/or special-use permits, such requests and all supporting documentation shall be included as part of the preliminary plan application materials, pursuant to Section 15-6.9 (Unified Development Review).
- 2. Certification.** The application will be certified as complete or incomplete by the administrative officer within twenty-five (25) days so long as a completed checklist of requirements are provided with the submission (see the relevant application form in the Appendices). 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 shall the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission.
- 4. Public notice.** Prior to the first planning board meeting on the preliminary plan, public notice shall be sent to abutters only at least fourteen (14) days before the hearing.

5. Public improvement guarantees. Proposed arrangements for completion of the required public improvements, including construction schedule and/or financial guarantees, shall be reviewed and approved by the planning board at preliminary plan approval.
6. Decision. A complete application for a major subdivision or development plan shall be approved, approved with conditions, or denied, in accordance with the requirements of Section 15-5.9 (Findings) and Section 15-5.8 (Meetings, Votes, Decisions and Records), within ninety (90) days of the date when it is certified complete, or within a further amount of time that may be consented to by the developer through the submission of a written waiver. Provided that, the timeframe for decision is automatically extended if evidence of state permits has not been provided, or otherwise waived in accordance with this section.
7. 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.
8. Vesting. The approved preliminary plan is vested for a period of two (2) years with the right to extend for two (2), one-year extensions 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 general and specific conditions shown on the approved preliminary plan drawings and supporting material.

~~The submission requirements are located in the Appendix under "Preliminary Plan Requirements, Major Subdivision/Land Development". The application shall be certified, in writing, complete or incomplete by the Administrative Officer within sixty (60) twenty-five (25) days of the submission. The running of the time period set forth herein will be deemed stopped upon the issuance of a certification 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 shall the Administrative Officer be required to certify a corrected submission as complete or incomplete less than fourteen (14) ten (10) days after its resubmission.~~

~~Final written comments shall be solicited from all appropriate local authorities and a Public Hearing shall be held prior to approval of the preliminary plan.~~

~~Within one hundred twenty (120) ninety (90) days of certification of completeness by the Administrative Officer, the submission shall be approved, approved with conditions, or denied. This time period may be extended with consent in writing by the applicant. Failure of the Planning Board to act within the prescribed~~

~~period shall constitute 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 through a written request for extension to the Planning Board by the applicant.~~

Public Hearing and Notice. A public hearing shall be required for a major subdivision or a major land development project or where a street extension or creation requires a public hearing for a minor land subdivision or land development project.

Public notice of the hearing shall be given at least **fourteen (14) days** prior to the date of the hearing in a newspaper of general circulation within Burrillville. Notice shall be sent to the applicant and to each owner within the notice area, by certified mail, return receipt requested, of the time and place of the hearing not less than **ten (1510) days** prior to the date of the hearing. Said notice shall also include the street address of the subject property, or if no street address is available, the distance from the nearest existing intersection in tenths (1/15) of a mile. The Administrative Officer may require a supplemental notice that an application for development approval is under consideration be posted at the location in question. Such posting shall be for informational purposes only and shall not constitute required notice of a public hearing.

~~Additional notice within watersheds shall also be sent as required:~~

~~Notice of the public hearing shall be sent by first class mail to the city or town Planning Board of any municipality 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, located within two thousand feet (2,000') of the municipal boundaries.~~

~~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 source and/or surface watershed that is used or is suitable for use as a public water source located within either the municipality or two thousand feet (2,000') of the municipal boundaries, provided, however, that a map survey has been filed with the building inspector.~~

~~Notice of the public hearing shall be sent by the Administrative Officer to the Administrative Officer of an adjacent municipality if (1) the notice area extends into the adjacent municipality, or (2) the development site extends into the adjacent municipality, or (3) there is a potential for significant negative impact on the adjacent municipality.~~

~~The cost of all such notice shall be borne by the applicant.~~

EE. Final Plan.

1. Submission requirements.

- a. The applicant shall submit to the administrative officer the items required by the application form for the final plan per the Appendices, as well as all material required by the planning board when the application was given preliminary approval.
- b. Arrangements for completion of the required public improvements, including construction schedule and/or financial guarantees.
- c. Certification by the tax collector that all property taxes are current.
- d. 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.

2. Certification. The application for final plan approval shall be certified complete or incomplete by the administrative officer in writing, within fifteen (15) days, so long as a completed checklist of requirements are provided with the submission (see the relevant application form in the Appendices). This time period may be extended to twenty-five (25) days by written notice from the administrative officer to the applicant where the final plans contain changes to or elements not included in the preliminary plan approval. The running of the time period set forth herein shall be deemed stopped upon the issuance of a certificate of incompleteness of the application by the administrative officer and shall recommence upon the resubmission of a corrected application by the applicant. However, in no event shall 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 complete and does not require submission to the planning board, the final plan shall be considered approved.

3. Decision. The administrative officer, or, if referred to it, the planning board, shall review, grant, grant with conditions or deny final plan approval. A decision shall be issued within forty-five (45) days after the certification of completeness, or within a further amount of time that may be consented to by the applicant, approve or deny the final plan as submitted.

4. Failure to act. Failure of the administrative officer or, if referred to it, the planning board to act within the prescribed period constitutes approval of the final plan and a certificate of the administrative officer as to the failure of the to act within the required time and the resulting approval shall be issued on request of the applicant.

5. Expiration of approval. The final approval of a major subdivision or land development project expires one year from the date of approval with the right to extend for one year upon written request by the applicant, who must appear before the planning board for the annual review, unless, within that period, the plat or plan has been submitted for signature and recording. Thereafter, the planning board may, for good cause shown, extend the period for recording.

6. Acceptance of public improvements. Signature and recording constitute the acceptance by the municipality of any street or other public improvement or other land intended for dedication. Final plan approval shall not impose any duty upon the municipality to

maintain or improve those dedicated areas until the Town Council accepts the completed public improvements as constructed in compliance with the final plans.

7. Validity of recorded plans. The approved final plan, once recorded, remains valid as the approved plan for the site unless and until an amendment to the plan is approved, or a new plan is approved by the planning board.

~~The submission requirements are contained in the Appendix under "Final Plan Requirements, Major Subdivision/Land Development". The application shall be certified, in writing, as complete or incomplete within twenty-five (25) days. This time period may be extended to forty-five (45) days by written notice from the Administrative Officer to the applicant where the final plans contain changes to or elements not included in the preliminary plan approval. The running of the time period set forth herein shall be deemed stopped upon the issuance of a certificate of incompleteness of the application by the Administrative Officer and shall recommence upon the resubmission of a corrected application by the applicant. However, in no event shall the Administrative Officer be required to certify a corrected submission as complete or incomplete less than fourteen (14) days after its resubmission. If the Administrative Officer certifies the application as complete and does not require submission to the Planning Board, the final plan shall be considered approved.~~

~~If all of the requirements set forth by the Planning Board's preliminary plan decision have been met and the submission has been certified as complete, then the final plan shall be considered approved.~~

~~If the Administrative Officer determines that, the submission is not complete, or does not meet the Planning Board's conditions of approval, the submission shall be referred to the Planning Board. The Planning Board shall, within forty-five (45) days after certificate of completeness, either approve, or deny the final plan, as submitted. This time period may be extended by written consent of the applicant. Failure of the Planning Board to act within the prescribed period shall constitute approval of the final plan.~~

D. — Vesting.

- F. Appeal.** Decisions under this section shall be considered an appealable decision pursuant to Section 15-5.4 (Appeals).

~~The approved master plan shall be vested for a period of two (2) years, with the right to extend for two (2) one year extensions upon written request by the applicant, who must appear before the Planning Board for the annual review. Vesting may be extended for a longer period, for good cause shown, if requested by the applicant in writing, and approved by the Planning Board. Master plan vesting shall include the zoning requirements, conceptual layout and all conditions shown on the approved master plan drawings and supporting materials.~~

~~The initial four year (4) vesting for the approved master plan constitutes the vested rights for the development as required in § 45-24-44.~~

The approval of the preliminary plan shall be vested for two (2) years, with the right to extend for two (2) one-year extensions, 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 of the preliminary plan approval shall include all general and specific conditions contained on the plan.

The final approval of a major subdivision or major land development shall expire one (1) year from date of approval, with the right to extend for one year, upon written request by the applicant, who must appear before the Planning Board for the annual review, unless within said time period a plat is submitted for signature and recorded in the Land Evidence Records, Town of Burrillville. The Planning Board may, for good cause shown, extend the period for recording for an additional period.

15-6.7 Development Plan Review.

A. Applicability. All types of development as described in the Town of Burrillville Zoning Ordinance per Section 30-201 Development plan review, subsection (c) Applicability.

1. Permitting authority. The administrative officer shall serve as the permitting authority for projects requiring administrative development plan review, as described herein. The Planning Board shall serve as the permitting authority for projects requiring formal development plan review, as described herein.
2. Development plan review consists of two review processes, administrative and formal.
 - a. Administrative development plan review consists of one stage of review and the authorized permitting authority is the administrative officer. Development plan project(s) proposing building footprint(s) in aggregate of 10,000 square feet or less are subject to administrative development plan review, as well as land disturbance projects not involving permanent structures or impervious parking such as forestry or agricultural practices.
 - b. Formal development plan review consists of the preliminary stage and final stage of review. The authorized permitting authority is the Planning Board. Development plan project(s) proposing building footprint(s) in aggregate greater than 10,000 square feet are subject to formal development plan review.
 - c. The administrative officer may combine the stages of review for formal development plan review, providing that the submission requirements

of both stages of review are met by the applicant to the satisfaction of the administrative officer.

B. Waivers

1. Requirements for development plan approval may be waived where there is a change in use or occupancy and no extensive construction of improvements is sought. The waiver may be granted only by a decision by the permitting authority identified in this article, finding that the use will not affect existing drainage, circulation, relationship of buildings to each other, landscaping, buffering, lighting and other considerations of development plan approval, and that the existing facilities do not require upgraded or additional site improvements.
2. The application for a waiver of development plan approval review shall include documentation on prior use of the site, the proposed use, and its impact.
- ~~4.3.~~ The permitting authority may grant waivers for any of the design standards of the Burrillville Development Plan Review Regulations.

C. Application requesting relief from the zoning ordinance.

1. Applications under this article which require relief which qualifies only as a modification shall proceed by filing an application and a request for a modification to the zoning enforcement officer. If such modification is granted the application shall then proceed to be reviewed by the designated permitting authority as determined in this article. If the modification is denied or an objection is received as set forth in Section 30-33 (Modifications) of the Town of Burrillville Zoning Ordinance, such application shall proceed under unified development review and be reviewed by the planning board.
- ~~4.2.~~ Applications under this section which require relief from the literal provisions of the zoning ordinance in the form of a variance or special use permit, shall be reviewed by the planning board under unified development review, and a request for review shall accompany the preliminary plan application.

D. Submission requirements

1. Any applicant requesting approval of a proposed development under this chapter, shall submit to the administrative officer the items required by the application form per the Appendices.
- ~~4.2.~~ Requests for relief from the literal requirements of the zoning ordinance and/or for the issuance of special use permits or use variances related to projects qualifying for development plan review shall be submitted and reviewed under unified development review.

~~D.E.~~ Certification

1. The application shall be certified, in writing, complete or incomplete by the administrative officer within twenty-five (25) days. If no street creation or extension is required, and/or unified development review is not required, the application shall be certified complete or incomplete by the administrative officer within fifteen (15) days.
2. The running of the time period set forth in this section 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.
3. If the administrative officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.

F. Application review and decision

1. Administrative development plan review. An application shall be approved, denied, or approved with conditions within twenty-five (25) days of the certificate of completeness or within any further time that is agreed to in writing by the applicant and administrative officer.
2. Formal development plan review.
 - a. Preliminary plan. Unless the application is reviewed under unified development review, the administrative officer will approve, deny, or approve with conditions, the preliminary plan within sixty-five (65) days of certification of completeness, or within any further time that is agreed to by the applicant and the permitting authority.
 - b. Final Plan. For formal development plan approval, the permitting authority shall delegate final plan review and approval to the administrative officer. The officer will report its actions in writing to the planning board at its next regular meeting, to be made part of the record. Final plan shall be approved or denied within forty-five (45) days after the certification of completeness, or within a further amount of time that may be consented to by the applicant, in writing.
3. Failure to act. Failure of the permitting authority to act within the period prescribed constitutes approval of the preliminary 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 application.
4. Vested rights. Approval of development plan review shall expire two (2) years from the date of approval unless, within that period, a plat or plan, in conformity with approval, and as defined in this act, is submitted for signature and recording. Validity may be extended for an additional period

upon application to the administrative officer or permitting authority, whichever entity approved the application, upon a showing of good cause.

5. Appeal. A decision under this section shall be considered an appealable decision per Section 15-5.4 (Appeals).

E.G. Design Standards. Standards for design of development for applications subject to development plan review are provided in the Burrillville Development Plan Review Regulations in the Appendices.

15-6.8 Public Hearings

- A. The following standards apply for any public hearing required for a Minor Subdivision/Minor Land Development, Major Subdivision/Major Land Development or Development Plan Review. Public hearings required in the unified development review process shall follow the standards of Section 15-6.9.5.
- B. Notice requirements. Public notice of the hearing shall be given at least fourteen (14) days prior to the date of the hearing in a newspaper of local circulation. The same notice shall be posted in the town clerk's office and one other municipal building and the notice must be accessible on the home page of the Town's website at least fourteen (14) days prior to the hearing. Notice shall be sent to the applicant and to each owner within the notice area, by first class mail, of the time and place of the hearing not less than ten (10) days prior to the date of the hearing. Notice shall also be sent to any individual or entity holding a recorded conservation or preservation restriction on the property that is the subject of the application at least fourteen (14) days prior to the hearing. The notice shall also include the street address of the subject property, or if no street address is available, the distance from the nearest existing intersection in tenths (1/10's) of a mile.
- C. Notice area.
1. The distance(s) for notice of the public hearing shall be 200 feet from the project site.
 2. Watersheds. Additional notice within watersheds shall also be sent as required in RIGL §45-23-53(b) and (c).
 3. Adjacent municipalities. Notice of the public hearing shall be sent by the administrative officer to the administrative officer of an adjacent municipality if (1) the notice area extends into the adjacent municipality, or (2) the development site extends into the adjacent municipality, or (3) there is a potential for significant negative impact on the adjacent municipality.
 4. Notice cost. The cost of all newspaper and mailing notices shall be borne by the applicant.
- D. At the public hearing, the applicant will present the proposed development project. The planning board must allow oral and written comments from the general public. All public comments are to be made part of the public record of the project application.

A. Review of projects submitted under this section shall adhere to the procedures, timeframes and standards of the underlying category of the project, but shall also include the following procedures:

1. Minor subdivisions and land-development projects. Except for dimensional relief granted by modification, requests for variances and/or for the issuance of special-use permits related to minor subdivisions and land-development projects shall be submitted as part of the application materials for the preliminary plan stage of review or if combined, for the first stage of reviews. A public hearing on the application, including any variance and special-use permit requests that meets the requirements of subsection (5) of this section shall be held prior to consideration of the preliminary plan by the planning board. The planning board shall conditionally approve or deny the request(s) for the variance(s) and/or special-use permit(s) before considering the preliminary plan application for the minor subdivision or land-development project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned on approval of the final plan of the minor subdivision or land-development project.
2. Development plan review. Except for dimensional relief granted by modification, requests for relief from the literal requirements of the zoning ordinance and/or for the issuance of special-use permits related to development plan review projects shall be submitted as part of the application materials for first stage of review. A public hearing on the application, including any variance and special-use permit requests that meets the requirements of subsection (5) of this section shall be held prior to consideration of the preliminary plan by the planning board; see RIGL §45-23-50(d)(1)(ii). The planning board shall conditionally approve or deny the request(s) for the variance(s) and/or special-use permit(s) before considering the preliminary plan application for the development plan review project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned on approval of the final stage of review of the development plan review project.
3. Major subdivisions and land-development projects.
 - a. Master plan. Except for dimensional relief granted by modification, requests for variances for relief from the literal requirements of the zoning ordinance and/or for the issuance of a special-use permit related to major subdivisions and land-development projects shall be submitted as part of the application materials for the master plan stage of review, or if combined, the first stage of review. A public hearing on the application, including any variance and special-use permit requests that meets the requirements of subsection (5) of this section, shall be held prior to consideration of the master plan by the planning board. The planning board shall conditionally approve or deny the requests for the variance(s) and/or special-use permit(s) before considering the master plan application for the major subdivision or land-development project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned on approval of the final plan of the major subdivision or land-development project.
 - a.b. Preliminary plan. During the preliminary plan stage of review, applicants shall have the ability to request alteration of any variance(s) and/or special-use permit(s) granted by the planning board during the master plan stage of review, and/or to

request new variance(s) and/or special-use permit(s), based on the outcomes of the more detailed planning and design necessary for the preliminary plan. If necessary, the applicant shall submit such requests and all supporting documentation along with the preliminary plan application materials. If the applicant requests new or additional zoning relief at this stage a public hearing on the application, that meets the requirements of subsection (5) of this section, shall be held prior to consideration of the preliminary plan by the planning board. The planning board shall conditionally approve, amend, or deny the requests for alteration(s), new variance(s) and/or new special-use permit(s), before considering the preliminary plan application for the major subdivision or land-development project. Approval of the alteration(s), new variance(s), and/or new special-use permit(s) shall be conditioned on approval of the final plan of the major subdivision or land-development project. If the planning board denies the request for alteration(s), new variance(s), and/or new special-use permit(s), the planning board shall have the option of remanding the application back to the master plan stage of review. Alternatively, if the planning board denies the request for alteration(s), new variance(s), and/or new special-use permit(s), the applicant may consent to an extension of the decision period so that additional information can be provided and reviewed by the planning board.

4. Decision. The time periods by which the planning board must approve or deny applications for variances and special-use permits under the unified development review provisions of the local regulations shall be the same as the time periods by which the planning board must make a decision on the applicable review stage of the category of project under review.
5. Unless otherwise provided in this chapter all under this section shall require a single public hearing, held pursuant to subsections (1)-(4) of this section. The public hearing must meet the following requirements:
 - a. Public hearing notice shall adhere to the requirements found in RIGL §45-23-42(b).
 - b. The notice area for notice of the public hearing shall be 200 feet and notice of the public hearing shall be sent by the administrative officer to the administrative officer of an adjacent municipality if: (1) the notice area extends into the adjacent municipality; or (2) the development site extends into the adjacent municipality; or (3) there is a potential for significant negative impact on the adjacent municipality. Additional notice within watersheds shall also be sent as required in RIGL §45-23-53(b) and (c).
 - c. Public notice shall indicate that dimensional variance(s), use variance(s) and/or special-use permit(s) are to be considered for the subdivision and/or land-development project.
 - d. The cost of all public notice is to be borne by the applicant.
6. The time periods by which the permitting authority must approve, approve with conditions or deny requests for variances and special-use permits under the unified development review provisions of a zoning ordinance shall be the same as the time periods by which the planning board must make a decision on the applicable review stage of the underlying type of project under review.
7. The expirations period of an approval of a variance or special use permit granted under

this section shall be the same as those set forth in the statute for the underlying type of project under review.

8. Decisions under this section, including requests for the variance(s) and/or special-use permits that are denied by the planning board may be appealed pursuant to RIGL §45-23-71.

15-7. Improvement Guarantees

15-7.1 Purpose. Improvement Guarantees shall be provided to ensure the proper installation and maintenance of required street, utility, and other physical improvements as required in the project approval and/or as a condition of approval to a land development project and to ensure compliance with any non-structural conditions of the final plan approval, if any.

15-7.2 General Procedures. Before any land development project or subdivision (final plan) is endorsed by the Planning Board, the Planning Board shall be required to approve agreements for the completion of the required improvements. Said agreement shall take the form of:

- completion of construction of all actual improvements;
- improvement guarantees;
- or combination thereof.

At the preliminary stage of the review process, the applicant shall submit either of the following:

- a letter to the Planning Board indicating his/her intent to complete the required improvements prior to the Planning Board's endorsement of the final plat;
- a letter requesting that security sufficient to cover the cost of required improvements be established by the Board.

A. Improvements Without A Financial Guarantee. If improvements are to be constructed without a financial guarantee, all work must be completed and accepted by the Town of Burrillville prior to endorsement by the Planning Board and subsequent recording of the plans with the Town Clerk's office. The applicant shall be responsible for notification to, and payment for construction inspection services to, the Administrative Officer, prior to commencing construction.

The Administrative Officer within ten (10) days after all required construction improvements, including submission of "as-built" plans, are complete and acceptable, shall notify the Planning Board of said completion. The final plat shall then be endorsed by the Planning Board and a recommendation for acceptance of the improvements will be forwarded to the Town Council. Final

acceptance of the improvements shall be done as outlined in Release of Bond/Acceptance of Improvements of these Regulations.

- B. Improvement Guarantees.** Improvement guarantees shall be in an amount and with all necessary conditions to secure for the Town the actual construction and complete installation of all of the required improvements, and the satisfactory completion of all conditions of final approval, within the time periods required for completion. The amount shall be based upon actual cost estimates, which would be required for the Town to complete all improvements required as a condition of final approval. These estimates shall be initially prepared by the Town's Engineer and submitted to the Administrative Officer, who shall review the estimates, if requested, with the applicant. If the applicant disagrees with the estimated amount, he/she shall have the opportunity to submit a revised estimate along with supporting justification for the revisions. The Planning Board will review and approve the guarantee's final amount. The Planning Board may set the guarantee in a reasonable amount in excess of the estimated costs in order to anticipate for increases in economic or construction conditions. However, the amount of such increase shall not exceed 120 percent of the estimated cost of improvements as recommended by the Engineer and the Administrative Officer.

Ninety (90) days prior to the expiration of final plan approval, if the required improvements are incomplete, the Planning Board shall review the status of the improvements with the Administrative Officer and may

1. require the applicant to extend the duration of the entire improvement guarantee;
2. reduce the amount of the improvement guarantee to cover the estimated costs of all uncompleted or unaccepted required improvements;
3. authorize the Administrative Officer to complete the work outstanding utilizing the improvement guarantee funds.

The improvement guarantee shall be acceptable to the Director of Finance and Town Solicitor and shall enable the Town to gain timely access to the secured funds, for cause. An improvement guarantee may be provided by any of the following:

1. Security Bond: The applicant may obtain a bond from a surety bonding company authorized to do business in the State of Rhode Island.
2. Escrow Account: The applicant may deposit cash, or other instruments readily convertible into cash at face value, with the Town or in an escrow account with a bank.

Prior to commencing construction, the applicant shall notify the Administrative Officer of his/her intention. All inspection fees are required to be paid prior to commencing work. It is the responsibility of the applicant to provide the Administrative Officer with an anticipated construction schedule.

At the expiration of the final plan approval period, if all improvements are complete and accepted, any improvement guarantees shall be returned to the applicant. Partial reductions in the improvement guarantee may be requested, in writing to the Planning Board, prior to expiration of final plan approval. Any requests shall be reviewed by the Administrative Officer and the Director of Public Works to insure that there are sufficient funds remaining to complete the improvements. The Planning Board shall act on all such releases or reductions in the improvement guarantees.

When land development projects or subdivisions have been approved by the Planning Board to be constructed in phases, the Planning Board shall specify improvement guarantees related to each particular phase. In doing so, the Board shall clearly establish what off-site improvements or conditions, if any, are to be required for each phase.

15-7.3 Setting of Improvement Guarantees. The Town's Engineer shall establish security amounts on what will be public or private infrastructure and improvements, as well as private roadways in the case of private compounds, to ensure adequate, safe construction of said roadways and ensure compliance with approval conditions and requirements of the land development project.

15-7.4 Maintenance Guarantees. The Planning Board shall require that a maintenance guarantee be provided by the applicant for all improvements, which are being dedicated to the Town for public acceptance and maintenance. The amount of the maintenance guarantee shall be five percent (5%) of the total estimated cost of all required improvements. The initial period for such maintenance guarantee shall be one (1) year. At the end of the one-year maintenance period, the Town's Engineer shall inspect all improvements subject to the guarantee and shall certify in writing to the Administrative Officer as to their condition. If found to be unacceptable, the Administrative Officer shall recommend an extension of the guarantee period to the Finance Director, and the original funds shall not be returned to the applicant. If public improvements are in good condition and have not been damaged due to the fault of the applicant, or through faulty workmanship or design, the maintenance guarantee shall be returned to the applicant.

In cases where the Planning Board finds there are extenuating circumstances; the initial maintenance period may be established for a period longer than one year. The reasons for establishing a longer maintenance period and the nature of the extenuating circumstances shall be made a part of the record.

Include additional money for guarantee that road maintenance is kept up. If not,

the town reserves the right step in and charge the developer for costs and penalty. Estimate for 1 year and annual review by board if necessary.

15-7.5

Release of Bond/Acceptance of Improvements. Upon completion of all required improvements, including the submission of "as-built" plans, the applicant shall convey all public improvements to the Town for ownership and maintenance. Previously approved private facilities shall not be conveyed to the Town. Private facilities shall be conveyed by deed with metes and bounds description to either the Home Owner's Association or other entity previously approved by the Planning Board. The applicant shall first submit a request in writing for a final inspection of the improvements, to the Administrative Officer. Upon receiving written confirmation from the Administrative Officer that the improvements are complete and acceptable, the applicant ~~should~~shall submit a request for bond release and acceptance of improvements to be placed on the agenda for the next regularly scheduled Planning Board meeting. If all of the requirements of the Regulations have been met, the Planning Board shall release the bond and recommend acceptance by the Town Council of all such improvements and shall submit such in writing.

Upon the Planning Board's decision, draft deeds ~~should~~shall be submitted to the Administrative Officer who will review them with the Town Solicitor. The Administrative Officer will inform the applicant when the deeds are acceptable and that a letter be sent to the Town Council requesting that the improvements be accepted. Upon acceptance by the Town Council and recording of the deeds with the Town Clerk's Office, all improvements shall be permanently owned and maintained by the Town as part of the municipal system, and the applicant is no longer responsible for care, repair or maintenance.

15-8.

LAND FOR RECREATIONAL PURPOSES/OPEN SPACE

10-8.1

Open Space Must Be Provided. The Planning Board shall require all land developments and subdivisions subject to the provisions of these Regulations to dedicate a portion of the land being subdivided or developed for the purpose of providing open space, conservation, park and recreational land and/or facilities to serve present and future residents of the proposed land development or subdivision. The Planning Board may, in its discretion, require the payment of a fee in-lieu-of land dedication, or a combination of land dedication and payment of a fee, as an alternative to the dedication of land. If payments in lieu of land dedication are required, they must be kept in a restricted account and shall only be spent for the intended purpose of providing open space, conservation, park and/or recreational facilities.

10-8.2

Relationship to Comprehensive Plan. No dedication of land to the public or payments-in-lieu of such dedications shall be required unless the need for such is documented in the adopted plans of the Town, i.e., the Comprehensive Plan, the Conservation, Recreation and Open Space Plan or the Capital Improvement Program

(CIP). The requirement for dedication of land for open space, conservation, park and recreation facilities shall be based upon the policies and standards set forth in the above plans and shall reflect the character defined by the Comprehensive Plan for the neighborhood or district in which the subdivision is located. The nature of the land dedication must reflect the character of the land being subdivided and must be suitable for the intended use.

15-8.3

Amount of Land to be Dedicated. The land conveyed shall be so located and of such a nature as to be readily adaptable and usable for recreation purposes. The minimum amount of land to be dedicated shall be based upon the following formula:

Amount of Dedicated Land = (acres)	Maximum No. of DU's in the X Subdivision¹	Persons per X DU²	Land Need³
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1 The maximum number of dwelling units in all phases of the land development project or subdivision.

2 The average number of persons per household per 2000 U.S. Census.

3 Land need shall mean the adopted Town standards for open space and outdoor recreation areas provided in the Burrillville Comprehensive Plan.

The Board may, in its discretion, require that the applicant clear, grade and landscape the land to be dedicated in order to make it suitable for recreation purposes. If the Board requires such improvements then the amount of land may be reduced as to offset the cost of such improvements by the applicant.

If a single applicant intends to subdivide an area consisting of more than one (1) contiguous subdivision or section, the land to be conveyed shall be computed and selected on the basis of the entire area to be subdivided and shall be delineated and approved by the Planning Board prior to preliminary approval of any component subdivision or section. In addition, the Board, in its discretion, may direct that final approval of such component subdivision or section be conditional upon conveyance of making the required improvement or furnishing the adequate access to the recreation land in question.

15-8.4

Ownership of Land. Land dedications required by this section may be made by transfer of fee simple ownership to any of the following:

- a. The Town of Burrillville
- b. The State of Rhode Island
- c. The United States Government
- d. A private Homeowner's Association
- e. A private non-profit conservation or recreation group

The Planning Board will determine to which organization the land will be dedicated.
Reverter clause to the Town of Burrillville if ever transferred.

15-8.5

Fees-in-Lieu of Land Dedication. If the Board determines that a suitable park, playground or recreation area of an adequate size cannot be properly located in such subdivision plat, or is otherwise not practical, then the Board may require, as a condition to approval of any final submission, a payment of a monetary fee by the applicant to the Town.

Where a fee is required by the Planning Board to be paid in lieu of land dedication, the amount of such fee shall be based on the fair market value of the amount of land, which would otherwise be required to be dedicated. The amount of such fee shall be determined by the following formula:

Fee in lieu of dedication =	Fair Market Value of Land ¹ X	Max. No. of DU's ² X	Persons per DU ³	Land Need ⁴ X
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- 1 Fair market value of land in the parcel being subdivided after subdivision approval has been granted, and which is suitable for use as open space, conservation, park and recreation facilities.
- 2 The maximum number of dwelling units to be constructed in the subdivision.
- 3 The average number of persons expected to be living in the dwelling units to be constructed.
- 4 Land need shall mean the adopted Town standards for open space and outdoor recreation area as provided in the Burrillville's Comprehensive Plan.

Such fee shall be deposited in an interest-bearing fund titled, "Recreation Capital Account". The Parks & Recreation Department, upon majority vote of the Town Council, may expend up to 20 percent of the principal for capital acquisition of recreational facilities.

If the applicant questions the amount of said fee in lieu of land, he/she may request a hearing by the Board of Appeal. At this hearing, the Board of Appeal will take evidence and testimony, as it deems appropriate. Said hearing may be part of the final approval hearing if the Planning Board so stipulates.

10-8.6

Fair Market Value. Fair market value of the land, assuming subdivision approval has been granted, shall be determined prior to the time of filing of the final plan in accordance with one of the following:

- a. As determined by the Burrillville Tax Assessor from recorded sales within the last 24 months;
- b. If the applicant objects to such amount of evaluation as determined in "a" above, he/she may, at his/her own expense, obtain an appraisal of the property by a qualified real estates appraiser, which appraisal may be accepted by the Planning Board if found to be reasonable; or
- c. The Planning Board and applicant may agree as to the fair market value.

10-8.7 Land Need. The actual need for open space land and conservation land is expressed in acres per 1,000 of population based on the Comprehensive Plan. The 1990 Town-wide need is 6.25 acres per 1,000 residents.

10-8.8 Persons per Dwelling Unit. The figure of 2.75 persons per household from the 2000 Census shall be used.

10-8.9 Time of Conveyance of Land or Payment of Fee in Lieu of Conveyance of Land. Unless otherwise directed by the Board, the deed for land to be conveyed (and/or the money to be paid in lieu thereof) in accordance with the foregoing provisions of this article shall be delivered to the Town prior to final approval of the applicable subdivision or section thereof.

The Planning Board fully realizes the financial hardship that may be placed on a developer of tracts of over 15 lots, and will allow prorated payments of 25 percent of the amount at the final approval and the remaining fee in two equal installments on the next two anniversary dates of the final approve with an interest payment of 8% (eight percent) annually. Said payments shall be secured by a promissory note and recorded as a mortgage on said lots.

15.9 SUBDIVISION & PUBLIC IMPROVEMENT DESIGN STANDARDS

15-9.1 General Design Standards

The design of all subdivisions and land development projects shall conform to the Town of Burrillville Zoning Ordinance and Subdivision & Land Development Regulations as written herein. The Planning Board has established the elements contained in Section 15-9 of these Regulations as the minimum design standards. The Planning Board reserves the right to determine lot location and number of lots created by subdivision in accordance with all procedures contained herein. For Cluster subdivisions, site walks are required with the Planning Board as part of pre-application submission. The Planning Board may raise or lower these standards upon a site walk and or review of the proposed plan. To the greatest extent possible, each land development application shall be sensitive to:

- Focusing growth within existing developed areas in effort to preserve and protect natural resources and landscapes outside of village centers.
- Improving traffic conditions to minimize traffic accidents
- Environmental (natural) constraints (slopes >15%, rock outcrops, wetlands, jurisdictional buffers, unique forests and field areas).
- To promote safety from fire, flood and other dangers
- To secure a well articulated street and highway system
- To insure adequate provisions for pedestrian traffic
- To secure an adequate storm water run-off management and soil erosion plan –utilizing BMP’s at all times.

- To preserve significant natural and historic characteristics
- To provide adequate public water and sanitary sewage treatment
- To provide a recreation area suitable for future use
- To promote development in conformance with the Comprehensive Plan

The applicant, at his/her own expense, shall construct all improvements where required by the Planning Board as a condition of approval for any subdivision or land development project subject to these Regulations.

15-9.2 Street Standards. The following design standards shall be followed where applicable in the design and construction of any subdivision.

- A. Frontage on Improved Streets.** The area to be subdivided shall have frontage on an existing improved Town-accepted street. If such an existing street has not been improved to the standards and specifications as required in these Regulations, the Board shall require the subdivider to make certain improvements along the part of the street abutting the property or leading to the property being subdivided where necessary for drainage, safety, traffic or other reasons, as deemed proper by the Board.

For purposes of these Regulations, streets platted but not improved or accepted for maintenance by the Town, shall not be considered existing improved public streets. Where these streets are incorporated within the subdivision, they shall be improved by the applicant to meet the Subdivision Regulation standards.

- B. Street Classifications.** Street design within a proposed subdivision or land development project shall conform to the street classification system as established herein. Requirements for right-of-way and pavement width, on-street parking, drainage, utilities, sidewalks, and other design standards shall be tailored to the location and function of the specific roadway. Five (4) categories of streets shall be utilized. They are non-village roadways, village roadways, industrial/ commercial roadways and private streets.

Village roadways are required in all Village Commercial (VC), General Commercial (GC) and Village Residential (R-12) zoning districts. Non-village roadways are required in the remaining residential districts.

Industrial/commercial roadways are required in new industrial or commercial developments.

Private streets are allowed in Residential Compounds, multi-unit land development projects and Cluster Subdivisions. Low impact development, such as swales, semi-permeable pavers, etc., are encouraged within Cluster subdivisions (see Appendix B LID Resources).

The following serves to define the function of these roadways:

Non-Village Roadways

These roadways are meant to serve all residential developments located outside of the village centers. They will function as residential access and collector roadways within subdivisions as well as providing connection to adjacent subdivisions.

Village Roadways

These roadways will serve the most densely populated areas within the Town, namely, the villages of Pascoag, Harrisville, Mapleville, Glendale, Nasonville, etc. These roadways will be somewhat wider in nature to provide the opportunity for on street parking in these more densely developed areas.

Industrial/Commercial

These roadways are meant to provide service to industrial and/or commercial parks and areas. These roadways will be wider in nature to address the specialized traffic needs, namely truck traffic and delivery vehicles.

Private Roads

These roads are meant to limit drainage impacts on the natural environment, preserve rural character by being of gravel composition, and serve a limited number of homes in a private setting. Private streets may be allowed as part of a Cluster Subdivision of 5 units or less, if constructed in accordance with the private road standards contained herein, to preserve rural character and minimize drainage impacts to the existing natural environment.

- C. **Design Standards.** Provided on the following page is Table 15-1 Roadway Design Standards, which outlines the design standards for the five roadway categories. You will note that there are no specific standards for arterial roadways. Should an applicant propose a new arterial within the Town of Burrillville associated with an industrial, commercial or residential development, at the Conceptual stage of review they will be asked to perform a specific set of studies to determine the most appropriate design for the ultimate function that roadway will provide. Such analysis shall include but not be limited to the following:

Traffic Impact Analysis – or -
Other analyses as warranted by the Planning Board

Immediately following Table 15-1 is Figure 15-1, which presents a typical cross sections for a non-village roadway. Figure 15-2 provides a plan view with cul-de-sac design standards and Figure 15-3 provides a sectional view of a private road.

D. Sidewalks and Bicycle Paths.

Sidewalks:

Concrete sidewalks, Five (5) feet in width, shall be required as follows:

1. Arterial Roadways: As determined by the Planning Board
2. Industrial/Commercial Roadways: As determined by the Planning Board
3. Village Roadways: Both Sides of the Street
4. Non-Village Roadways: One Side of the Street as determined by the Planning Board
5. Private Streets: Not required in Residential Compounds, may be required in land development projects.

Sidewalks shall be located six (6) feet away from the curb and separated by a tree planter strip. When sidewalks are required on one side only, a graded sidewalk area will be required on the other side of the street. This area will be loamed and seeded for future use and serve to present a consistent roadway cross section. Public rights of way shall be owned by the Town and not by abutting landowners. Planter strip grass areas shall be maintained by abutting landowners. Street trees shall be maintained by the Town. The Planning Board may waive sidewalks if the following exists:

- (a) The development is located more than one mile from a public or private school;
- (b) The development is located more than one-half mile from major public or private facilities such as churches, shopping areas, post offices, playgrounds etc., where there is not a reasonable likelihood that pedestrian traffic to, from and within the proposed development would result;
- (c) The development is located in an area with low vehicular traffic volumes, where the likelihood of pedestrian conflicts are diminished; and
- (d) Sidewalks are not warranted, as deemed appropriate by the Planning Board.

Table 15-1 Roadway Design Standards

	Industrial/ Commercial	Village Roadways	Non-Village Roadways	Private Roadways
R.O.W. width	60'	60'	43'	N/A
Pavement Width	36'	34' (2x15' travel lanes) (2x7' parking lanes)	22' (2x11' travel lanes)	20' (2x15' travel lanes)
Maximum Grades centerline	8%	8%	8%	8%
within 150' of centerline intersection	2.5%	4.0%	4.0%	4.0%
Minimum Grades	1%	0.5%	0.5%	0.5%
Minimum Length of Vertical Curves	20 feet per 1% grade change or 150 foot whichever is greater	20 feet per 1% grade change or 150 foot whichever is greater	20 feet per 1% grade change or 150 foot whichever is greater	20 feet per 1% grade change or 150 foot whichever is greater
Minimum Radius of Centerline Curve	150' with minimum of 150' tangent between curves	150'	150'	150'
Minimum Site Distance	250'	175'	175'	N/A
Cul-de-sac				
Maximum length	1,000'	1,000'	1,000'	1,000'
R.O.W. bulb diameter	130'	115'	115'	115'
Pavement Diameter	120'	150'	150'	150'
Maximum Grade (final 300' leveling area)	3.5%	3.5%	3.5%	3.5%
Minimum Grade	1%	1%	1%	0.5%
Intersection Fillet Curve R.O.W Minimum Radius Pavement Minimum Radius	30' 40'	15' 25'	25' 35'	N/A
Pavement Crown	3/8" / LF	3/8" / LF	3/8" / LF	3/8" / LF

Right angle intersections: Streets shall be laid out so as to intersect, as nearly as possible, at right angles. No streets shall intersect any other street at less than 60 degrees.

Street Jogs: Street jogs with centerline offsets of less than 125' should be avoided.

[Garement depth after compaction](#)
[Subgrade depth and material](#)

Bicycle Paths:

Bicycle paths shall be incorporated into the proposed subdivision where they are necessary to extend an existing bicycle path or bike walk; to intersect with proposed State and local bicycle facilities; to connect adjacent subdivision where vehicular connections would be impractical; or to further the goals of the Burrillville Comprehensive Plan; or where adjacent or nearby public or private schools, recreation areas, or other similar facilities would be likely to generate significant bicycle traffic.

Bicycle paths may be incorporated into sidewalk systems within subdivisions, at the discretion of the Planning Board. Bicycle path/sidewalks shall be no less than six feet in width, as to accommodate both pedestrian and bicyclist.

Figure 1. Non-village Roadway Section

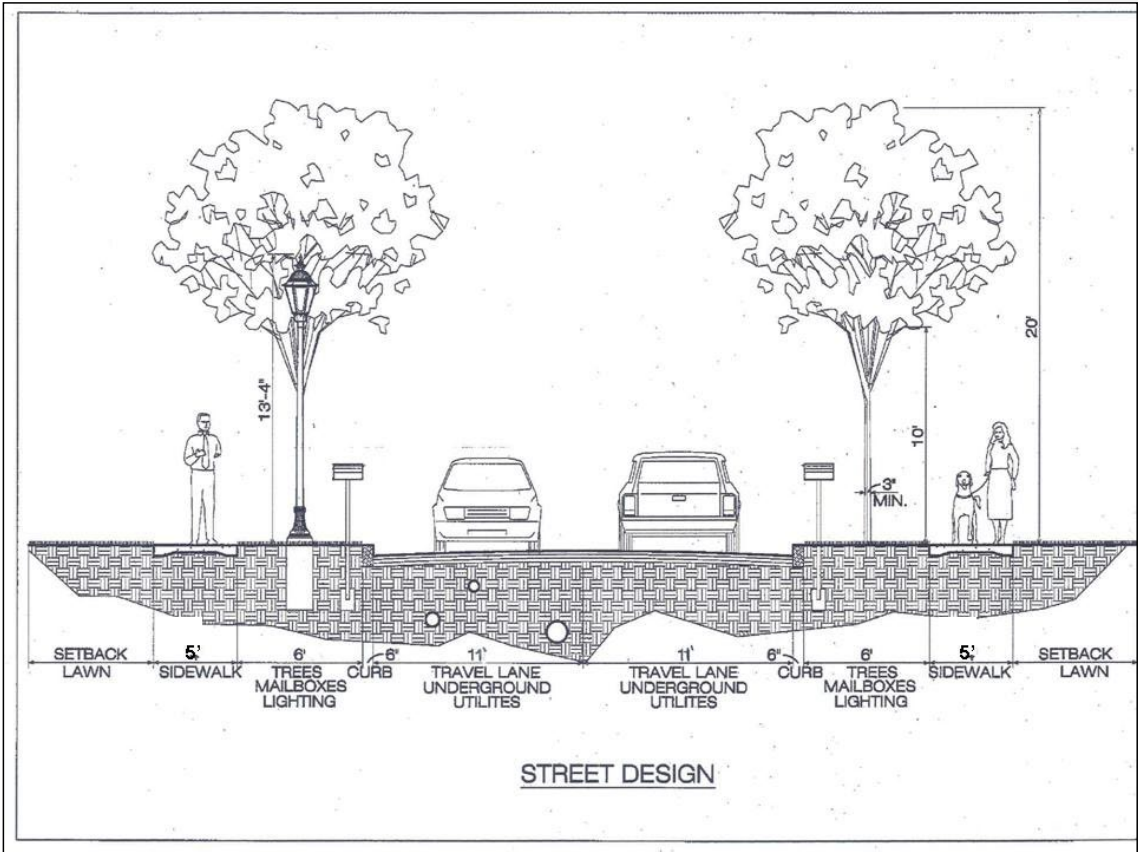


Figure 2 Cul-de-sac

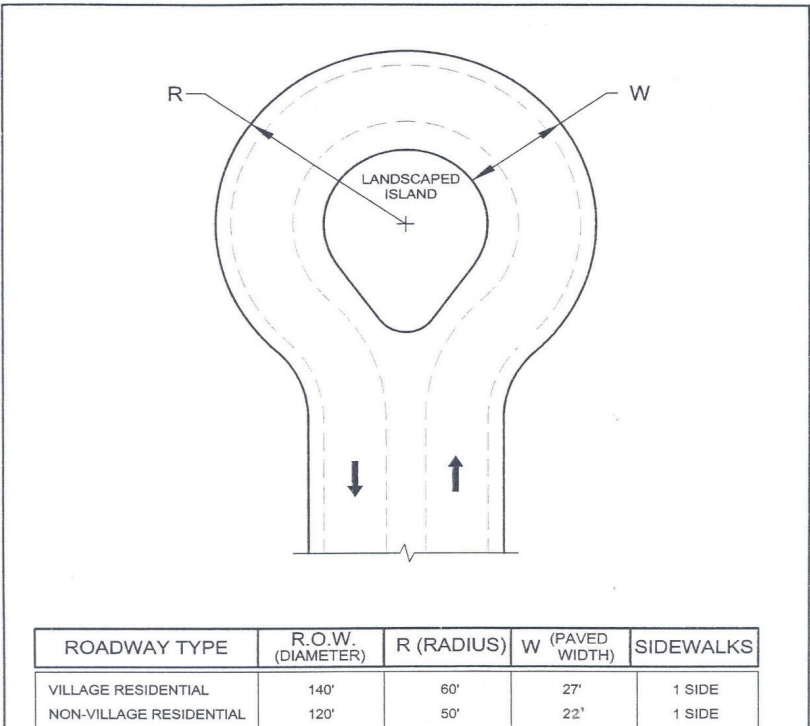
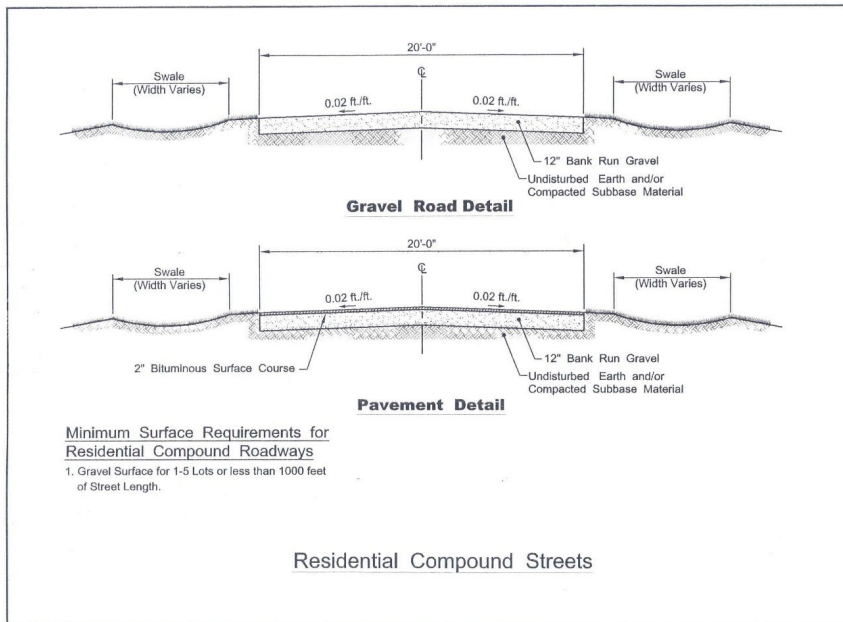


Figure 3. Residential Compound Street –Require pavement (3+ lots)

Delete road detail if pavement required for all



- E. Street Layout and Arrangement.** The proposed arrangement of streets shall be considered in relation to the existing street system, and to existing topographic and natural conditions and to create an attractive streetscape.

Proposed streets within a major subdivision shall provide for their continuation or projection to intersect with principal streets on the perimeter of the subdivision or with adjacent vacant property in order that the streets may be extended at a future time.

- F. Street Intersection** Street intersections shall either coincide precisely with, or be offset by at least 150 feet from other intersections. Intersections shall be at 90-degree angles. The Planning Board may approve lesser angles between 75 degrees and 90 degrees.

- G. Dead End Streets (Cul-de-sacs)** All dead end streets shall end in a cul-de-sac turnaround and shall be clearly marked at their entrances. Dead end streets without a turnaround are not allowed. The lengths of dead end streets shall be a maximum of one thousand (1,000) feet. The Planning Board may further

limit the length of the dead end street (cul-de-sac) where necessary, to ensure the adequate and safe circulation of vehicular traffic. Every cul-de-sac, other than those less than 500 feet in length, shall have a raised and curbed interior island landscaped as outline under Landscape Standards of these Regulations. Landscaping will be done in such a way as to not inhibit sight distance across the cul-de-sac. Figure 2 provides detailed design requirements for cul-de-sacs.

- H. Street Names.** An extension of an existing street shall have the same name as the existing street. Names of other proposed streets shall be substantially different from any existing street name in the Town of Burrillville. The Administrative Officer must approve all street names.
- I. Access to Adjoining Property.** When the Planning Board requires the provision of access to adjoining property, proposed streets (also known as “stub roads” or “connectors”) should be continued and improved for a minimum length of ten (15) feet so that they are recognizable. The reservation of strips of land preventing such access shall not be permitted. Where a dead-end street is to provide future access to adjacent property, the Planning Board may require a temporary easement provision for a cul-de-sac until such time as the street is extended.

Access to adjoining property for pedestrian and/or bicycle circulation may be required if the Planning Board finds that the connection will either: increase accessibility between adjoining subdivisions; join existing or proposed sidewalks or bicycle paths; join subdivisions to major public or private schools, recreation areas or other facilities; or, significantly enhance the public safety by providing such pedestrian and/or bicycle connections.

- J. Street Signs.** Street and traffic signs, approved by the Public Works Director, shall be installed by the developer at the developer’s expense and prior to issuing any certificates of occupancy.
- K. Street Lighting.** In all new subdivisions, provisions shall be made for street lighting connections at the discretion of the Public Works Director, the Planning Board, Fire Districts and the appropriate utility company.
- L. Street Trees.** Approved street trees are required in all subdivisions and land development projects. All planting shall be done under the supervision of a licensed arborist. The applicant shall plant street trees appropriate for the terrain, soil and climatic conditions encountered in the development, and in accordance with the following standards:
 - 1.** Location – Street trees shall be planted along both sides of all streets to be located within the 6 foot wide landscaped area in between the curb

and sidewalk. Trees shall be planted at distances of not more than fifty-(50) feet apart. At street corners, trees shall not be planted within twenty-five (25) feet of the intersecting right-of-way lines.

2. **Materials** – Trees shall be grown under local climatic conditions and be of symmetrical growth, free of insect pests and disease, suitable for street use and durable under the maintenance contemplated. Trees should have a minimum caliper size of 3 inches diameter breast height (d.b.h.) when planted. The lowest branch shall be at least 80” above finished grade to meet ADA standards. Trees proposed for planting shall be approved by the Planning Board. Loam shall be clean, of good quality and of such fertility and composition that it will support plant growth.
3. **Type** - The species selected are to be suitable for Zone 5 hardiness as published by the U.S. Department of Agriculture.
4. **Planting** – Street trees shall be planted in holes at least 6 inches deeper and 1 1/2 times as wide as the root ball. Larger excavation may be required in gravel or sand areas. Trees shall be planted at their previous depth in good quality topsoil or soil conditioned to the quality sufficient organic matter such as peat moss and a balanced fertilizer.
5. **Maintenance** – Street trees shall be maintained by the applicant from the time of planting until the time of the release of the maintenance guarantee following acceptance of streets by the Town Council. Maintenance shall include, but not be limited to, watering of trees, as necessary. If there is no maintenance guarantee required, the Planning Board may require separate guarantee provisions for maintenance of required street trees by the applicant for a maximum period of two (2) years from the date of planting. Any trees, which are not healthy at the end of the guarantee period, shall be replaced at the applicant’s expense and guaranteed until satisfactorily established.

- M. Centerline Pavement Markings.** For industrial and commercial roadways, centerline striping shall be per RIDOT Standard, Code T.20.2000.

15-9.3 Lot Design Standards

A. General

Site walks are required of the Planning Board and Developer prior to either Master Plan or Preliminary Plan review. Site walks are mandatory for all Cluster Subdivision applications as part of the pre-application process. The Planning Board reserves the right to determine lot location and total number

of lots in conformance with the Town Zoning Ordinance and environmental (natural) constraints described below.

1. All house lots shall abut an existing or proposed public street except in the case of Residential Compounds or certain land development projects.
2. All lot dimensions shall conform to the requirements of the Town of Burrillville Zoning Ordinance.
3. The proportion of average lot depth to average lot width shall not exceed 2½:1.
4. Lots shall not extend through a block to another existing or proposed residential street (through lots).
5. Side lot lines shall be at right angles to street lines or radial to curved street lines unless the Planning Board determines that a variation from this rule will provide a better street or lot plan.
6. All house lots and limit of disturbance areas in relation thereto shall avoid environmental constraint areas (slopes >15%, rock / ledge outcrops, wetland areas including RIDEM jurisdictional wetland areas).
7. All proposed subdivisions shall strive to uphold the general goals and objectives of the Burrillville Comprehensive Plan, which promotes redevelopment of existing, dense village centers while preserving undeveloped land outside of those centers.

B. Easements. The Planning Board may require easements where necessary for the proper location and placement of improvements on private land as described below. The Board may, in its own discretion, require the dedication of land to the Town in lieu of easements if such dedication would provide greater control over and access to the intended use.

1. Sanitary Sewers - Easements shall be provided for sanitary sewers. The Planning Board will require permanent easements of such width as recommended by the Sewer Commission. The nominal width for a sewer easement shall be thirty- (20) feet.
2. Drainage Easements - Where above ground drainage flows are directed over private property which does not contain natural watercourses or wetlands, or where publicly owned and maintained drainage systems outfall on private land, a drainage easement shall be dedicated to the

Town over the area and at a location adequate for the intended purpose. Easements into and upon above ground drainage facilities such as storm water detention or retention basins shall be granted to the Town wherever storm water from Town-owned streets or other improvements is intended to be directed to such basins. The nominal width for such a facilities drainage easement shall be thirty- (30) feet.

3. Sight Distance Easements - Where deemed necessary by the Planning Board to establish or maintain adequate sight distances for vehicular traffic, the dedication of an easement to the Town may be required which would prohibit the erection or maintenance of any visual obstruction such as a structure, tree, shrub, wall, earthen embankment, hill or any other obstruction.
4. Bicycle or Pedestrian Access Easements - Bicycle and pedestrian access shall be provided where required on a separate strip of land dedicated to the Town or on an easement having a minimum width of 15 feet.
5. Conservation Easement - All land dedicated for open space or recreational uses shall be covered by a Conservation Easement prohibiting its future development for residential use as well as ensuring its perpetual maintenance as conservation, recreation, or park land for the enjoyment of present and future residents.
6. Other Easements - All other required easements shall be of sufficient width and area for the intended purpose, as determined by the Planning Board.

15-9.4 Blocks

The Planning Board may require provision for pedestrian rights-of-way at the center of blocks to enhance pedestrian mobility. All such rights-of-way shall be ten (15) feet wide, shall be paved and landscaped, and shall be dedicated to the Town.

15-9.5 Utilities-Leave or tweak? Why just cluster?

When utilities exist in the general area of a new subdivision, the developer will be either required or encouraged to extend those utilities, depending on the utility's type. The installation of utilities will be done to the standards set forth by the individual utility company. The developer is required to work directly with the utility company in this regard. Cluster applications shall strive to utilize Onsite Waste Water Treatment Systems whenever possible in effort to restore groundwater aquifers.

- A. **Sanitary Sewers.** Where practical, sewers shall be designed and installed in accordance with the Rules and Regulations Governing the Public Sanitary Sewer System for the Town of Burrillville, 1980 –as amended.

- B. Water Lines.** When a public water system is available, water lines shall be installed and water stops shall be provided for each lot in accordance with the Rules and Regulations of the appropriate Fire District. Water lines shall generally be located on the north or east side of the street. The developer should submit a wellhead protection plan for the Town's review if a community well is proposed.
- C. Gas Lines.** Natural gas lines may be installed in any subdivision or land development project at the discretion of the subdivider. Gas lines shall be generally located on the south or west side of the street.
- D. Communication and Electrical Lines (Electric, Telephone, Cable TV, and Fire Alarm).** All communication and electrical lines shall be installed underground.
- E. Fire Hydrants.** Fire hydrants shall be installed in all subdivisions where public water supply systems are installed. Hydrant type, location, spacing and water pressure shall meet the minimum requirements of the National Fire Protection Association and local Fire Districts.
- F. Underground Water Storage/Fire Protection.** When it is determined by the local Fire District that on-site water storage facilities are required to provide adequate fire protection, such facilities as water holding tanks shall be of the appropriate size and design as designated by the Fire District and shall be installed by the subdivider under the direction of the Fire District. A paved access to the storage facilities shall be installed for maintenance and repairs. Such access shall be in the form of a dedicated twenty-foot easement, approved by the Planning Board and Fire District.

15-9.6

Erosion and Sediment Control

Erosion and Sediment Control shall be in accordance with Chapter XIV of the Revised General Ordinances of the Town of Burrillville in the County of Providence, State of Rhode Island, 1972; updated 1988, and as further revised by the Town of Burrillville.

15-9.7

Landscaping Standards

- A. Intent.** A Landscape plan (Certified by a Registered Landscape Architect) shall be provided as part of site plan and subdivision design. It shall be conceived in a total pattern throughout the site, integrating the various elements of site design, preserving and enhancing the particular identity of the site and creating a pleasing site character. Developers are required to demonstrate Low Impact Development practices. For design guidance regarding Low Impact Development, see Appendix B LID Resources).

- B. General Requirements.** Cluster applications are required to design and utilize landscaping techniques that compliment low impact development and minimize drainage impacts such as but not limited to: swales, permeable pavers and infiltrative islands. Landscaping shall address plant materials such as trees, shrubs, ground cover, grass, flowers, etc., but may also include other materials such as wetlands, stone walls, paving materials, planters, signage, and street furniture. Areas that may be required to provide landscaping shall include, but are not necessarily limited to the following:
1. Drainage facilities, such as retention/detention basins, or drainage swales
 2. Entrance features
 3. Open space areas
 4. Proposed recreation facilities
 5. Buffer areas
 6. Lot areas that are disturbed during the construction process or where extensive grading removes a significant amount of natural vegetation
 7. Areas subject to re-grading or stabilization for soil erosion and sediment control purposes
 8. Areas disturbed by utility installation
 9. Cul-de-sac islands
- C. Maintenance.** Plantings installed by the applicant shall be maintained until the time of the release of the maintenance agreement as required by the Planning Board.

15-9.8 Drainage Systems

- A. Introduction.** The drainage system may be comprised of natural and manmade elements, including grassed swales, curbs, catch basins, culverts, and storm water pipes. The applicant is required design Low Impact Development (see Appendix B LID Resources) to minimize the use of retention and detention basins and incorporate natural elements into the drainage design whenever possible. In addition to LID, developers shall consult the Best Management Practices (BMP's) and standards of the State of Rhode Island Storm Water Design and Installation Standards Manual. The use of retention/detention ponds will only be allowed where the developer convinces the Planning Board that this is the only viable option for this development. BMP's such as grassed swales and vegetated filter strips, not only collect and transport storm water, but also mitigate pollution; reduce sedimentation; provide visual aesthetics, recreational opportunities, and potential wildlife habitat. Drainage structures shall be in conformance with the accepted State RIDOT Standards, or approved equals.
- B. Drainage Calculations and Plan.** Drainage plans and drainage calculations

shall be prepared by a State of Rhode Island Registered Professional Engineer. All applicable environmental permits must be obtained from state and federal regulatory agencies. The storm water drainage calculations, runoff rates, and system design shall be based on the application of the appropriate method as follows:

The Rational Method – This is the preferred method for pavement drainage and other small systems of three acres or less, where no wetlands, ponds, or other storage depressions are present, and where drainage is toward the point of analysis.

$$Q = C \times I \times A \text{ where: } Q = \text{Peak Discharge} \\ C = \text{Runoff Coefficient} \\ I = \text{Rainfall Intensity} \\ A = \text{Area of Watershed}$$

U.S. Soil Conservation Service (1986) revised Technical Release 55 (TR-55) – This method is preferred for calculating runoff volume, peak discharge rate, and flood storage requirements for site development on sites generally larger than three acres or when detention basins are proposed.

The drainage plan and drainage calculations shall contain the following information:

1. The proposed drainage system shall be designed to accommodate storm water such that post-construction conditions do not result in increased peak run-off from pre-construction conditions (zero net increase).
2. An estimate of the quantity of storm water surface run-off presently flowing from the land proposed to be subdivided, and that which would be generated by the proposed subdivision, calculated on the basis of the two (2), ten (15), twenty-five (25), and one-hundred (150) year frequency, 24 hour, Type III, rainfall events.
3. An estimate of the quantity of storm water run-off entering the subdivision naturally from upstream areas within the watershed under present conditions, calculated on the basis of the two (2), ten (15), twenty-five (25) and one-hundred (150) year frequency rainfall.
4. An analysis of the capability of existing watercourses, storm water culverts and other drainage facilities within the land proposed to be subdivided to handle the run-off as calculated under 1 and 2 above, and proposals to handle such surface run-off. Design criteria for drainage improvements shall conform to the State Specifications cited above may be modified by the Town of Burrillville. Culvert and storm sewers shall

be designed as follows: pipe sizing for the twenty-five (25) year frequency rainfall; cross culvert sizing for fifty (50) year frequency rainfall, one-hundred (150) year frequency in a special flood hazard zone.

5. Proposals for disposal of surface run-off, downstream from the subdivision without danger to land and improvements or to the receiving water body.
6. The drainage plan and narrative shall further indicate how the following specific requirements will be met: (i) that each lot will be adequately drained; (ii) that natural drainage patterns will be maintained whenever possible; (iii) that all existing watercourses will be left open, unless approval to enclose is granted by the Planning Board and the Rhode Island Department of Environmental Management (RIDEM); (iv) that all new open watercourses will be seeded, sodded or paved depending on grades and soil types; and, (v) that a continuous drainage system will be installed and connected to a natural or manmade water course or to an existing piped storm drainage system. The ultimate destination of such continuous drainage shall be a permanent natural body of water or wetland. Where the Planning Board Engineer determines that such ultimate destination is impractical, the Board shall require the construction of a retention or detention area capable of accommodating proposed storm water volumes based on the two (2) year, ten (15) year, twenty-five (25) year, and one-hundred (150) year frequency rainfall events.
 - a) Where any part of the drainage system is proposed for location outside the public street right-of-way, provisions for future maintenance approved by the Planning Board and Department of Public Works will be provided.
 - b) All necessary easements to off-street watercourses will be obtained by the applicant and approved by the Town Solicitor.
 - c) Where volume velocity of the surface run-off is high, the flow thereof shall be controlled by one of the following: rip-rap, sediment basins, flow spreaders, or other applicable devices and/or techniques recommended in the Rhode Island Soil Erosion and Sediment Control Handbook.

15-9.9 General Construction Standards

- A. Construction Plans.** Three (3) complete sets of all construction plans, profiles, cross-sections and other working drawings of required construction

improvements shall be submitted to the Administrative Officer and approved by the Planning Board Engineer prior to any construction. One set, with approval indicated thereon, shall be returned to the developer. In addition, a construction sequence schedule shall also be submitted to the Administrative Officer for approval by the Planning Board Engineer.

B. Notification.

1. A pre-construction meeting shall be held with the Administrative Officer at least **seven days** prior to the start of any subdivision or development improvements. The developer, or his/her representative, and the on-site project manager shall attend this meeting.
2. No step in the construction of required improvements shall commence until the Administrative Officer has been notified, in writing, at least 48 hours in advance of the beginning of that step.
3. Where construction intersects an existing road and a police detail is required, the developer shall pay for such detail and shall also pay for any public notification regarding temporary road closures or detours due to construction.

C. Inspection of Improvements

1. Each phase or step in the construction of required improvements shall be inspected on-site and approved, in writing (including date of inspection and signature of authorized inspector), by the Administrative Officer or their representative. Any stage of construction begun without written consent of the Administrative Officer shall be at the developer's risk. No subsequent phase or step shall commence until such inspection and approval has been completed. No performance guarantee shall be released unless all inspections have been made in accordance with this section. At a minimum, on-site inspections shall take place at the following stages in the construction of improvements:
 - a. During installation of all underground drainage, electrical, telephone, and cable television lines and following installation of utilities, prior to backfilling. In addition, the appropriate Fire Districts, Utility Companies, and the Burrillville Sewer Commission, as appropriate, shall conduct on-site inspections during installation of utilities.

- b. During preparation of the sub-base, backfilling and the installation of curbing or shoulders, prior to application of the base course.
- c. During spreading and compaction of the base course, prior to the application of the penetration coat.
- d. Immediately prior to and during the application and compaction of the surface course on the roadway and sidewalks.
- e. During completion of all improvements and installation of monuments.

Additional inspections may be required by Administrative Officer at such other intervals as deemed necessary to assure proper construction of improvements.

The Administrative Officer, upon proper notification, shall not impede the construction of improvements by delaying inspection and approval without just cause.

D. Record (As-Built) Drawings. Upon completion of construction of all required improvements, the developer shall furnish one (1) set of “as-built drawings” of such improvements to the Administrative Officer. As-built drawings shall contain all of the information on the final plan and set forth: the exact location of all sidewalks, streets, monuments, water, sewer and drainage pipes, other underground or aboveground utilities and all other public improvements, as installed. Such as-built drawings shall also be provided in digital format, AutoCAD Release 13 or better. Plans must include a Professional Land Surveyor certification that all systems will function as designed and constructed and that all horizontal and vertical locations are accurate based on the as-built drawings.

E. Reference for Specifications. Should any clarification be required on the construction specifications contained herein, reference is hereby made to the “Standard Specifications for Road and Bridge Construction,” published by the State Board of Rhode Island, Department of Public Works, Division of Roads and Bridges, as revised. In general, all construction shall be in conformance with the Rhode Island Department of Transportation (RIDOT), Division of Public Works, Standard Details, as revised and State of Rhode Island and Providence Plantations, Department of Transportation, Division of Public Works, Standard Specifications for Road and Bridge Construction, as revised.

- F. Testing.** The Administrative Officer may require any or all of the following tests to be conducted during the course of the project review, the cost of which shall be paid by the applicant: compaction, sieve analysis of materials, and/or wet season groundwater determination.

15-9.10 Street Construction Standards

- A. Dimensions.** All streets constructed within subdivisions and developments shall conform to the standards listed in Table 15-1 and to the cross sections shown in Figure 15-1, 15-2, 15-3, 15-4, and 15-5 unless the Planning Board modifies such requirements.
- B. Clearing and Grubbing.** The entire roadway area and sidewalks, as shown on the approved plat, shall be cleared and grubbed. All root systems, trees, stumps, bushes and other objectionable material shall be removed and transported away from the subdivision. Healthy trees within the right-of-way should be left standing and protected from construction disturbance provided they are located outside the roadway and sidewalk areas.
- C. Earth Excavation.** Earth excavation shall include, but not be limited to, the removal of clay, sand, gravel, loam, soft or disintegrated rock which can be removed without blasting, boulders of less than one cubic yard in volume (one-half cubic yard in all trenches) and other unacceptable materials within the limits of the roadway, drainage or other excavation. This item of work shall also include the backfilling of all stump holes and other surface irregularities with suitable fill materials. All excavations shall be to a depth and cross section as shown on the approved plans, profiles and cross-section drawings. All fill materials shall be approved by the Planning Board Engineer and be clean, non-hazardous material.
- D. Sub-Surface Water.** Where free water is encountered within three feet of finished grade, adequate drainage shall be constructed at a depth of at least four feet below finished grade.
- E. Utility Connections at Lot Boundaries.** All new streets shall have an undisturbed finished surface course for acceptance by the Town. All underground utilities shall be brought to the property line of each lot before the binder course is installed in order to provide for utility connections without disturbing the finished surface course. If, due to an emergency, road cuts are necessary in the surface course prior to acceptance by the Town, the Administrative Officer shall be notified within 24 hours of the cut. Cuts shall be sealed using infrared seal in accordance with the RIDOT Standards.

- F. General Construction Materials & Methods.** The applicant shall, at all times during construction, maintain the subdivision roads in passable condition and shall take appropriate measures to eliminate the creation of a dust nuisance during construction.

1. Materials:

- a.** Base Course – Bank run processed gravel meeting the following gradation requirements for gravel borrow in the referenced standard: Section M.01.02 Gradation of Aggregates Table 1 Gravel Borrow sieve sizes.
- b.** Binder Course – Bituminous concrete (hot mix). Medium Texture Type I-1 must conform to RIDOT Standard Mix, Section M.16 for Modified Binder.
- c.** Bituminous Surface Course – Bituminous Concrete (hot mix). Medium Texture Type I-1 must conform to RIDOT Standard Mix.
- d.** All materials must be of a quality acceptable to the Administrative Officer.

2. Construction Method:

- a. Preparation of Sub-base** – Install underground sewer and water lines, utilities, laterals, service lines and related facilities prior to any street construction. Thoroughly compact sub-base with a ten-ton roller, or its equivalent, true to the lines, grades, and cross-sections shown on the approved construction drawings, at least **thirty days** after filling and compaction of utility trenches. Clean the sub-base before spreading binder course.
- b. Curbs** – Hold the edge of the wearing surface to line and grade by the installation of curbs.
- c. Binder Course** - After the sub-base has been properly prepared and the curbs or shoulders set, spread the binder course for the full road width and in such volume as to provide a two-inch cross section after compaction with a ten-ton roller or the equivalent.
- d. Surface Course** – Apply as follows:

1. Sweep the binder course clean of sand and debris. Remove protrusions, and bring holes, ripples or unevenness in the surface back to true line and cross-section by the spot application of surface course mix.
2. Apply surface course at a temperature of 295 to 350 degrees Fahrenheit by means of an approved paving spreader with a compactor. Place in sufficient quantity to provide a minimum compacted cross section of two inches.
3. Compact the surface course with a ten-ton roller equipped with a sprinkler system to wet the wheels. Rolling shall be continued until all roller marks are eliminated and the minimum densities have been obtained based upon 95 percent of laboratory Marshall Densities made in proportions of the job-mix formula, method AASHTO T-254. Upon completion of the application and compaction of the surface course, allow standing for a minimum of eight hours without traffic.
4. Limit traffic passing over constructed street to wheeled vehicles; no tracked equipment is permitted once the surface course has been applied.
5. Do not install bituminous material when the soil conditions are not suitable or during other unfavorable weather conditions as may be determined by the Administrative Officer. Weather limitations for bituminous plant mix shall not be placed on any wet surface, or when air temperature is below 35 degrees Fahrenheit, or when weather conditions otherwise prevent the proper handling or finishing of the bituminous mixtures.

15-9.11 Curbs.

Street curbs on the proposed subdivisions shall be Rhode Island Standard 7.1.0, Pre-cast Concrete, unless specifically waived by the Planning Board. At street intersections, provide curb returns or shoulders with a radius of at least 25 feet. Use appropriate Rhode Island Standard curb shapes for curb transition, inlet and apron installations. Install handicapped access transition drops in curbs as directed by the Planning Board.

15-9.12 Sidewalks. Construct sidewalks, when required, in accordance with Rhode Island Standard Detail 43.1.0 "Cement Concrete Sidewalk". When conditions warrant the appropriate Rhode Island Standard Detail shall be utilized (i.e., driveway openings).

15-9.13

Drainage Structures and Facilities

- A. Earthwork and Drainage.** Construction of surface storm drainage structures and facilities are to conform to the following sections of the referenced standard, exclusive of any items therein covering methods of measurement and basis of payment:

Earthwork	Section 203, Structure Excavation and Backfill Section 204, Trimming and Fine Grading Section 205, Trench Excavation
Drainage	Section 701, Culverts and Storm Drains Section 702, Manholes, inlets, Catch Basins, and Headwalls Section 704, Paved Waterways

- B. Manholes.** Locate manholes on storm sewer trunk lines:

1. At maximum distances of 300 feet;
2. At angles in the storm drainage lines;
3. At street intersections and other points where catch basins, inlets or laterals are to be connected;
4. At points where pipe sizes change; and
5. At point where the grade of the storm drainage lines change.

- C. Minimum Cover.** Provide subsurface drainage structures and facilities within street rights-of-way, with a minimum cover of three feet. Where required minimum cover is physically impossible to achieve, the Planning Board will review for approval, an alternative proposal.

- D. Drainage Ponds.**

1. Natural elements, such as swales and vegetated filter strips, are encouraged and shall be incorporated into the drainage design in accordance with the standards of the State of Rhode Island Storm Water Design and Installation Standards Manual. However, where retention and detention ponds are deemed necessary, they shall be designed to conform to the requirements of the RIDEM. Where the requirements of the Town of Burrillville are more stringent, the design shall conform to the requirements of the Town.

2. Ponds shall be designed in such a manner as to minimize their nuisance, visual, and social impacts and to allow their successful integration into the development. In addition to drainage and construction standards, ponds, swales and their related structures will

be evaluated regarding safety, environmental, aesthetic, and social impacts. In order to achieve that goal, ponds shall meet the following criteria:

- a.** Ponds shall be graded in a naturalistic and curvilinear manner and shall be integrated into the existing contours of the site. Pond side slopes shall not exceed 5 to 1 or a 20% slope. Pond bottoms shall be flat except for minimal grade required for complete drainage in dry ponds.
- b.** The use of riprap shall be minimized. No dumped riprap will be allowed. All riprap shall be placed and shall conform strictly to RIDOT 917.03.3.
- c.** The entire area of the pond shall be planted in such a manner as to integrate the new pond into the surrounding landscape. Plantings shall include a mixture of aquatic, emergent, and upland wetland plant species. Planting plans shall be provided which indicate: genus and species, size, quantity, and method of planting. Ponds that are designed to retain water shall be planted with appropriate wetland vegetation below the normal water line. The plantings shall not be planned to obstruct views of the pond in such a manner as to create a public hazard. Planting plans will be evaluated for their use of native materials, maintenance requirements visual quality, and appropriateness for wildlife.
- d.** A detailed maintenance plan shall be provided for each pond. The plan shall address silt removal, vegetation maintenance, mowing requirements, and any other information required by the Planning Board.
- e.** Drainage ponds shall be located on private property with appropriate easements to allow Town entry for maintenance, repair and the removal of inappropriate owner improvements, as may be required. Access shall be designed and constructed in such a manner so as to provide adequate access for equipment and vehicles in all weather. The access shall be marked and planted in an appropriate manner and approved by the Administrative Officer.
- f.** When practical, several small basins would be preferred to a large, single basin.

15-9.14 Installation of Utilities. All proposed utilities shall be approved by the local regulatory agency and/or utility company. Written notice of plan acceptance must be provided.

15-9.15 Permanent Monuments. Permanent monuments shall be installed by the developer.

A. Location. Starting at every corner and angle point on the boundary line of the subdivision and at every angle point of curvature on the proposed street rights-of-way, in accordance with the approved plat. Open space and/or conservation areas that are a condition of approval must be marked with monuments as well.

B. Materials. Quarry split (peen hammered top) granite or pre-cast, reinforced concrete conforming in size and shape to the specifications below:

1. Dimensions:

a. At least 30 inches in length and 6 inches square in cross section.

b. Place and center on the top surface of the monument, a drill hole ½-inch in diameter and three-quarters of an inch deep.

C. Setting Monuments. Bounds are to be set six inches above finished grade, except in sidewalks and driveways where they shall be set flush with the finished grade. Where the monuments delineate open space areas, they should be of a length that allow them to be set 24 inches above finished grade.

15-9.16 Special Grading Provisions. Within 15 feet of adjoining properties, changes to existing grade are to be limited to slope of 2:1. Retaining structures must be provided to contain slopes that exceed the 2:1 ratio. Please refer to the Town's Erosion and Sedimentation Control Ordinance, Chapter XIII of the Revised General Ordinances of the Town of Burrillville in the County of Providence, State of Rhode Island, 1972, updated 1988, or as further amended by the Town.

15-9.17 Project Phasing. The Planning Board may allow for the construction of major land developments and subdivisions to be divided into reasonable phases. When considering a phased development, the Planning Board will require the following:

A. Master Plan Approval. Approval of the entire site design first as a master plan. Thereafter the development plans may be submitted for preliminary and/or final review and/or approval by phases.

B. Master Plan Requirements. The master plan documents must contain information on the physical limits of the phases, the schedule and sequence of public improvement installation, improvement guarantees, and the completion schedules for approvals and construction of the phases.

C. Construction. All public improvements must be completed on each phase to final bond approvals for approval to begin a subsequent phase. Each phase must be designed and constructed to stand alone as subdivision should additional phases of the project be delayed for any reason.

10-9.18. Flood Hazard Areas. The following requirements shall apply to any plat which is located wholly or partly within Zone A and Zones A1-A30 as identified on the flood insurance rate map as part of the flood insurance study which also includes the flood boundary and floodway map. Said maps and any amendments thereto are hereby made part of this section of these Regulations.

- a. The preliminary plat and final plat shall show the location of any portion of the plat which lies within any Zone A or Zones A1-A30 and the floodway and shall show the base flood elevation as prescribed for these zones at the specific location. Where the plat location is entirely within these zones, it shall be noted on the plat drawing.
- b. In grading land and installing improvements, no watercourse shall be altered in such a manner as to reduce its carrying capacity. Prior to permitting any alteration or relocation of a watercourse, the Planning Board will send notification to the neighboring communities, the Rhode Island Statewide Planning Program and the Federal Insurance Administration.
- c. All plat proposals will be reviewed by the Planning Board or its agent to assure that:
 - 1. The design of the plat is consistent with the need to minimize flood damage.
 - 2. Public improvements, facilities, and utilities are constructed or installed in manner that will minimize flood damage.
 - 3. Adequate drainage will be provided to minimize the accumulation of water.

15-10 CLUSTER SUBDIVISION

15-10.1. Purpose and Applicability. This section, entitled Cluster subdivision, is adopted pursuant to and consistent with the purposes and standards provided in Section 30-203 of the Zoning Ordinance.

15-10.2 Procedures. Applications for Cluster subdivision approval shall be made in accordance with the procedures for approval of a major or minor subdivision or land development project based on the number of lots or dwellings in the development as provided in Section 15-6 of these Regulations.

15-10.3 Design Process. The design of a Cluster subdivision shall follow the design process specified in the following steps. As a guide in designing Cluster subdivisions, applicants are encouraged to review the provisions of the Rhode Island Conservation Development Manual, RIDEM, June 2003, in the preparation of plans. The maps illustrated in this manual will provide graphic examples of what is required of applicants. When the Master Plan is submitted for major land development projects or subdivisions, or preliminary plans for minor land development projects or subdivisions, applicants shall demonstrate to the Planning Board that this design process was considered in determining the layout of proposed streets, building locations, and open space.

Step 1 - Analyze the Site

The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other and strategies for protection. This information shall be submitted in the form of an Existing Resources and Site Analysis Map, as specified in Section 15-15.15.

Step 2 - Evaluate Site Context

The second step is to evaluate the site in its larger context of the neighborhood and Town by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., street and bicycle networks), and cultural (e.g., open spaces, recreational opportunities) connections to surrounding land uses and activities. This information shall be submitted in the form of a Site Context Map, as specified in Section 15-15.5.

Step 3 - Designate Potential Conservation Areas

The third step is to identify the areas on the site to be preserved on the site as open space. The open space shall at a minimum include portions of the site that are unsuitable for development and which constitute the most sensitive and noteworthy natural, cultural and recreational resources of the site. Where appropriate, areas that serve to extend neighborhood open space networks to/from surrounding property shall be identified. The designation of open space shall reflect consistency with the Burrillville Comprehensive Plan.

Step 4 - Determine Maximum Number of Units

At the master plan stage for major subdivisions and major land development projects, and at the preliminary stage for minor subdivisions and minor land development projects, the applicant and Planning Board shall agree upon an initial number of dwelling units that will be permitted in the Cluster subdivision or subdivision, using the Yield Plan approach as described in Section 15-15.6. The number of units may be changed by the Planning Board during subsequent stages of review, as more information is provided, until the final Basic Maximum Number of Dwelling Units is determined.

Step 5 - Locate Development Areas and Explore Conceptual Alternatives

As part of the Pre-Application submission, the applicant shall show a minimum of two alternative proposed development layouts in the form of a Sketch Plan(s), or Sketch Plan Overlay Sheet(s), as described in Section 15-15.4. These alternative plans shall be substantially different. The Planning Board shall review how each alternative impacts the viability of the development plan, versus the benefits to the Town of one or another approach. This sketch plan shall be further refined for re-submission and discussion between the Board and applicant during subsequent stages of review, as an overlay to the Existing Resources and Site Analysis Map (Section 15-15.15).

Step 6 - Locate the House Sites

The sixth step is to locate building sites, using the proposed open space as a base map as well as other relevant data on the Existing Resources and Site Analysis Map. The design shall take into account the potential negative impacts of residential development on nearby conservation areas as well as the potential positive benefits of such locations to provide attractive views and visual settings for residences, with emphasis on consistency with Burrillville's rural character.

Step 7 - Lay Out Streets, Trails and Other Infrastructure

Upon designation of the building sites, a street plan shall be designed to provide vehicular access to each building, complying with the standards herein and bearing a logical relationship to topographic conditions. Detailed information regarding stormwater drainage, water supply and sewage disposal, trails, sidewalks and other infrastructure are also provided during this step.

Step 8 – Design and Program Open Space

Details regarding the use, design, ownership and management of proposed open spaces shall be developed during the review process. Starting with conceptual proposals at the early stages of review, the function of open space areas shall be developed and refined. Based on review by the Planning Board and other reviewers, these concepts shall be clarified during the review process to establish as clear an approach to the use and maintenance of open space as it does for development areas.

Step 9 - Draw in the Lot Lines

Upon completion of the preceding 8 steps, the next step is simply to draw in the lot

lines to delineate the boundaries of individual residential lots (if applicable).

Step 15 - Establish Ownership and Management of Open Space and Other Community Elements

At the time of preliminary review for major land development projects or major subdivisions, or at the time of final review for minor land development projects or minor subdivisions, a more detailed open space use and management plan as described in Section 15-15.7.A shall be submitted.

- 15-10.4 Sketch Plan Overlay Sheet.** The design process described above shall be documented by the applicant and presented to the Planning Board. To expedite this process, a conceptual sketch plan(s) for development shall be presented as overlay sheets to be superimposed on top of more detailed site surveys and environmental data (at the same scale).

At the pre-application stage of review, the initial sketch plan may be presented as an overlay to survey plans, topographic maps or aerial photographs of the parcel(s) proposed for development. As an alternative, if detailed site information and surveys are not available, a separate diagram sketch plan(s) may be presented.

At the preliminary stage of review for minor land development projects and subdivisions, and at the master plan stage of review for major land development projects and subdivisions, the sketch plan of development shall be presented as an overlay to the Existing Resources and Site Analysis Map.

- 15-10.5. Site Context Map.** A map showing the location of the proposed development within its neighborhood context shall be submitted. The Site Context Map, which may be superimposed on an aerial photograph, shall be drawn to a scale of 1"= 400' or as necessary to show the area within one half mile of the subdivision parcel. It shall show the locations of major streets and zoning district boundaries. Major features that surround the site shall also be indicated on this Map. Topography at 15-foot contour intervals (from USGS maps) shall be shown.

A separate soils map of the site and surrounding area shall be prepared, along with a general analysis of soil types and suitability for the development proposed. If present, agricultural land as defined in Section 15-4, and any very poorly drained soils shall also be shown on this map.

- 15-10.6 Basic Maximum Number of Dwelling Units.** The Basic Maximum Number of dwelling units allowed on a parcel of land proposed for development as a Cluster subdivision is defined as the maximum number of single family building lots or dwelling units that could reasonably be expected to be developed as a conventional subdivision upon that parcel under a conventional Yield Plan as defined herein. The applicant shall have the burden of proof with regard to the reasonableness and feasibility of the design and of the engineering specifications for such Yield Plan; provided, however, that the Planning Board's determination of the Basic Maximum Number shall be conclusive.

Yield Plans shall be prepared as conceptual layout plans during the Pre-application

process. Yield plans shall show proposed streets, lots, rights-of-way, land unsuitable for development and other pertinent features. The Yield Plan must be drawn to scale, and it must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of Environmental Constraints (as defined in Section 30-203 of the Zoning Ordinance), existing easements or encumbrances and the suitability of soils for subsurface sewage disposal.

The Yield Plan shall also reflect the dimensional standards for uses being proposed, as contained in the Table of Dimensional Regulations in Section 30-111 of the Zoning Ordinance, or other applicable dimensional requirement of the Zoning Ordinance. The Yield Plan must identify how conventional lots or uses could be developed having the required area, frontage and other dimensional requirements of the Zoning Ordinance. Although lots shown in the Yield Plan may contain land unsuitable for development, this area shall not be counted towards the minimum lot area as provided in the Zoning Ordinance.

On sites served by Onsite Waste Water Treatment Systems (OWWTSs), density shall be further determined by evaluating the number of dwellings or other uses that could be supported by OWWTSs on lots in a conventional subdivision. Lots or dwelling units shown on a Yield Plan shall not include dwellings proposed to be serviced by an OWWTS that requires the granting of a variance by the RI Department of Environmental Management. The Planning Board shall determine the suitability of the parcel to be developed as a conventional subdivision, based on the soils information provided by the applicant, upon observations made during a site visit to the property, and/or upon other evidence available to the Board at any time during the development review process.

Upon completion of their review, the Planning Board shall determine the initial Basic Maximum Number of lots/dwelling units permitted in a development. This initial determination shall be made at the master plan stage of review for major subdivisions and major land development projects, and at the preliminary stage of review for minor subdivisions and minor land development projects. The applicant shall use this initial determination as the basis for submission of more detailed information during subsequent stages of review. Upon further investigation and upon receipt of more detailed soils and environmental information as may be provided in subsequent stages of review, the Planning Board may increase or reduce the number of lots/dwelling units contained in the initial Basic Maximum Number.

In developments that require alterations to be made to freshwater wetlands, the Board may establish an initial Basic Maximum Number contingent upon confirmation by the RI Department of Environmental Management that such alterations are permitted under the provisions of the Freshwater Wetlands Act.

- 15-10.7 Open Space.** Every Cluster subdivision shall provide protected open space lot or lots in accordance with the standards set forth below, and in Section 30-203 of the Zoning Ordinance.

- A.** The Planning Board shall specifically authorize plans for the use, ownership, management and maintenance of all open space areas within any Cluster subdivision. Areas proposed to fulfill the minimum open space requirement within a Cluster subdivision shall not be excavated or regraded, except as permitted by the Planning Board. Disturbance to the natural contours of the land shall be minimized to the greatest extent possible. Existing natural vegetation and any significant natural or man-made features shall be preserved except as permitted by the Planning Board to create or enhance areas of landscaping, parks, recreation, conservation, forestry or wildlife habitat. These disturbances shall be specifically shown on the open space use plan.
- B.** At the time of Master Plan review by the Planning Board for major subdivisions or land development projects, or preliminary review for minor subdivisions or land development projects, the applicant shall submit a separate open space use plan containing:
1. the general location and area of all proposed open space;
 2. the general proposed use(s) of the open space;
 3. existing topography and existing ground cover of open space areas;
 4. the location and nature of any existing buildings, structures, stone walls or other unique natural and/or historic features;
 5. areas of open space from which existing vegetation will be removed or altered and areas which are proposed to be disturbed or otherwise graded, excavated or altered from their existing natural state;
 6. generalized proposals for the regrading, revegetating and/or landscaping of proposed disturbed areas;
 7. the location and nature of any proposed buildings, structures, parking areas or roadways, impervious areas recreation areas and,
 8. areas proposed to be left in their existing natural states without any disturbance.
- C.** At the time of preliminary review by the Planning Board, a more detailed management plan that specifies the use of the open space shall be submitted for review and approval, which may be combined with any required grading plans, landscaping plans, soil erosion plans or drainage plans required for preliminary approval.
- The Planning Board shall require final construction plans to show proposed open space use(s) and alterations required as a condition of final approval.
- D.** Clearing and excavation of open space areas may be permitted only for the

installation of stormwater retention or detention facilities, other drainage facilities, or for permitted utilities, park, open space, recreational, agricultural or forest management uses in accordance with a plan approved by the Planning Board.

- E. In addition, no commercial earth removal, even if permitted by the Zoning Ordinance, in the zoning district in which the development is proposed, shall be permitted within any open space areas. In approving an open space use plan, the Board may permit grading that includes removal of earth materials. The Board shall, however, clearly indicate, as a condition of preliminary approval, the approximate quantities of material and the general areas from which earth removal is authorized, and shall only authorize the minimal amount of earth removal required to grade the land for the intended purpose.

15-10.8 Open Space Design Review Standards

- A. **List of Resources to Be Conserved** - The design of open space lands in any Cluster subdivision shall reflect the standards set forth in this subsection 15-15 and, to the fullest extent possible, incorporate any of the resources listed below if they occur on the parcel (not listed in order of significance). The applicant should be consulting the Greenspace Maps for natural, cultural and recreational resources as identified in the Comprehensive Plan.
1. Stream channels, floodplains, hydric soils, swales, springs, and other freshwater wetland areas, including adjacent buffer areas that may be required to ensure their protection;
 2. Wellhead protection areas;
 3. Special aquatic sites, vernal pools and significant natural areas of species listed as endangered, threatened, or of special concern, such as those listed in the Statewide Natural Heritage Inventory;
 4. Moderate to steep slopes, particularly those adjoining watercourses and ponds, where disturbance and resulting soil erosion and sedimentation could be detrimental to water quality;
 5. Healthy woodlands, particularly those performing important ecological functions such as soil stabilization and protection of streams, wetlands, and wildlife habitats;
 6. Areas where precipitation is most likely to recharge local groundwater resources because of topographic and soil conditions affording high rates of infiltration and percolation;
 7. Hedgerows, groups of trees, location and species of large individual trees of botanic significance, specimen vegetation and other vegetation features representing the site's rural past;

8. Active agricultural uses, pastures, croplands;
9. Prime farmland soils and farmland soils of statewide importance;
15. Historic structures and archaeological sites;
11. Visually prominent topographic features such as knolls, hilltops and ridges;
12. Geologic features such as eskers or kettle holes;
13. Scenic viewsheds as seen from public roads (particularly those with historic features);
14. Existing or potential trails connecting the parcel to other locations in the Town;
15. Any other natural, cultural or recreational resources determined by the Planning Board.

B. Other Design Considerations - The configuration of proposed open space lands set aside for common use in a Cluster subdivision shall comply with the following standards:

1. They shall be free of all structures except historic buildings or structures, stone walls, and structures related to open space uses. The Planning Board may grant approval of structures and improvements required for storm drainage and privately owned and maintained water supply within the open space provided that such facilities would not be detrimental to the purpose for which the open space is proposed. Placement of Onsite Waste Water Treatment Systems (OWWTSs) within the open space shall be permitted only by the granting of a waiver by the Board, as provided in Section 15-5.15.
2. They shall be directly accessible to the largest practicable number of lots or dwellings within the development. Non-adjoining lots shall be provided with safe and convenient pedestrian access to open space land;
3. They shall be suitable for active or passive recreational uses to the extent deemed necessary by the Planning Board, without interfering with adjacent dwelling units, parking, driveways, and roads;
4. They shall be interconnected wherever possible to provide a continuous network of greenway lands within and adjoining the subdivision;
5. They shall provide buffers to adjoining parks, preserves or other protected lands;

6. They shall provide for pedestrian pathways for use by the residents of the development. Consideration shall be given to providing for public access on such trails if they are linked to other publicly accessible pathway systems within the Town or region. Provisions should be made for access to the open space lands, as required for land management and emergency purposes;
7. Whenever possible, they shall be undivided by public or private streets, except within urban settings or where necessary for proper traffic circulation;
8. They shall be suitably landscaped either by retaining existing natural cover and wooded areas and/or according to a landscaping plan to protect open space resources;
9. They shall be consistent with the Comprehensive Community Plan.

15-10.9 Streets. Streets within a Cluster subdivision may be publicly or privately owned and maintained and shall conform to the standards found in these regulations. Private streets shall be adequate for the intended use, vehicular traffic and shall be maintained by an association of unit owners or such other means or entity as may be approved by the Planning Board. Private streets shall be bonded to ensure proper construction and safety for residents.

15-10.10 Existing Resources and Site Analysis Map. All Cluster subdivisions shall be required to prepare an Existing Resources and Site Analysis Map. Provided, however that administrative subdivisions and subdivisions that create lots which are not for the purpose of present or future development shall not be required to provide such Map. The purpose of this Map is to provide the Planning Board with a comprehensive analysis of existing conditions, both on the proposed development site and within 500 feet of the site. Conditions beyond the parcel boundaries may be described on the basis of existing published data available from governmental agencies, and from aerial photographs.

The Planning Board shall review the Map to assess its accuracy, conformance with municipal ordinances, and likely impact upon the natural and cultural resources on the property. Unless otherwise specified by the Planning Board, such plans shall generally be prepared at the scale of 1" = 150' or 1" = 200', whichever would fit best on a single standard size sheet (24" x 36"). Where necessary for clarity, the Map may be submitted as a series of more than one map. The following information shall be included in this Map(s).

A. Topography and Slopes

1. Topography, the contour lines of which shall generally be at 15-foot intervals, interpolated from U.S.G.S. published maps. More detailed topographic mapping determined by photogrammetry or on-site

survey shall be required in areas proposed for development. The determination of appropriate contour intervals shall be made by the Administrative Officer, who may require greater or lesser intervals on exceptionally steep or flat sites. Slopes between 15 and 25 percent and exceeding 25 percent shall be clearly indicated by shading on the map, and the area thereof in acres shall be indicated. Topography for major subdivisions shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official U.S.G.S. benchmarks.

- 15-10.11 Decision.** The Planning Board may approve, approve with conditions, or deny an application for a Cluster subdivision upon finding that the Cluster subdivision better promotes the objectives of the Planning Board's Subdivision and Land Development Regulations than would a conventional development, and after consideration of the general requirements set forth in Section 3.1 herein, and after consideration of the purposes of Cluster subdivisions set forth in Section 30-203 of the Zoning Ordinance.

V:\PLANNING\SUBDIVISION & LAND DEVELOPMENT REGS\2019 REVISIONS\SUBDIVISION REGULATIONS-
REVISIONS (2019.01) (REPAIRED).DOC

Chapter 30 ZONING¹

ARTICLE I. IN GENERAL

Sec. 30-1. Short title.

This chapter shall be known and may be cited as the "Zoning Ordinance of the Town of Burrillville."

Sec. 30-2. Purpose.

This chapter has been developed and shall be maintained in accordance with the town's comprehensive plan prepared, adopted, and as may be amended in accordance with G.L. 1956, § 45-22.2-1 et seq., and shall be designed to address the purposes which follow. The town council recognizes these purposes, each with equal priority and numbered for reference purposes only.

- (1) Promoting the public health, safety, and general welfare.
- (2) Providing for a range of uses and intensities of use appropriate to the character of the town and reflecting current and expected future needs.
- (3) Providing for orderly growth and development which recognizes:
 - a. The goals and patterns of land use contained in the comprehensive plan of the town adopted pursuant to G.L. 1956, § 45-22.2-1 et seq.;
 - b. The natural characteristics of the land, including its suitability for use based on soil characteristics, topography, and susceptibility to surface or ground water pollution;
 - c. The values and dynamic nature of coastal and freshwater ponds, the shoreline, and freshwater and coastal wetlands;
 - d. The values of unique or valuable natural resources and features;
 - e. The availability and capacity of existing and planned public and/or private services and facilities;
 - f. The need to shape and balance urban and rural development; and

¹Editor's note(s)—Printed herein is the zoning ordinance for the Town of Burrillville, Rhode Island, as adopted by the council on December 14, 1994, effective on January 1, 1995, and previously printed as Appendix A to the 1972 Revised General Ordinances. Amendments to the original zoning ordinance are indicated by parenthetical history notes following amended provisions. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

Cross reference(s)—Buildings and building regulations, ch. 6; environment, ch. 12; land subdivision, ch. 15; planning board, ch. 17; redevelopment agency, ch. 19; streets, sidewalks and other public places, ch. 24; waterways, ch. 28.

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

g. The use of innovative development regulations and techniques.

- (4) Providing for the control, protection, and/or abatement of air, water, groundwater, and noise pollution, and soil erosion and sedimentation.
- (5) Providing for the protection of the natural, historic, cultural, and scenic character of the town or areas therein.
- (6) Providing for the preservation and promotion of agricultural production, forest, silviculture, aquaculture, timber resources, and open space.
- (7) Providing for the protection of public investment in transportation, water, stormwater management systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space, and other public requirements.
- (8) Promoting a balance of housing choices, for all income levels and groups, to assure the health, safety and welfare of all citizens and their rights to affordable, accessible, safe, and sanitary housing. Provide opportunities for the establishment of low and moderate income housing.
- (9) Promoting safety from fire, flood, and other natural or manmade disasters.
- (10) Promoting a high level of quality in design in the development of private and public facilities.
- (11) Promoting implementation of the comprehensive plan of the town adopted pursuant to G.L. 1956, § 45-22.2-1 et seq.
- (12) Providing for coordination of land uses with contiguous municipalities, other municipalities, the state, and other agencies, as appropriate, especially with regard to resources and facilities that extend beyond municipal boundaries or have a direct impact on that municipality.
- (13) Providing for efficient review of development proposals, to clarify and expedite the zoning approval process.
- (14) Providing for procedures for the administration of the zoning chapter, including, but not limited to, variances, special use permits, and, where adopted, procedures for modifications.

Sec. 30-3. Definitions.

In this chapter the following terms and words shall have the following meanings, unless a contrary meaning is specifically prescribed. Where the definitions of terms herein refer to definitions found in the Rhode Island General Laws, a synopsis of those definitions have been included here for informational purposes. The reader should be cautioned that the Rhode Island General Laws may be amended from time to time, voiding the informational materials provided here.

Words used in the present tense include the future, the singular includes the plural and the plural includes the singular. The word "used" includes "designed, intended or arranged to be used"; the word "shall" is mandatory; the word "may" [is] permissive; the word "building" includes the word "structure"; the word "lot" includes the word "plot"; the word "land" may include the words "marsh" and "water." The following terms for the purpose of this chapter are defined as follows:

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

Accessory family dwelling unit means an accessory dwelling unit for the sole use of one or more members of the family of the occupant or occupants of the principal residence, but need not have a separate means of ingress and egress.

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

Aggrieved party means an aggrieved party, for purposes of this chapter, shall be:

- (1) Any person or persons or entity or entities who can demonstrate that their property will be injured by a decision of any officer or agency responsible for administering the zoning chapter of the town; or
- (2) Anyone requiring notice pursuant to G.L. 1956, § 45-24-1 et seq., and this chapter.

Adaptive reuse means 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.

Agricultural land means agricultural land as defined in G.L. 1956, § 45-22.2-4. (i.e.: Land suitable for agriculture by reason of suitability of soil or other natural characteristics or past use for agricultural purposes. Agricultural land includes that defined as prime farmland or additional farmland of statewide importance for Rhode Island by the Soil Conservation Service of the United States Department of Agriculture.)

Airport hazard area means airport hazard area as defined in G.L. 1956, § 1-3-2. (i.e.: Any area of land or water upon which any overhead power line which interferes with radio communication between airport and aircraft approaching or leaving same, or any other structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landings or taking off at any airport or is otherwise hazardous to the landing or taking off of aircraft, [which] might be established if not prevented as provided in G.L. 1956, § 1-3-1 et seq.)

Alterations means as applied to a building or structure, means a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extension of a side or by increasing in height or by movement from one location or position to another.

Apartment house. See *Dwelling, apartment house.*

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

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

Assisted living domicile means residences for the frail elderly that provide rooms, meals, personal care and supervision of self-administered medication. They may provide other services such as recreation activities, financial services and transportation.

Billboard (or advertising structures) means any sign or advertising device not related to a use on the lot regardless of its size or dimensions.

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

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

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

Building height means the vertical distance from grade, as determined by the municipality, to the top of the highest point of the roof or structure. The distance may exclude spires, chimneys, flagpoles and the like.

Cardholder means a qualifying patient or a primary caregiver who has registered with the Rhode Island Department of Health and has been issued and possesses a valid registry identification card.

Cluster means a site planning technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space and/or preservation of environmentally, historically, culturally, or other sensitive features and/or structures. The techniques used to concentrate buildings shall be specified in the ordinance and may include, but are not limited to, reduction in lot areas, setback requirements and/or bulk requirements with the resultant open land being devoted by deed restrictions for one or more uses. Under cluster development there is no increase in the number of lots that would be permitted under conventional development except where ordinance provisions include incentive bonuses for certain types or conditions of development.

Common ownership means either (1) ownership by one or more individuals or entities in any form of ownership of two or more contiguous lots, or (2) ownership by any association (such ownership may also include a municipality) of one or more lots under specific development techniques.

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

- (1) Whenever six or fewer retarded children or adults reside in any type of residence in the community, as licensed by the state pursuant to G.L. 1956, § 40.1-24-1. All requirements pertaining to local zoning are waived for these community residences.
- (2) A group home providing care or supervision, or both, to not more than eight mentally disabled or mentally handicapped or physically handicapped persons, and licensed by the state pursuant to G.L. 1956, § 40.1-24.1-1 et seq.
- (3) A residence for children providing care or supervision, or both, to not more than eight children including those of the caregiver and licensed by the state pursuant to G.L. 1956, § 42-72.1-1 et seq.
- (4) A community transitional residence providing care or assistance, or both, to no more than six unrelated persons or no more than three families not to exceed a total of eight persons requiring temporary financial assistance and/or to persons who are victims of crimes, abuse or neglect, and who are expected to reside in such residence not less than 60 days nor more than two years. Residents will have access to and use of all common areas, including eating areas and living rooms, and will receive appropriate social services for the purpose of fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

Compassion center means a not-for-profit entity registered under G.L. 1956, § 21-28.6-12 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies or dispenses marijuana, and/or related supplies and educational materials, to patient cardholders and/or their registered caregiver cardholder or authorized purchaser (as defined in G.L. 1956, § 21-28.6-3).

Compassion center cardholder means a principal officer, board member, employee, volunteer, or agent of a compassion center who has registered with the Rhode Island Department of Health and has been issued and possesses a valid registry identification card.

Comprehensive plan means the comprehensive plan adopted and approved pursuant to G.L. 1956, § 45-22.2-1 et seq., and to which any zoning adopted pursuant to G.L. 1956, § 45-24-1 et seq., shall be in compliance.

Congregate living facility means a group of dwelling units with communal dining facilities and services, such as housekeeping, organized social and recreational activities, transportation services and other support services appropriate for the residents. It provides a semi-independent lifestyle for the elderly who may be functionally impaired or socially isolated but are otherwise in good health.

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

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

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

Development plan review means the process whereby authorized local officials review the site plans, maps and other documentation of a development to determine the compliance with the stated purposes and standards of this chapter.

District. See *Zoning use districts*.

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

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

Dwelling, apartment house means a multifamily structure with a common entry or common entryways.

Dwelling, single-family means a structure containing one dwelling unit or household and no other principal use.

Dwelling, two-family means two single dwelling units or households, each with separate entrances divided by a common party wall or floor.

Dwelling, multifamily means a residential building designed for or occupied by three households or more, with the number of families in residence not to exceed the number of dwelling units provided.

Dwelling, townhouse means an attached single-family dwelling unit having a common wall or walls with one or more other attached single-family dwelling units but having no common entryway or hallway and not having more than six units in any one structure.

Duplex. See *Dwelling, two-family*.

Electric generating facility means any generating facility designed to generate electric energy in excess of 180 megawatts ("MW") annually.

Energy storage facility means facilities that enable the storage of energy and the charging and discharging of power, with a storage capacity in excess of 80 kWh. Such facilities may include, but not be limited to, electrochemical storage batteries, battery chargers, controls, power conditioning systems, and associated electrical equipment designed to provide electrical power to a building or to a utility grid. The facility is typically used to provide standby or emergency power, an uninterruptable power supply, load shedding, load sharing or similar capabilities.

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

Family means a person or persons related by blood, marriage or other legal means. See also *Household*.

Family day care residence. See *Community residence*.

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

Floodplains or flood hazard area means as defined in G.L. 1956, § 45-22.2-4. (i.e.: An area that has a one percent or greater chance of inundation in any given year, as delineated by the Federal Emergency Management Agency pursuant to the National Flood Insurance Act of 1968, as amended.)

Groundwater means groundwater and associated terms as defined in G.L. 1956, § 46-13.1-3. (i.e.: Water found underground which completely fills the open spaces between particles of sand, gravel, clay, silt and consolidated rock fractures. The zone of materials filled with groundwater is called the "zone of saturation.")

Group home. See *Community residence*.

Halfway houses means a residential facility for adults or children who have been institutionalized for criminal conduct and who require a group setting to facilitate the transition to a functional member of society.

Hardship. See G.L. 1956, § 45-24-41, or section 30-34(d) of this chapter. (i.e.: Characteristics which are unique to a particular piece of land but not the surrounding area, not having to do with the physical or economic disability of an individual, and which are not the result of any prior action of the applicant, nor lay primarily in the desire of an individual to realize greater financial gain. In the instance of dimensional variance, a hardship shall amount to more than a mere inconvenience.)

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

- (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- (2) Pose a significant present or potential hazard to human health or to the environment, if such substance or mixture were discharged to the land or water within the Town of Burrillville.

Such wastes or materials include, but are not limited to, those which are toxic, corrosive, flammable, irritants, strong sensitizers, substances which are assimilated or concentrated in and are detrimental to tissue, or which generate pressure through decomposition or chemical reaction, including without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all similar substances designated by federal, state and local regulation, law, bylaw and code.

Hazardous waste disposal facility means real or personal property acquired, constructed, operated or permitted to be used for the disposal of hazardous waste.

Historic district or historic site means as defined in G.L. 1956, § 45-22.2-4. (i.e.: Any real property, manmade structure, natural object, or configuration or any portion or group of the foregoing which has been registered, or is deemed eligible to be included, on the state register of historic places.)

Home occupation means any activity customarily carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit.

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

- (1) A family, which may also include servants and employees living with the family.
- (2) A person or group of unrelated persons living together. The maximum number of persons shall not exceed two persons per bedroom, but in any case shall not be less [sic] than three.

Household pet(s) means animals customarily maintained in homes as household pets.

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

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

Land development project means a project in which one or more lots, tracts, or parcels of land are to be developed or redeveloped as a coordinated site for a complex of uses, units, or structures, including but not limited to: planned development and/or cluster development for residential, commercial, institutional, recreational, open space, and/or mixed uses as may be provided for in the zoning chapter.

Lot means either (1) the basic development unit for determination of lot area, depth, and other dimensional regulations, or (2) a parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

Lot area means the total area within the boundaries of a lot, excluding any street rights-of-way, usually reported in acres or square feet.

Lot building coverage means that portion of the lot that is or may be covered by buildings and accessory buildings.

Lot, corner means a lot at the junction of and fronting on two or more intersecting streets. (See section 30-115.)

Lot depth means the distance measured from the front lot line to the rear lot line. For lots where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

Lot frontage means that portion of a lot abutting a street. For the purposes of dimensional regulations, lot frontage shall be the uninterrupted distance between side lot lines, not counting abrupt jogs not running with the direction of travel of the adjacent street. In the case of a corner lot, frontage shall be measured along either street line from the side lot line to the point of intersection of the abutting street line.

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

- (1) *Front.* The lot line separating a lot from a street right-of-way.
- (2) *Rear.* The lot line opposite and most distant from the front lot line, or in the case of triangular or otherwise irregularly shaped lots, an assumed line at least ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.
- (3) *Side.* Any lot line other than a front or rear lot line.

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

Lot width means the horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum front setback line.

Main use. See *Principal use*.

Marijuana testing provider means any entity that, under state law, may perform independent testing of marijuana or marijuana products, medical or otherwise.

Mere inconvenience. See G.L. 1956, § 45-24-41, or section 30-34(d) of this chapter. (I.e., a situation where there may be other reasonable alternatives allowing a legally permitted beneficial use of one's property.)

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

Mixed use building means a commercial building containing in addition to a commercial use or space one or more dwelling units. Each dwelling unit shall contain a minimum of 600 square feet of space.

Modification means permission granted and administered by the zoning enforcement officer of the town, and pursuant to the provisions of this chapter contained herein to grant a dimensional variance other than lot area requirements from the zoning chapter to a limited degree as ~~set forth in Sec. 30-33~~*determined by the zoning chapter of the town, but not to exceed 25 percent of each of the applicable dimensional requirements.*

Mobile home/trailer means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities.

Multifamily dwelling. See *Dwelling, multifamily*.

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

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

Non-residential cooperative means two or more cardholders who cooperatively cultivate marijuana in non-residential locations subject to the restrictions set forth in G.L. 1956, § 21-28.6-14 and this chapter.

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

Patient cultivation means marijuana cultivation by a single registered patient cardholder for medical use only, as defined in G.L. 1956, § 21-28.6.

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

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

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

Preapplication conference means a review meeting of a proposed development held between applicants and reviewing agencies as permitted by law and municipal ordinance, before formal submission of an application for a permit or for development approval.

Primary caregiver means a natural person who is at least 21 years old. A primary caregiver may assist no more than five qualifying patients with their medical use of marijuana as set forth in G.L. 1956, § 21-28.6.

Primary caregiver cultivation means marijuana cultivation for medical use by a registered patient cardholder, as defined by G.L. 1956, § 21-28.6.

Principal use means the main or primary purpose for which a building, other structure and/or lot is designed, arranged or intended, or for which they may be used, occupied or maintained.

Residential cooperative means two or more cardholders who cooperatively cultivate marijuana in residential locations subject to the restrictions set forth in G.L. 1956, § 21-28.6-14 and this chapter.

A *residential treatment facility* shall not include the following uses: nursing home, residential care or assisted living facility for the elderly or infirm, hospital, halfway house, community residence.

Service station or filling station means a building or premises or portion thereof, arranged, intended or designed to be used for the sale of gasoline or other motor vehicle, airplane or motorboat fuel, oils, and accessories for the use of motor vehicles and the rendering of services such as lubrication, washing, [and] minor repairs with hand tools where such services [or] facilities are incidental to such principal filling station uses, but not including body or fender work or major repairs.

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

Single-family attached dwelling. See *Dwelling, townhouse*.

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

Solid waste means any waste not covered in the definition of hazardous waste.

Solid waste disposal facility means real or personal property acquired, constructed or operated for the purpose of the disposal of solid waste.

Special use means a regulated use which is permitted pursuant to a special use permit issued by the authorized governmental entity, pursuant to G.L. 1956, § 45-24-42, or section 30-34(d) of this chapter. Formerly referred to as a special exception.

Street means includes streets, avenues, highways, boulevards, parkways, roads, lanes, alleys and other public ways.

- (1) An accepted street is a street accepted by the Town of Burrillville and listed in this Code.
- (2) An improved street is a street which has been graveled and brought to grade and which is serviced by telephone and electricity.

Structure means a combination of materials to form a construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water.

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

Townhouses. See *Dwelling, townhouse*.

Travel trailer or motor home means any vehicle or similar portable structure designed and constructed so as to permit the occupancy thereof as a temporary dwelling by one or more persons and so designated and constructed that it is or may be mounted on wheels and used as conveyance on a street or highway, propelled or drawn by its own or other motive power.

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

Variance means permission to depart from the literal requirements of 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 categories of variance, a use variance or a dimensional variance.

- (1) *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 chapter.

- (2) *Dimensional variance.* ~~Permission to depart from the dimensional requirements of a [the] zoning ordinance under the applicable standards set forth in § 45-24-41. Permission to depart from the dimensional requirements of a zoning ordinance, there [where] the applicant for the requested relief has shown, by evidence upon the record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use of the subject property unless granted the requested relief from the dimensional regulations. However, 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.~~

Waters means as defined in G.L. 1956, § 45-12-1(b). (i.e.: All surface waters including all waters of the territorial sea, tidewaters, all inland waters of any river, stream, brook, pond, or lake, and wetlands.)

Wetland, freshwater means as defined in G.L. 1956, § 2-1-20. (i.e.: Marshes; swamps; bogs; ponds; rivers; river and stream floodplains and banks; areas subject to flooding or storm flowage; emergent and submergent plant [plant] communities in any body of fresh water including rivers and streams and that area of land within 50 feet of the edge of any bog, marsh, swamp or pond.)

Yard means an open space on the same lot with a principal building or structure, unoccupied and unobstructed.

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

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

Yard, side means a required yard extending from the rear of the required front yard to the front of the rear yard.

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

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

Zoning ordinance means an ordinance enacted by the town council pursuant to G.L. 1956, § 45-24-1 et seq., and in the manner providing for the adoption of ordinances in the town's Charter, which sets forth regulations and standards relating to the nature and extent of uses of land and structures, which is consistent with the comprehensive plan of the town as defined in G.L. 1956, § 45-22.2-1 et seq., which includes a zoning map, and which complies with the provisions of G.L. 1956, § 45-24-1 et seq.

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

(Ord. of 2-11-1998; Ord. of 4-12-2000; Ord. of 4-26-2000; Ord. of 6-13-2001; Ord. of 12-13-2017 ; Ord. of 2-12-2020(1))

State law reference(s)—Zoning definitions, G.L. 1956, § 45-24-31.

Secs. 30-4—30-30. Reserved.

ARTICLE II. ADMINISTRATION AND PROCEDURES

Sec. 30-31. Zoning districts and zoning map.

(a) *Districts generally.*

- (1) For the purpose of this chapter, the town is divided into ten zoning districts and four overlay districts designated as follows:

F-5	Farming/Residential
F-2	Farming/Residential
R-40	Suburban Residential
R-20	Suburban Residential
R-12	Village Residential
OS	Open Space (state land)
VC	Village Commercial (formerly C-1)
GC	General Commercial (formerly C-2)
LI	Limited Industrial (formerly M-1)
GI	General Industrial (formerly M-2)
A-80	Aquifer Overlay/Groundwater Protection
A-100	Aquifer Overlay/Groundwater Protection
A-120	Aquifer Overlay/Groundwater Protection
DMD	Development Management District Overlay Zone

- (2) The farming districts, F-5 and F-2, are intended to preserve the town's rural heritage and landscape by providing large, broad lots on which the raising of animals and crops may be done with minimal impact on neighboring properties.
- (3) The suburban residential districts, R-40 and R-20, are intended to provide for modern residential development via both standard and cluster subdivision in areas not serviced by public water and sewers.
- (4) The village residential district is intended to provide a variety of residential types including single-family, two-family and multifamily development in a form and style in keeping with existing village architecture.
- (5) The village commercial district is intended to reinforce the existing mix or texture of the older mill villages in Burrillville. It is seen primarily as being made up of a variety of businesses, predominantly in the service sector, occupying small buildings or with small floor areas. Parking will generally be limited in accordance with regulations set forth under section 30-156, Off-street parking and loading, subsections (a)(2) and (a)(3), as per the discretion of the site plan review process as directed by the planning board.
- (6) The general commercial district is envisioned as a broader mix of uses, though still heavy in services and still predominately in small buildings or occupying small spaces. In this district, there will be a heavier reliance on on-site parking; however, where general commercial districts coincide with existing village development, on-street parking will still be allowed for businesses in older buildings.
- (7) The limited industrial district is intended as a business incubator district with a variety of small light industrial uses. Traffic, both due to trucking and employees, is minor. It is expected that successful, growing businesses will outgrow this district and move to a general industrial location.

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- (8) The general industrial district is intended to be a modern, light industrial area with well-landscaped buildings on relatively large lots. The amount of traffic generated, both by employees and from trucks servicing the industry, will be substantial.
 - (9) For the purposes of consistency with the town's comprehensive plan, agricultural-residential districts are low density, suburban-residential districts are medium density and the village-residential district is high density.
 - (b) *Construction of this chapter.* In the instance of uncertainty in the construction or application of any section of this chapter, the chapter shall be construed in a manner that will further the implementation of, and not be contrary to, the goals and policies and applicable elements of the comprehensive plan.
 - (c) *Custodian of zoning ordinance and map.* The boundaries of the above districts are hereby established as shown on a map titled "Burrillville Zoning Map" as amended, filed at the office of the town clerk of the Town of Burrillville. Said map is hereby declared to be a part of this chapter.

The town clerk shall be the custodian of the zoning chapter and the zoning map(s). The planning department shall maintain and from time to time update, in conformance with approved amendments, the text and/or map(s) which comprise the zoning chapter.

Amendments which affect the zoning map shall be depicted on the official map within 90 days of enactment. The planning board shall review the zoning chapter and zoning map at intervals and, whenever changes are made to the town's comprehensive plan, they shall identify any necessary changes and forward them to the town council as provided under amendment procedures.

- (d) *Lots divided by a zoning district boundary.* Where a lot is divided by a zoning district boundary, the regulation for the zoning district for the use intended shall apply, except that no district shall, in effect, be extended more than 30 feet into an adjoining district, or beyond a lot line, whichever is less.

(Res. of 9-24-2003; Ord. of 9-14-2005(2); Ord. of 5-27-2009)

Sec. 30-32. Enforcement.

- (a) *Zoning enforcement officer.* The building official is hereby designated as the zoning enforcement officer. The zoning enforcement officer shall enforce the provisions of this chapter. In addition, all records of the zoning board of review shall be filed in the office of the zoning enforcement officer.
- (b) *Zoning certificate.*
 - (1) No building, structure or sign shall hereafter be erected, enlarged, relocated or maintained and no nonstructural use shall be initiated until the zoning enforcement officer has certified, in writing, that the proposed use, structure or sign conforms to the provision of this chapter. The zoning enforcement officer may require that copies of plans, specifications and such other information including "as-built" plans, which he or she may deem necessary, be filed with the application for such certificate.
 - (2) The zoning enforcement officer shall, upon written request, issue a zoning certificate, or deny such certificate, to the requesting party within 15 days of the written request.
 - (3) No certificate may be issued by the zoning enforcement officer for any use not specifically permitted in this chapter except when the officer receives a statement, in writing, from the zoning board of review indicating the granting of an appeal, a special use permit or variance or a statement, in writing, from the town council specifying an amendment to this chapter.
- (c) *Violation.* Any person, group of persons, or corporation violating any provision of this chapter or any terms or conditions attached to the granting of a special use permit or variance shall be guilty of a violation of this chapter and may be fined not more than \$500.00 for each offense. Each day of the existence of a violation

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shall constitute a separate offense. Immediately upon notification of any violation by the zoning enforcement officer, the town solicitor shall institute appropriate action to prevent, enjoin or remove such violation.

- (d) *Written response required.* In order to provide guidance or clarification, the zoning enforcement officer shall, upon written request, provide information to the requesting party in writing as to the determination of compliance with the zoning chapter by the official within 15 days of the written request. In the event that no written response is provided within that time, the requesting party shall have the right to appeal to the zoning board of review for the determination.

(Ord. of 5-27-2009)

State law reference(s)—Administration and enforcement of zoning ordinance, G.L 1956, § 45-24-31; violations and penalties, G.L. 1956, § 45-24-60.

Sec. 30-33. Modifications.

- (a) *Modifications allowed.* This chapter does hereby provide for the issuance of modifications or adjustments from the literal dimensional requirements of the zoning chapter in the instance of the construction, alteration, or structural modification of a structure. The zoning enforcement officer is hereby authorized to grant modification permits.

- (b) *Limitations.* The grant of any modification permit shall be subject to the following limitations and procedural requirements:

- (1) The maximum percent allowed for a modification shall not exceed ~~ten~~ fifteen (15) percent, of any of the dimensional requirements specified in the zoning chapter.

~~(2) —Reserved.~~

~~(3) —Only the yard setback requirements of this chapter shall be subject to modification under this section.~~

- (c) *Mandatory determinations.* Within ten days of 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 requested is reasonably necessary for the full enjoyment of the permitted use;
- (2) If the modification is granted, neighboring property will neither be substantially injured nor its appropriate use substantially impaired;
- (3) The modification requested does not require a variance of a flood hazard requirement, unless the building is built in accordance with applicable regulations~~is in harmony with the purposes and intent of the comprehensive plan and zoning chapter of the town~~; and
- (4) The modification requested does not violate any rules or regulations with respect to freshwater or coastal wetlands~~require a variance of a flood hazard requirement~~.

- (d) *Notification of abutters.* Upon an affirmative determination, in the case of a modification of five percent (5%) or less, the zoning enforcement officer shall have the authority to issue a permit approving the modification, without any public notice requirements. In the case of a modification of greater than five percent (5%) of the four criteria above, the zoning enforcement officer shall notify, by ~~registered or certified~~ first-class mail, all property owners abutting the property which is the subject of the modification request, and shall indicate the street address of the subject property in the notice, and shall publish in a newspaper of ~~general~~ local circulation within the ~~city or town~~ that the modification will be granted unless written objection is received within ~~30~~ fourteen (14) days of the public notice.

- (e) *Objections.* If written objection is received within ~~fourteen (14) 30~~ days, the request for a modification shall be ~~scheduled for the next available hearing before the zoning board of review on application for a dimensional variance denied. In that case the changes requested will be considered a request for a variance and may only be issued by the zoning board of review~~ following the standard procedures for ~~such~~ variances, ~~including notice requirements provided for under this chapter.~~ If no written objections are received within ~~fourteen (14) 30~~ days, and the request complies with the four mandatory determinations above, the zoning enforcement officer shall grant the modification. The zoning enforcement officer may apply such special conditions to the permit as may, in the opinion of the officer, be required to conform to the intent and purposes of the zoning chapter. The zoning enforcement officer shall keep public records of all requests for modifications, and of findings, determinations, special conditions, and any objections received.
- (f) *Costs.* Costs of ~~newspaper and mailing notices~~ ~~any notice~~ required under this subsection shall be borne by the applicant requesting the modification.

(Ord. of 5-27-2009)

State law reference(s)—Modifications, G.L. 1956, § 45-24-46.

Sec. 30-34. Zoning board of review.

- (a) *Creation.* A zoning board of review, hereinafter called the board, is hereby created. The board shall have a membership, organization and powers as provided below.
- (1) *Membership.* The board shall be appointed by the town council and shall consist of five regular members and two alternate members. Each regular member shall be appointed for a term of five years; the original appointments shall be made for terms of one, two, three, four and five years, respectively. The alternate members shall be appointed for a term of one year. If a vacancy occurs in the board, the town council shall appoint a new member for the unexpired term. All members of the board shall be legal residents of the town and no member shall be an elected official or salaried employee of the town.
- The alternate members shall be designated as the first and second alternate members. These alternates shall sit and may actively participate in hearings. The first alternate shall vote if a member of the board is unable to serve at a hearing and the second shall vote if two members of the board are unable to serve at a hearing.
- (2) *Establishment of rules.* The board shall establish written rules of procedure, minimum submission requirements and designate the building inspection office as the address to which appeals and/or correspondence to the board shall be mailed. All records of the board shall be filed with the zoning enforcement officer in the building department.
- (3) *Engaging services or experts.* The board may designate a secretary and engage the services of a recorder and such other technical services or assistance it deems necessary to carry out its responsibilities subject to the provisions of the town charter and ordinances.
- (4) *Organization.* Once each year, the board shall organize by electing from its membership a chair, a vice-chair and a secretary. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chair, or in his/her absence the vice-chair, may administer oaths and compel the attendance of witnesses and the submission of data by the issuance of subpoenas.
- a. All meetings of the board shall be open to the public;
- b. ~~Five~~ ~~A minimum of four~~ active members, ~~which may include alternates,~~ shall be necessary to conduct a hearing. As soon as a conflict occurs for a member, that member shall recuse himself

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or herself and shall not sit as an active member, nor take part in the conduct of the hearing. ~~Only~~
A maximum of five active members shall be entitled to vote on any issue;

- c. The concurring vote of ~~three-a majority~~ of the ~~five~~ members of the zoning board of review sitting at a hearing shall be necessary to reverse any order, requirement, decision, or determination of any administrative officer or agency from whom an appeal was taken;
- d. The concurring vote of ~~four-a majority~~ of the ~~five~~ 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 this chapter, including variances and special use permits.

(b) *General powers.* The board shall have all of the powers specified in G.L. 1956, § 45-24-57, as specified below:

- (1) To hear and decide appeals in a timely fashion where it is alleged there is error in any order, requirement, decision, or determination made by an administrative officer or agency in the enforcement or interpretation of this chapter, or of any ordinance adopted pursuant hereto;
- (2) To authorize, upon application, in specific cases of hardship, variances in the application of the terms of the zoning chapter, pursuant to subsection (d) of this section;
- (3) To authorize, upon application, in specific cases, special use permits, pursuant to subsection (e) of this section;
- (4) To refer matters to the planning board or commission, or to other boards or agencies of the town as the zoning board of review may deem appropriate, for findings and recommendations;
- (5) To provide for issuance of conditional zoning approvals where a proposed application would otherwise be approved except that one or more state or federal agency approvals which are necessary are pending. A conditional zoning approval shall be revoked in the instance where any necessary state or federal agency approvals are not received within a specified time period; and
- (6) To hear and decide appeals from a party aggrieved by a decision of an historic district commission, pursuant to G.L. 1956, § 45-24.1-7.1, and G.L. 1956, § 45-24.1-7.2;
- (7) To hear and decide appeals where the zoning board of review is appointed as the board of appeals for airport zoning regulations pursuant to G.L. 1956, § 1-3-19;
- (8) To hear and decide other matters, according to the terms of this chapter or other statutes, and upon which the board may be authorized to pass under this chapter or other statutes.

(c) *Appeals.* An appeal to the zoning board of review from a decision of any other zoning enforcement agency or officer may be taken by an aggrieved party. The appeal shall be taken within a reasonable time of the date of the recording of the decision by the zoning enforcement officer or agency by filing with the officer or agency from whom the appeal is taken and with the zoning board of review a notice of appeal specifying the ground thereof. The officer or agency from whom the appeal is taken shall forthwith transmit to the zoning board of review all the papers constituting the record upon which the action appealed from was taken. Notice of the appeal shall also be transmitted to the planning board or commission.

(d) *Variances.*

- (1) An application for relief from the literal requirements of this zoning chapter, because of hardship, may be made by any person, group, agency, or corporation by filing with the zoning enforcement officer. Such application must describe the relief request and be supported by such data and evidence as may be required by the zoning board of review or by the terms of this chapter. The zoning enforcement officer shall immediately transmit each such application received to the zoning board of review and shall transmit a copy of each application to the planning board.

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- (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 chapter, may request that the planning board and/or staff submit an advisory report or supplemental data. If so requested 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 said zoning board of review within 30 days of receipt of the application from that board.
- (3) The zoning board 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 thereof at least 14 days prior to the date of the hearing in a newspaper of ~~general~~ local circulation. Notice of hearing shall be sent by first class mail to the applicant, and to at least all those who would require notice under G.L. 1956, § 45-24-53, or subsection 30-35(c) of this chapter. The notice shall also include the street address of the subject property and utility pole numbers of poles along the property. In addition, a sign shall be posted on the subject property stating that an application has been made for a variance. Said sign shall be 24 inches on a side and shall contain the word "variance" in letters two inches tall. The posting shall be for information purposes only and shall not constitute required notice of a public hearing. At least fourteen (14) days prior to the hearing, the same notice shall be posted in the town clerk's office and one other municipal building in the town and the town shall make the notice accessible on the home page of its website. For any notice sent by first-class mail, the sender of the notice shall submit a notarized affidavit to attest to such mailing. The cost of newspaper and mailing notification shall be borne by the applicant.
- (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). 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 [INSERT LOCAL SECTION REFERENCE] and RIGL §45-23-50.1(c).
- (45) In granting a variance, the zoning board of review, or the planning board under unified development review as appropriate, shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:
- 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;
 - That the hardship is not the result of any prior action of the applicant or owner ~~and does not result primarily from the desire of the applicant to realize greater financial gain; and~~
 - 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 chapter or the comprehensive plan upon which this chapter is based; ~~and,~~
 - ~~That the relief to be granted is the least relief necessary.~~
- (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:
- 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 chapter. Any 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 that was suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief. The zoning board of review, or the planning board in unified development review, may grant dimensional variances where the use is permitted by special use permit.

~~f. The zoning board shall set down a record of findings [of] fact and shall make its decision in writing. No decision shall be final until it is filed in the zoning enforcement office. All decisions shall be recorded in the land evidence records of the town.~~

~~g. A variance from the provisions of this chapter shall expire 12 months from the date of approval by the board, unless the applicant who has been granted relief obtains a building permit and is actively engaged in the project's construction, or in case of "use variance" has actually put the subject property to said use.~~

(e) *Special use permit.* The zoning board of review may only issue special use permits subject to the following terms and conditions.

- (1) An application for a special use permit may be made by filing an application with the zoning enforcement officer for those uses specified in section 30-71 of this chapter as requiring such special use permit. Said application will contain a description of the property involved, the applicant's interest in the property and such other information as required under the specific section describing the special use (see article VI).

The zoning board shall evaluate the request in accordance with criteria and general standards set forth herein for a special use permit in addition to any other criteria and standards enumerated in this chapter which may be applicable to the relief being sought, and in accordance with the intent and purposes of the town's comprehensive plan and this chapter. They may require any special conditions, as described below, which they deem in the interests of the town and its citizens.

- (2) The zoning board shall hold a public hearing on any application for a special use permit, after receipt, in proper form, of an application and shall give public notice thereof at least 14 days prior to the date of hearing in a newspaper of general local circulation in Burrillville. Notice of hearing shall be sent first-class mail to the applicant and to all of those who would be required [to be sent] notice under G.L. 1956, § 45-24-53, or subsection 30-35(c) of this chapter. The notice shall also include the street address of the subject property and utility pole numbers of poles along the property. In addition, a sign shall be posted on the subject property stating that an application has been made for a special use permit. Said sign shall be 24 inches on a side and shall contain the word "special use permit" in letters two inches tall. The posting shall be for information purposes only and shall not constitute required notice of a public hearing.
- (3) The zoning board shall set down a record of findings of fact and shall make its decision in writing. No decision shall be final until it is filed in the zoning enforcement office. All decisions shall be recorded in the land evidence records of the town.
- (4) A use requiring a special use permit under the applicable provisions of this chapter may be permitted by the zoning board of review following a public hearing only if, in the opinion of the board, such proposed use and its location on the site meets each of the following requirements, in addition to any other applicable requirements, criteria and/or standards enumerated in this chapter which may be applicable to the relief being sought. The granting of the special use permit will not alter the general character of the surrounding area or impair the intent or purposes of this chapter or the comprehensive plan of the town. In so doing, the board shall consider, where applicable, the following:

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- a. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - b. Off-street parking and loading areas where required.
 - c. Required yard setbacks and other open spaces.
 - d. Utilities with reference to location, availability, and compatibility.
 - e. Screening and buffering with reference to type, dimensions, and character.
 - f. Signs, if any, and proposed exterior lighting with reference to glare and traffic safety.
 - g. General compatibility, the pertinent traffic, economic, noise, glare or odor effects of the special use permit on adjoining properties and properties generally in the district.
 - h. Protection of sensitive features.
 - i. The use will not result in or create conditions that will exceed any applicable performance standards in this ordinance.

When a use is permitted by special use permit, the zoning board may grant dimensional relief in conjunction with said special use permit if the special use could not exist without the dimensional variance. The zoning board of review shall consider the special use permit and the dimensional variance together to determine if granting the special use is appropriate based on both the special use criteria and the dimensional variance evidentiary standards.

(5) Any proposed land use that is not specifically listed in section 30-71 may be presented by the applicant 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. Upon such determination, the proposed use may be considered to be a use requiring a special use permit.

- (f) *Special conditions.* In granting a variance, a special use permit or in making any determination upon which it is required to pass after a public hearing under a zoning ordinance, the zoning board of review or other zoning enforcement agency may apply such special conditions that may, in the opinion of the board or agency, be required to promote the intent and purposes of the comprehensive plan and the zoning chapter of the town. Failure to abide by any special conditions attached to a grant shall constitute a zoning violation. Those special conditions shall be based on competent credible evidence on the record, be incorporated into the decision, and may include, but are not limited to, provisions for:
 - (1) Minimizing adverse impact of the development upon other land, including the type, intensity, design, and performance of activities;
 - (2) Controlling the sequence of development, including when it must be commenced and completed;
 - (3) Controlling the duration of use or development and the time within which any temporary structure must be removed;
 - (4) Assuring satisfactory installation and maintenance of required public improvements;
 - (5) Designating the exact location and nature of development; and
 - (6) Establishing detailed records by submission of drawings, maps, plats, or specifications.
- (g) *Procedures for appeals, special use permits or variances.*
 - (1) An application for an appeal, a special use permit or variance shall be filed directly with the zoning officer specifying the grounds for the application.

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- (2) In filing for an appeal, variance or special use permit, the applicant shall file all plans, documents and specifications necessary to support the request in a format as may be required by the board's rules.
 - (3) In addition, the applicant shall accompany the request with a plan showing property owners along with a list thereof, including names and addresses of all parties requiring notice pursuant to G.L. 1956, § 45-24-41, or G.L. 1956, § 45-24-42, and subsection 30-35(a)(4) of this chapter.
 - (4) A filing fee, payable to the town, shall be submitted with and be a part of the application from which a recorder (device or person) shall be hired.
 - (5) The applicant for appeal, variance or special use permit shall pay the cost of all legal advertising and mailing associated with the said action in excess of the fee prior to the hearing and made payable to the town.
 - (6) The board shall fix a reasonable time for the hearing of an appeal or an application for a special use permit or variance.
 - a. It shall publish notice of the hearing at least two weeks prior to the date of such hearing in a newspaper of ~~general~~local circulation in the town, and shall give notice to the planning board.
 - b. In addition, notice shall be sent by first class mail to the applicant and to all persons owning real property described in subsection (3) above.
 - (7) The board shall render a decision on the application within 30 days of said hearing. Any party may appear at the hearing in person, by agent, or by attorney.
 - (8) An aggrieved party may appeal a decision of the zoning board of review to the superior court for Providence County by filing a complaint setting forth the reasons of appeal within 20 days after the decision has been recorded and posted in the office of town clerk. The decision shall be posted in a location visible to the public in the town hall for a period of 20 days following the recording of the decision.
 - (9) No variance, special use permit or appeal shall become effective until it is recorded in the land evidence office of the town hall.
 - (10) Any person or persons jointly or severally aggrieved by any decision of the board, or any officer, department, board or bureau of the town, may appeal to the superior court, setting forth that such decision is illegal in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 20 days after the filing of the decision in the office of the board.

(Ord. of 4-12-2000; Ord. of 4-26-2000; Ord. of 5-28-2003(1); Ord. of 5-27-2009)

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

Sec. 30-35. Amendments.

- (a) *Application for amendment.* This zoning chapter may be amended by application to the town council, filed at the office of the town clerk, by any person desiring such amendment.
 - (1) Such application shall include the specific language to be added, deleted or modified or, in the case of a zoning district change, shall include a map detailing the area subject to the requested amendment.

Such application shall be accompanied by a filing fee, payable to the town, from which a recorder (device or person) shall be hired. The applicant shall pay the cost of all legal advertising and mailing associated with the action in excess of the fee prior to the hearing. No public hearing shall be held and no action shall be taken on a request for amendment until all fees and costs have been paid.

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- (2) The town clerk, upon filing of an application for an adoption, an amendment, or repeal of a zoning ordinance or zoning map or maps, shall immediately upon receipt of the proposal refer the proposal to the town council and to the planning board for study and recommendation. The planning board shall, in turn, notify and seek the advice of the town planning department, and shall report to the town council within 45 days after receipt of the proposal, giving its findings and recommendations as prescribed below. Where a proposal for adoption, amendment, or repeal of a zoning ordinance or zoning map is made by the town planning board, the requirements for study by the board may be waived, provided that the proposal by the planning board includes its findings and recommendations.
- (3) The town council shall hold a public hearing within 65 days of receipt of a proposal, giving proper notice as prescribed below, at which hearing opportunity shall be given to all persons interested to be heard upon the matter of the proposed ordinance.
- (4) Town council shall give notice of the public hearing by publication of notice in a newspaper of ~~general~~ local circulation within the town at least once each week for three successive weeks prior to the date of the hearing, which may include the week in which the hearing is to be held. Written notice, ~~which may be a copy of the newspaper 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 (b)—(e) of this section, at least two weeks prior to the hearing.
- a. At least fourteen (14) days prior to the hearing, the same notice shall be posted in the town clerk's office and one other municipal building in the town and the town shall make the notice accessible on the home page of its website. The notice ~~The newspaper notice shall be published as a display advertisement, using a type size at least as large as the normal type size used by the newspaper in its news articles, and shall:~~
1. Specify the place of the hearing and the date and time of its commencement;
 2. Indicate that adoption, amendment, or repeal of a 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.
- b. Where a proposed general amendment to an existing zoning ordinance includes changes in an existing zoning map, public notice shall be given as required by subsection (a) of this section.
- c. Where a proposed amendment to an existing ordinance includes a specific change in a zoning district map, but does not affect districts generally, public notice shall be given as required by subsection (a) of this section, with the additional requirements that:
1. Notice shall include a map showing the existing and proposed boundaries, zoning district boundaries, and existing streets and roads and their names, and city and town boundaries where appropriate; and
 2. 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 200 feet of the perimeter of the area proposed for change, whether within the town or within an adjacent town. The notice shall be sent by ~~registered or certified~~ first-class mail to the last known address of the owners, as shown on the current

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real estate tax assessment records of the town in which the property is located; provided, for any notice sent by first-class mail, the sender of the notice shall submit a notarized affidavit to attest to such mailing. The cost of newspaper and mailing notification shall be borne by the applicant.

- d. Notice of a public hearing shall be sent by first-class mail to the town council of any town to which one or more of the following pertain:
 - 1. Which is located in or within not less than 200 feet of the boundary of the area proposed for change; or
 - 2. 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 2,000 feet of any real property that is the subject of a proposed zoning change, regardless of municipal boundaries.
 - e. 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 2,000 feet of any real property which is the subject of a proposed zoning change, provided, however, that the governing body of any state or municipal water department or agency, special water district, or private water company has filed with the building official in the city or 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 2,000 feet thereof.
 - f. 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.
- (5) The town council shall render a decision on any proposal within 45 days after the date of completion of the public hearing. The provisions of this section pertaining to deadlines shall not be construed to apply to any extension consented to by an applicant.
- (b) *Review by planning board or commission.* Among its findings and recommendations to the town council with respect to a proposal for adoption, amendment, or repeal of a zoning ordinance or zoning map, the planning board or commission shall:
- (1) Include a statement on the general consistency of the proposal with the comprehensive plan of the town, including the goals and policies statement, the implementation program, and all other applicable elements of the comprehensive plan; and
 - (2) Include a demonstration of recognition and consideration of each of the applicable purposes of zoning, as presented in G.L. 1956, § 45-24-30.
- (c) *Notice and hearing requirements.* No zoning ordinance shall be adopted, repealed, or amended until after a public hearing has been held upon the question before the town council.
- (1) The town council shall first give notice of the public hearing by publication of notice in a newspaper of general circulation within the town at least once each week for three successive weeks prior to the date of the hearing, which may include the week in which the hearing is to be held, at which hearing opportunity shall be given to all persons interested to be heard upon the matter of the proposed ordinance. Written notice, ~~which may be a copy of the newspaper 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)–(5) of this subsection, at least two weeks prior to the hearing. At least fourteen (14) days prior to the hearing, the same notice shall be posted in the town clerk's office and one other municipal building in the town and the town shall make the notice accessible on the home page of its website. The newspaper notice shall be published as a display

~~advertisement, using a type size at least as large as the normal type size used by the newspaper in its news articles, and. The notice~~ shall:

- a. Specify the place of the hearing and the date and time of its commencement;
 - b. Indicate that adoption, amendment, or repeal of a zoning ordinance is under consideration;
 - c. Contain a statement of the proposed amendments to the chapter that may be printed once in its entirety, or summarize and describe the matter under consideration;
 - d. Advise those interested where and when a copy of the matter under consideration may be obtained or examined and copied; and
 - e. State that the proposals shown thereon may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any alteration or amendment must be presented for comment in the course of the hearing.
- (2) Where a proposed general amendment to an existing zoning ordinance includes changes in an existing zoning map, public notice shall be given as required by subsection (1) above of this subsection.
- (3) Where a proposed amendment to an existing zoning ordinance includes changes in an existing zoning map, but does not affect districts generally, public notice shall be given as required by subsection (1) above of this subsection, 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 200 feet of the perimeter of, the area proposed for change, whether within the town or within an adjacent town. The notice shall be sent by ~~registered or certified~~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; provided, for any notice sent by first-class mail, the sender of the notice shall submit a notarized affidavit to attest to such mailing. The cost of newspaper and mailing notification shall be borne by the applicant.
- (4) Notice of a public hearing shall be sent by first-class mail to the town council of any town to which one or more of the following pertain:
- a. Which is located in or within not less than 200 feet of the boundary of the area proposed for change; and
 - 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 2,000 feet of any real property that is the subject of a proposed zoning change, regardless of municipal boundaries.
- (5) 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 2,000 feet of any real property which is the subject of a proposed zoning change, provided, however, that the governing body of any state or municipal water department or agency, special water district, or private water company has filed with the building official 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 2,000 feet thereof.

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- (6) 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.
- (7) Costs of newspaper and mailing notices ~~any notice~~ required under this section shall be borne by the applicant.
- (8) In granting a zoning ordinance amendment, notwithstanding the provisions of G.L. 1956, § 45-24-37, the town council may limit the change to one of the permitted uses in the zone to which the subject land is rezoned, and impose such limitations, conditions, and restrictions, including, without limitation:
- Requiring the petitioner to obtain a permit or approval from any and all state or local governmental agencies or instrumentalities having jurisdiction over the land and use which are the subject of the zoning change;
 - Those relating to the effectiveness or continued effectiveness of the zoning change; and/or
 - Those relating to the use of the land; as it deems necessary.
- (9) The town planner shall cause the limitations and conditions so imposed to be clearly noted on the zoning map and recorded in the land evidence records, provided, however, in the case of a conditional zone change, the limitations, restrictions, and conditions shall not be noted on the zoning map until the zone change has become effective. If the permitted use for which the land has been rezoned is abandoned or if the land is not used for the requested purpose for a period of two years or more after the zone change becomes effective, the town council may, after a public hearing as hereinbefore set forth, change the land to its original zoning use before the petition was filed.
- (10) If any limitation, condition, or restriction in an ordinance is held to be invalid by a court in any action, that holding shall not cause the remainder of the ordinance to be invalid.
- (d) *Hearings on specific zoning ordinances.* The same procedures shall apply relative to the notice of public hearings.
- In addition thereto, all owners of any real property within 200 feet of the perimeter which is the subject matter of the proposed zoning amendment, enactment or repeal shall be notified ~~by registered or certified~~ first-class mail at least seven days before the date of said hearing.
 - Where the boundary line of an adjacent town falls within the aforementioned 200 feet, or where there is an actual or potential public or quasi-public water source within 1,000 feet, the town council of said adjacent town shall be entitled to such notice and shall be a party in interest.
 - The town council may limit such specific change to one permitted use and impose such limitations and conditions upon the use of the land as it deems necessary. Such limitations and conditions are to be clearly noted on the zoning map. If the permitted use has been abandoned or the land not used for that purpose for a period of two years or more, the town council may, after another public hearing, return the land to its previous zoning classification.
- (e) *Review by planning board.* At least once every two years, the planning board shall review this chapter and make a written report to the town council, recommending any amendments deemed appropriate in the light of current development trends and needs.

(Ord. of 5-27-2009)

State law reference(s)—Procedure for amending the zoning ordinance, G.L. 1956, § 45-24-51; notice and hearing requirements, G.L. 1956, § 45-24-53.

Sec. 30-36. Compliance with title 2, chapter 23.1 of the Rhode Island General Laws entitled "Agriculture and Forestry."

- (a) *Notification to farmers.* The town planner is hereby designated as the official responsible for providing notification to farmers pursuant to the provisions of chapter 23.1 of Title 2 of the Rhode Island General Laws entitled, "Agriculture and Forestry."
- (b) *Eligible farmers.* Eligible farmers shall be those placed on a list established by the director of the department of environmental management pursuant to G.L. § 2-23.1-3
- (c) *Matters subject to notice.* Matters subject to notification shall include the following actions to:
 - (1) Change the zoning and/or permitted uses of land subject to farming;
 - (2) Designate or amend the designation of land used for farming in comprehensive plans or land use ordinances;
 - (3) Change the manner of taxation of real and personal property used for farming;
 - (4) Establish or amend programs for the transfer of development rights affecting farming and hours of operation of machinery and equipment used in farming;
 - (5) Regulate water uses for farming purposes;
 - (6) Control noise and hours of operation of machinery and equipment used in farming.
- (d) *Time of notification.* Not later than seven business days after a matter subject to notification as provided for herein is formally proposed for study or consideration by a public body in which the matter originates written notification of the matter shall be mailed to farmers listed on the director's list.
- (e) *Contents of notification.* The written notification shall, as a minimum, state the matter subject to notification, the public body of the town which will be studying or considering the matter and provide the name of the town official, whom the farmers may contract to request additional information about the matter or to request a work session as provided herein.
- (f) *Work session request.* Any farmer who receives a notification as provided herein may request in writing, within ten business days after such notification, a work session to review the impact of the matter subject to notification on farming. The request shall be made to the official designated on the notification to receive such a request. Within 20 business days after the receipt of such a request, said official shall notify in writing all farmers on the notification list of such request, providing the location, time and date of a work session on the matter. The work session shall not be sooner than seven business days after the date of notice of the said work session. The work shall be to review and consider the effects of the matter, subject to notification on farming. The work session shall be prior to any final action on the matter subject to notification by the public body and the findings and conclusions of the work session shall be reported to the public body. Work sessions shall be governed by the Open Meetings Act. For any matter subject to notification not more than one work session shall be required to comply with the provisions of this ordinance.
- (g) *Emergency actions unimpaired.* The provisions of this section shall not be deemed to impair, limit or restrict the power of the public body of the town to take emergency actions of a temporary duration that are necessary to protect health, safety or welfare.
- (h) *Validity of actions.* Except in instances of knowing and willful noncompliance with the provisions of this section, a failure to comply strictly with any of the requirements of this section shall not be deemed to affect or impair the validity of any action otherwise taken.

(Ord. of 5-24-2006)

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(Supp. No. 30)

Secs. 30-37—30-70. Reserved.

PART II - REVISED GENERAL ORDINANCES
Chapter 30 - ZONING
ARTICLE III. ZONING DISTRICT USE REGULATIONS

ARTICLE III. ZONING DISTRICT USE REGULATIONS

Sec. 30-71. Zoning district uses.

TABLE I

Y	=	Permitted use.
S	=	Use allowed by special use permit. See section 30-214 for Criteria for Special Uses.
C	=	Use allowed only under section 30-203, cluster development.
N	=	Prohibited.

F-5	Farming/Residential
F-2	Farming/Residential
R-40	Suburban Residential
R-20	Suburban Residential
R-12	Village Residential
OS	Open Space
VC	Village Commercial (formerly C-1)
GC	General Commercial (formerly C-2)
LI	Limited Industrial (formerly M-1)
GI	General Industrial (formerly M-2)
[Footnotes are at the end of the table.]	

Principal Use		F-5	F-2	R-40	R-20	R-12	OS	VC	GC	LI	GI
<i>Section 1. Agricultural uses:</i>											
1.	Raising of animals subject to the premises being kept in a humane, sanitary manner (See sec. 30-214(b))	S ¹	S ¹	S ¹	S ¹	S ¹	Y	N	N	N	N
2.	Kennels (See sec. 30-214(c))	S	N	N	N	N	N	N	S	N	N
3.	Commercial nursery with retail outlet	Y	S ¹	S ¹	S ¹	S ¹	N	Y	Y	N	
4.	Commercial nursery, orchards, raising of crops for profit	Y	S ¹	S ¹	S ¹	S ¹	Y	N	N	N	N
5.	A building or structure to be used for the display and sale of the products produced by the	S	S ¹	S ¹	S ¹	S ¹	S	Y	Y	S	S

	uses allowed herein on the land										
6.	The storage of equipment and materials used in and for the agricultural uses permitted in this section	Y	S ¹	S ¹	S ¹	S ¹	S	Y	Y	Y	Y
7.	Conservation area, wildlife refuge, reforestation area or woodlot	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
8.	Wineries	Y	Y					S _Y	S _Y	Y	Y
9.	Farmer-wineries and farmer breweries	Y	Y								
<i>Section 2. Residential uses:</i>											
1.	Single-family detached dwelling	Y	Y	Y	Y	Y	N	N ⁵	N	N	N
2.	Accessory family dwelling unit (see section 30-158)	Y ²	Y ²	Y ²	Y ²	Y ²	N	N ⁵	N	N	N
3.	Two-family dwelling	N	S _N	S _N	Y _S	Y	N	N ⁵	N	N	N
4.	Mixed use building (See sec. 30-159)	N	N	N	N	N	N	N ⁵	S ⁴	N	N
5.	Multifamily dwelling (See sec. 30-204)	N	N	N	S	Y	N	N ⁵	N	N	N
6.	Townhouse	N	C	C	C	Y	N	N ⁵	N	N	N
7.	Congregate living facility or assisted living domicile (See sec. 30-214(e))	S	S	S	Y	Y	N	S	S	S	N
8.	Group home, community residence or family day care residence	Y	Y	Y	Y	Y	N	N	N	N	N
9.	Boardinghouse for not more than two boarders	N	Y	Y	Y	Y	Y	Y	Y	Y	
10.	Hotel or motel	N	N	N	N	N	N	N	Y	N	N
11.	Inn or bed and breakfast (See sec. 30-214(f))	S	S	S	S	S	N	N ⁵	S	N	N

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12.	Home occupation (see section 30-155)	Y	Y	Y	Y	Y	N	N	N	N	N
13.	Halfway house, residential treatment facility (See sec. 30-214(g))	S	S	S	S	S	N	N	N	N	N
Section 3. Open recreation uses:											
1.	Public playground	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2.	Bathing beach (See sec. 30-214(h))	S	S	S	S	S	Y	S	S	S	S
3.	Golf practice range or golf course (regulation 9 or 18 holes) (See sec. 30- 214(h))	S	S	S	S	S	S	S	N	N	N
4.	Swimming pool, commercial or municipal (See sec. 30-214(h))	S	N	N	N	N	N	Y	Y	N	N
5.	Commercial picnicking area, overnight or family camping areas (See sec. 30-214(i))	S	S	N	N	N	S	N	N	N	N
6.	Drive-in theater (See sec. 30-214(j))	N	N	N	N	N	N	N	S	N	N
7.	Riding stables or academies (See sec. 30-214(c))	Y	S	N	N	N	S	N	N	N	N
8.	Other outdoor commercial recreation (See sec. 30-214(h))	N	N	N	N	N	N	S	S	N	N
Section 4. Public and semipublic use:											
1.	Church or other places of worship (subject to development plan review)	S Y	Y	Y	Y	Y	N	Y	Y	Y	Y
2.	Clubs, lodges, social and community center buildings provided that they are nonprofit organizations	S	N	N	N	S	N	S	Y	N	N

	(subject to development plan review) (See sec. 30-214(k))											
3.	Day care center or nursery school (See sec. 30-214(l))	S	S	S	S	S	N	S	S	S	S	S
4.	Elementary or secondary school, junior college or university (subject to development plan review) (See sec. 30-214(m))	S	S	S	S	S	N	S	S	N	N	N
5.	School conducted as a private gainful business for teaching such subjects as dancing, singing, music (See sec. 30-214(n))	S	S	N	N	N	N	Y	Y	N	N	N
6.	Trade school/technical school	N	N	N	N	N	N	S Y	S Y	S Y	S Y	S Y
7.	Hospital and health clinic (subject to development plan review) (See sec. 30-214(o))	Y	N	N	N	N	N	S	Y	N	N	N
8.	Rest home or nursing home (See sec. 30-214(e))	S	S	N	N	N	N	Y	N	N	N	N
9.	Municipal or government building (except penal)	Y S	Y S	Y S	Y S	Y S	N	Y	Y	Y	Y	Y
10.	Fire station	Y S	Y S	Y S	Y S	Y S	N	Y	Y	Y	Y	Y
11.	Wastewater treatment plant, incinerator or solid waste disposal facility	N	N	N	N	N	N	N	N	N	S Y	S Y
12.	Telephone exchange or electric power	S	N	N	S	N	S	N	N	S	S	S

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	substation, provided no business activity is connected therein (See sec. 30-214(p))										
13.	Electric generating facility	N	N	N	N	N	N	N	N	N	N
14.	Public recreation hall	Y	N	N	N	N	N	Y	Y	N	N
15.	Telecommunications antennas and towers (See sec. 30-214(q))	S	S	S	S	S	S	S	S	Y	Y
16.	Municipal water supply use, such as a pumping station, water storage facility or treatment facility	<u>Y</u> <u>S</u>	<u>Y</u> <u>S</u>	<u>Y</u> <u>S</u>	<u>Y</u> <u>S</u>	<u>Y</u> <u>S</u>	<u>Y</u> <u>S</u>	<u>Y</u> <u>S</u>	<u>Y</u> <u>S</u>	<u>Y</u> <u>S</u>	<u>Y</u> <u>S</u>
17.	Solar energy systems: (See sec. 30-207)										
	(a) Accessory solar energy systems	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	(b) Principal solar energy systems	N	N	N	N	N	N	S	S	S	S
18.	Energy storage facility ⁶ (See sec. 30-214(s))	N	N	N	N	N	N	N	S	S	S
Section 5. Office use:											
1.	Professional office in a dwelling (for use by a resident of the premises)	Y	Y	Y	Y	Y	N	Y	Y	N	N
2.	Office building or use	N	N	N	N	N	N	Y	Y	Y	N
3.	Temporary real estate (one-year renewal and limited to new subdivisions or other similar new developments)	<u>Y</u> <u>S</u>	<u>Y</u> <u>S</u>	<u>Y</u> <u>S</u>	<u>Y</u> <u>S</u>	<u>Y</u> <u>S</u>	N	Y	Y	Y	Y
4.	Bank or credit union	N	N	N	N	N	N	Y	Y	Y	N
Section 6. Restaurant and entertainment:											

1.	Lunchroom or restaurant:											
	(a) Not including entertainment	N	N	N	N	N	N	Y	Y	Y	Y	
	(b) Including entertainment	N	N	N	N	N	N	N	Y	N	N	
2.	Tavern or cafe (no entertainment)	N	N	N	N	N	N	Y	Y	N	N	
3.	Nightclub	N	N	N	N	N	N	N	Y	N	N	
4.	Theater or concert hall	N	N	N	N	N	N	Y	Y	N	N	
5.	Indoor commercial recreation (See sec. 30-214(t))	N	N	N	N	N	N	Y	Y	S	S	
6.	Drive-in restaurant (See sec. 30-214(u))	N	N	N	N	N	N	S	Y	N	N	
7.	Carnival, fair or other temporary recreation or entertainment	Y S	Y S	N	N	N	N	Y	Y	N	N	
8.	Breweries and microbreweries							Y	Y	Y	Y	
9.	Brewpubs							Y	Y	Y		
10.	Distilleries							Y	Y	Y	Y	
<i>Section 7. Service business:</i>												
1.	Personal convenience service, including but not limited to barbershop, shoe repair, dry cleaner, laundry pickup	N	N	N	N	N	N	Y	Y	N	N	
2.	Specialty services, including but not limited to copy center, photo studio, interior decorating shop, tailor, catering service, etc.	N	N	N	N	N	N	Y	Y	N	N	
3.	Mortuary or funeral home (See sec. 30-214(v))	N	S	S	S	S	N	N	Y	N	N	

4.	Radio or television studio (See sec. 30-214(w))	S	N	N	N	N	N	Y	Y	N	N
5.	Veterinary office or animal hospital	Y	S <u>Y</u>	N	N	N	N	S <u>Y</u>	Y	N	N
6.	Gasoline filling station (no major repairs)	N	N	N	N	N	N	S <u>Y</u>	S <u>Y</u>	N	N
7.	General automotive repair (See sec. 30-214(x))	N	N	N	N	N	N	S	S	S	N
8.	Auto body or paint shop	N	N	N	N	N	N	N	Y	Y	Y
9.	Vehicle rental agency	N	N	N	N	N	N	Y	Y	Y	N
10.	Self-service laundromat and cleaner	N	N	N	N	N	N	Y <u>S</u>	Y <u>S</u>	Y <u>S</u>	N
11.	Carwash (See sec. 30-214(y))	N	N	N	N	N	N	N	S	N	N
Section 8. Retail business:											
1.	General retailing activities, including but not limited to, grocery, specialty goods, drug, hardware, variety, general merchandise, department store, furniture and household goods (including storage up to 30 percent of the gross floor area)	N	N	N	N	N	N	Y	Y	N	N
2.	Package liquor store	N	N	N	N	N	N	Y	Y	N	N
3.	Auto, truck or heavy equipment sales in a building (including repairs)	N	N	N	N	N	N	N	Y	Y	N
4.	Recreational trailer sales and service (See sec. 30-214(z))	N	N	N	N	N	N	N	S	Y	N
5.	Cannabis retailer, hybrid cannabis	N	N	N	N	N	N	N	N	S	S

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	retailer (See sec. 30-214(hh))										
<i>Section 9. Transportation uses:</i>											
1.	Rail or motor freight terminal	N	N	N	N	N	N	N	Y	Y	Y
2.	Rail or bus passenger station	N	N	N	N	N	N	S Y	Y	Y	N
<i>Section 10. Wholesale business and storage:</i>											
1.	Wholesale business and storage of nonflammable and nonexplosive material in a building	N	N	N	N	N	N	N	Y	Y	Y
2.	Open lot storage of new building material and machinery	N	N	N	N	N	N	N	N	Y	Y
3.	Open storage of sand and gravel (See sec. 30-214(aa))	N	N	N	N	N	N	N	N	S	S
4.	Sawmill (See sec. 30-214(bb))	S	S	N	N	N	N	N	N	S	S
5.	Storage of flammable material(See sec. 30-214(cc))	N	N	N	N	N	N	N	N	N	S
6.	Private open storage, disposal or burning of garbage or rubbish	N	N	N	N	N	N	N	N	N	N
<i>Section 11. Service industries:</i>											
1.	Laundry or dry cleaning plant (See sec. 30-214(dd))	N	N	N	N	N	N	N	N	S	S
2.	Blacksmith, machine or welding shop	N	N	N	N	N	N	N	N	Y	Y
3.	Bus, truck and heavy equipment repair (See sec. 30-214(dd))	N	N	N	N	N	N	N	S	S	Y
<i>Section 12. Industrial uses:</i>											
1.	The manufacture, compounding, processing or	N	N	N	N	N	N	N	N	Y	Y

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	packaging of bakery goods, candy, cosmetics, drugs, food products (not including meat, fish, yeast, vinegar and the rendering of fats and oils), and other similar operations										
2.	The manufacture or assembly of articles using bone, shell, plastic, leather, precious metals or stones, wood, textiles or tobacco and other previously prepared products	N	N	N	N	N	N	N	N	Y	Y
3.	The manufacture, or assembly from prepared materials, of musical instruments, clocks, toys, novelties, electrical appliances, electronic devices, light sheetmetal products, machine tools and machinery and other products	N	N	N	N	N	N	N	N	Y	Y
4.	The manufacture or compounding of hazardous materials as defined in G. L. 1956, § 23-19-1 et seq., and similar processes of manufacture and compounding (See sec. 30-214(dd))	N	N	N	N	N	N	N	N	N	S
5.	The manufacture of automobiles, trucks, boats, machinery or machine tools	N	N	N	N	N	N	N	N	N	Y

6.	The manufacture of bricks, tile, cement, terracotta or cinderblock products	N	N	N	N	N	N	N	N	N	Y
7.	The smoking, canning or curing of meat and fish products	N	N	N	N	N	N	N	N	S Y	Y
8.	Mining, quarrying, gravel pits and loam stripping (See sec. 30-214(ee))	N	N	N	N	N	N	N	N	S	S
9.	Textile dyeing or finishing	N	N	N	N	N	N	N	N	N	Y
10.	Boat storage or repair (See sec. 30-214(ff))	N	N	N	N	N	N	N	S	Y	Y
11.	Retail outlet for an industrial use (as an accessory use)	N	N	N	N	N	N	N	N	Y	Y
12.	Compassion center (See sec. 30-214(gg))	N	N	N	N	N	N	N	S	S	S
13.	Marijuana cultivation center	N	N	N	N	N	N	N	N	N	N
14.	Non-residential cooperative cultivation (See sec. 30-214(gg))	N	N	N	N	N	N	N	S	S	S
15.	Residential cooperative cultivation	N	N	N	N	N	N	N	N	N	N
16.	Patient cultivation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
17.	Primary caregiver cultivation (See sec. 30-214(gg))	N	N	N	N	N	N	S	S	S	S
18.	Cannabis cultivator, cannabis product manufacturer, and cannabis testing laboratory (See sec. 30-214(hh))	N	N	N	N	N	N	N	N	S	S
	Any use not specifically listed in	N	N	N	N	N	N	N	N	S	S

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	this section will be considered as a special exception										
<i>Section 13. Accessory uses:</i>											
1.	Accessory use customarily incidental to a use permitted in the district and located on the same site	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2.	Any accessory use customarily incidental to a use permitted as a special exception in the district and located on the same site	S	S	S	S	S	S	S	S	S	S
<i>Section 14. Uses not listed:</i>		Any use not specifically listed in section 30-71 or section 30-202 is prohibited.									

¹ If acreage is five acres or more, the use is permitted (Y).

² Allowed by right if in conformance with section 30-158, standards.

³ Allowed by right if part of a shopping center or mall.

⁴ Subject to the provisions of 30-159, mixed use buildings.

⁵ New construction may be allowed if in conformance with major land development provision(s) per subsection 30-201(d), land development review, per review by the Burrillville Planning Board.

⁶ Nothing herein shall preclude the Town of Burrillville from installing energy storage facilities on any town-owned or controlled property regardless of the zoning district. Likewise, regardless of the underlying zoning district, nothing herein shall preclude the Pascoag Utility District from installing energy storage facilities on any properties that were district-owned or controlled as of February 12, 2020.

⁷ Allowed by right only if connected to public water and sewer.

(Ord. of 2-12-1997; Ord. of 10-22-1997; Ord. of 2-11-1998; Ord. of 4-12-2000; Ord. of 4-26-2000; Res. of 9-24-2003; Res. of 2-25-2004(1); Ord. of 5-27-2009; Ord. of 8-28-2013; Ord. of 2-11-2015 ; Ord. of 10-28-2015(2) ; Ord. of 5-24-2017 ; Ord. of 12-13-2017 ; Ord. of 4-11-2018 ; Ord. of 2-12-2020(1))

Sec. 30-72. Prohibited uses.

The following uses shall not be permitted in the Town of Burrillville:

Acid manufacture or refining.

Asphalt manufacturing or refining.

Cement, lime, gypsum or plaster of Paris manufacture.

Chlorine manufacture.

Coal distillation and derivation of coal products.

Creosote manufacture or treatment.

Distillation of bones.

Explosives manufacture or storage in bulk quantities.

Fertilizer manufacture.

All fuel storage tanks or any part thereof fully or partially under earth except those subject to state underground tank regulations or otherwise consistent with rules and regulations promulgated by the director of the department of environmental management.

Gas manufacture from coal.

Glue manufacture.

Hazardous waste or septage storage or disposal facilities except at the town sewerage plant or as an accessory unit to an industrial or manufacturing use.

House trailer/park or colony.

Incinerator, consistent with the G.L. 1956, § 23-19.7-1 et seq., as amended.

Industrial wastewater discharges to a water resource.

Landfills, and injection wells consistent with the G.L. 1956, § 23-19.7-1 et seq., as amended.

Offal or dead animal reduction or dumping.

Petroleum refining.

Processing of vinegar or yeast.

Racetrack.

Rendering or refining of fats and oils.

Rubber or gutta-percha manufacture or treatment.

Slaughterhouse.

Smelting of tin, copper, zinc or iron ore, including blast furnace or blooming mill.

Tanning or curing of raw hides.

Tar distillation.

Open storage or wrecking of junk, scrap or salvage material.

Any use which is obnoxious by reason of the emission of odors, vapors, smoke, gases, dust, noises, flashes or vibration, water pollution, or by reason of danger of fire or explosion, toxic or corrosive fumes, harmful radioactivity or electrical interference, or by reason of risk to public health and safety, or which may adversely impact the normal use and peaceful enjoyment of any property, structure, or dwelling in the town.

Any use prohibited under section 30-202(f), within aquifer zoning and wellhead protection areas.

(Ord. of 4-12-2000; Ord. of 5-27-2009; Ord. of 4-11-2018)

Sec. 30-73. Nonconformance.

- (a) *Legal nonconforming uses.* A legal nonconforming use is any use of land or of any structure which was in lawful use at the time of passage of this chapter, but which is not in conformity with this chapter. Legal nonconforming uses include both those nonconforming by use and those nonconforming by dimension.
- (1) *Continuation.* Any legal nonconforming use shall be permitted to continue until such time as use is discontinued, destroyed, demolished or changed to another use.
 - (2) *Abandonment.* If a legal nonconforming use is abandoned, it shall not be allowed to be resumed, and any future use of the building or land must conform to the provisions of this chapter. Abandonment of a nonconforming use shall consist of some overt act, or failure to act, which would lead one to believe that the owner of the nonconforming use neither claims nor retains any interest in continuing the nonconforming use unless said owner can demonstrate an intent not to abandon the use. An involuntary interruption of a nonconforming use, such as by fire or natural catastrophe, does not establish the intent to abandon the nonconforming use. However, if the nonconforming use is halted for a period of one year, the owner of such nonconforming use will be presumed to have abandoned such nonconforming use, unless such presumption is rebutted by presentation of sufficient evidence of intent not to abandon the use.
 - (3) *Reconstruction.* If a legal nonconforming use is destroyed by accident or by natural catastrophe, such structure may be restored, provided the total floorspace and location on the lot are not altered or increased, and provided that reconstruction of damaged buildings shall commence within 24 months of the date of damage. If such a structure is demolished at the direction of the owner or at the direction of the minimum housing officer or appropriate official, it may not be reestablished, and any future use of the site or lot must conform to the provisions of this chapter.

Nothing herein shall prevent the performance of normal maintenance work, or work necessary to comply with safety codes, in a legal nonconforming use.
 - (4) *Enlargement.* The area of a legal nonconforming use shall not be enlarged unless allowed as a variance by the board under the provisions of section 30-34(d).
 - (5) *Alteration.* A legal nonconforming use which is nonconforming by dimension may be altered, but not enlarged, upon a finding by the zoning enforcement officer that such alteration does not constitute an enlargement and there is no change of use. A legal nonconforming use which is nonconforming by use may be altered subject to the issuance of a special use permit provided that the zoning board of review finds:
 - a. The alteration does not constitute an enlargement;
 - b. The new use is not more nonconforming than the original use;
 - c. The proposed alteration is in harmony with the purposes and intent of the comprehensive plan and this zoning chapter;
 - d. The proposed alteration shall serve the public convenience; and

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- e. The proposed alteration shall not be injurious to the surrounding neighborhood nor create conditions which will be inimical to the public health, safety, morals and general welfare of the community.
- (b) *Substandard lots of record.* The Town of Burrillville is primarily a residential community with substantial areas of land that are not served by public water and/or public sewer system. In addition, substantial areas of developed and undeveloped land within the town are located in aquifer overlay zones. In keeping with the land use goals contained in the comprehensive plan, including that to preserve the essential character of the community, and to ensure that future development is compatible with adjoining land uses, the natural environment, community services and existing historic and cultural features, the merger provisions of subsection 30-73(b) hereof shall apply to all areas within the Town of Burrillville. On a district-by-district basis, the following standards shall also apply.
- (1) *Single lot.* In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of adoption or amendment of this chapter, notwithstanding limitations imposed by other provisions of this chapter. Such lot must be in separate ownership and not adjacent or abutting with other lots in the same ownership. Such lot shall have a minimum area of 7,500 square feet and minimum width of 75 feet. 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 area requirement of the zoning district in which the lot is located. For example, a lot of 15,000 square feet within the R-20 zoning district is 25% smaller than the minimum lot area of 20,000 square feet required in that zoning district. Therefore, the setback, frontage, and lot width requirements would be reduced by 25% (e.g. the rear yard setback would be reduced from 40 feet to 30 feet, etc.) and the building coverage would be increased by 25% (e.g. from 25% to 31.25%). All proposals exceeding such adjusted requirements shall proceed with a modification request under section 30-33 or a dimensional variance request under subsection 30-34(d), whichever is applicable. All yard dimensions of such a lot shall conform to the provisions of the residence R-12 district. Further, a substandard lot of record shall not be required to seek any zoning relief based solely on the failure to meet the minimum lot size requirements of the district in which such lot is located.
- (2) *Two or more lots.*
- a. *Merger of multiple lots of record in non-residential zones.* Adjacent lawfully established contiguous unimproved, or unimproved and improved, lots of record in the same ownership, in the GC, VC, GI, and LI zones which have less than the minimum area or frontage requirements shall not be merged together, and may be separately developed, provided however, that such lots must be serviced by both public sewer and water and that any such development must meet all dimensional requirements, other than minimum lot area and frontage, of this chapter. If such lots are not serviced by both public sewer and water, then they shall be deemed to be merged into one lot and shall not be divided except in conformance with all requirements of this chapter.
- b. *Merger of multiple lots of record in residential zones.* Adjacent lawfully established contiguous unimproved, or improved and unimproved, lots of record in the same ownership in the F-5, F-2 R-40, and R-20 zones which have less than the minimum area or frontage requirements shall be deemed to be merged together as one lot by operation of this chapter. No portion of said parcel shall be used or transferred in a manner which diminishes compliance with lot frontage or area requirements established by this chapter. Any such merged lot shall not be divided, except as follows:
1. Any such division shall be deemed to be a subdivision and subject to all requirements of the subdivision and land development regulations of the town, including without limitation, the requirement for planning board approval; and

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2. All such resulting lots must meet all dimensional requirements of this chapter, except as follows:
- In the F-5 zone, if after subdivision into as many five-acre lots as possible, there remains a lot of 3.75 acres or more, with a minimum frontage of at least 225 feet, it may be created.
 - In the F-2 zone, if after subdivision into as many two-acre lots as possible, there remains a lot of 1.5 acres or more, with a minimum frontage of at least 175 feet, it may be created.
 - In the R-40 zone, if after subdivision into as many 40,000 square foot lots as possible, there remains a lot of 30,000 square feet or more, with a minimum frontage of at least 150 feet, it may be created.
 - In the R-20 zone, if after subdivision into as many 20,000 square foot lots as possible, there remains a lot of 15,000 square feet or more, with a minimum frontage of at least 112.5 feet and the lot can be serviced by the public water and sewer system, it may be created.
- c. Adjacent lawfully established contiguous unimproved, or improved and unimproved lots in the same ownership in the OS and R-12 zones which have less than the minimum area or frontage requirements shall be deemed to be merged together as one lot by operation of this chapter. Any such merged lot shall not be divided except as follows:
1. Any such division shall be deemed to be a subdivision and subject to all requirements of the subdivision and land development regulations of the town, including without limitation, the requirement for planning board approval; and
 2. All resulting lots must meet all dimensional requirements of this chapter, including without limitation, the minimum lot area and frontage requirements.
- d. Adjacent lawfully established contiguous unimproved, or improved and unimproved lots in the same ownership in any aquifer overlay zone which have less than the minimum area or frontage requirements shall be deemed to be merged together as one lot by operation of this chapter. Any such merged lot shall not be divided except as follows:
1. Any such division shall be deemed to be a subdivision and subject to all requirements of the subdivision and land development regulations of the town, including without limitation, the requirement for planning board approval; and
 2. All such resulting lots must meet all dimensional requirements of the chapter, except as follows:
 - In the A-120 zone, if after subdivision into as many 120,000 square foot lots as possible, there remains a lot of 90,000 square feet or more, with a minimum frontage of only 175 feet, it may be created.
 - In the A-100 zone, if after subdivision into as many 100,000 square foot lots as possible, there remains a lot of 75,000 square feet or more, with a minimum frontage of only 162.5 feet, it may be created.
 - In the A-80 zone, if after subdivision into as many 80,000 square foot lots as possible, there remains a lot of 60,000 square feet or more, with a minimum frontage of only 150 feet, it may be created.

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- e. In all zones, the merger of lots shall not be required when the substandard lot of record has an area equal to or greater than the area of fifty percent (50%) of the lots within two hundred (200) feet of the subject lot, as confirmed by the zoning enforcement officer.

- (c) *Previously approved lots.* If any such lots are shown on a plat approved by the chairman of the town planning board, which approval was in writing and recorded in the office of the town clerk subsequent to July 27, 1973, said lots shall not be merged provided that any such lots in a residential or farming district which are also in any aquifer overlay district shall be serviced by town sewer and water in order to be considered not merged.

(Ord. of 3-24-1999(1); Ord. of 4-12-2000; Ord. of 8-28-2002; Res. of 9-24-2003; Ord. of 5-27-2009)

30-74. Vested rights.

Applications for development that are substantially complete and have been submitted for approval to the appropriate review agency prior to the publicized notice of public hearing on an enactment or amendment of the zoning chapter, and are finally approved, shall be protected from such new ordinance or amendment as provided below. Upon termination of the vested period, any abutting nonconforming lots in common ownership shall be merged to conform with current zoning requirements.

- (1) Reserved.
- (2) *Subdivisions.* A subdivision plan which has been submitted to the planning board and which meets all the required items on the preliminary plan application checklist, which has previously been submitted and approved by the board as a pre-preliminary subdivision and which is finally approved as a final subdivision within two years of pre-preliminary plan approval, shall be vested for a period of five years from the date of approval. The plan must be recorded and construction on the subdivision improvements must begin within the first year of approval and all lots must be built upon within five years.
- (3) *Special use permits.* An application for a special use permit which has been submitted to the zoning board of review and which meets the submission requirements of that board and which is finally approved within one year of submission, shall be vested for a period of three years from the date of approval. The special use permit must be recorded within 90 days of approval and construction of improvements authorized under the special use permit must begin within the first year of approval. All improvements must be completed within three years.

(Ord. of 5-27-2009)

State law reference(s)—Vested rights, G.L. 1956, § 45-24-44.

Secs. 30-75—30-110. Reserved.

PART II - REVISED GENERAL ORDINANCES
Chapter 30 - ZONING
ARTICLE IV. ZONING DISTRICT DIMENSIONAL REGULATIONS

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ARTICLE IV. ZONING DISTRICT DIMENSIONAL REGULATIONS

Sec. 30-111. Table

of dimensional regulations.

TABLE II

District	Minimum Lot Size (square feet)	Minimum Lot Frontage (feet)	Minimum Yard Setback (feet)			Building Coverage (percent)	Maximum Height of Structure ²	
			Front ¹	Rear	Side (each)		Main	Accessory
<i>OS open space:</i>								
Conservation and open space	5 acres	450	60	40	15	20	50	25
<i>F-5 farming/residential district:</i>								
Single-family dwelling, farming or animal raising	5 acres	450	40	40	15	20	50	25
<i>F-2 farming/residential district:</i>								
Single-family dwelling and any other permitted use	2 acres	300	40	40	15	15	35	15
<i>R-40 suburban residential district:</i>								
Single-family dwelling and any other permitted use	40,000 ⁵	150	40	40	15	15	35	15
<i>R-20 suburban residential district:</i>								
Single-family dwelling and any other permitted use	20,000 ⁵	125	30	30	10	25	35	15
<i>R-12 village residential district:</i>								
Single-family dwelling	12,000 ⁵	100	30	30	10	25	35	15
Two-family dwelling and other permitted use	15,000 ⁵	125	30	30	10	25	35	15
Multifamily dwelling	(See special regulations, section 30-204)							
<i>VC village commercial district:</i>								
Any permitted commercial use	None	None	35 ³	30	15	30	35	15
Any residential use	20,000 ⁶	125	30	30	15	30	35	15
<i>GC general commercial district:</i>								
Any permitted commercial use	None	None	55 ³	30	15	25	35	15
Any residential use	20,000 ⁶	125	30	30	15	25	35	15

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(Supp. No. 30)

<i>LI limited industrial district:</i>								
Any permitted industrial use	None	200	40	40	15	25	35 ⁴	35 ⁴
	(Minimum distance from R or F zone or use—100 feet; C zone or use—40 feet)							
<i>GI general industrial district:</i>								
Any permitted use	None	200	40	40	15	25	35 ⁴	35 ⁴
	(Minimum distance from R or F zone or use—100 feet; C zone or use—40 feet)							

¹ Measured from front property line. (See section 30-115 for corner lots.)

² Does not include spires, chimneys, towers, monuments, flagpoles, etc.

³ Only when adjacent to an R or F district, otherwise no requirements.

⁴ Any part may be higher if it is set back from lot and street lines one foot for each foot of height in excess of 35 feet [in] addition to the yard regulations.

⁵ The minimum lot size for agricultural uses is two acres.

⁶ Subject to the provisions of 30-169, mixed use buildings.

(Ord. of 4-12-2000; Res. of 9-24-2003)

Sec. 30-112. Yard exceptions.

The space in a required front, side or rear yard shall be open and unobstructed with the following exceptions:

- (1) An uncovered porch may extend up to ten feet in a side or rear yard, but must be at least six feet from the boundary line.
- (2) Ordinary projections of windowsills, cornices and other ornamental features may extend up to one foot into a yard.
- (3) A permitted accessory structure may cover up to 25 percent of a side or rear yard area but may be placed no closer than ten feet to a lot line. Such an accessory structure may not project into a front yard area. For waterfront properties a permitted accessory structure may be located in the front yard whenever there is hardship in locating such structure in the side yards.
- (4) Landscape features such as trees, fences, shrubs and terraces may be placed in any yard area.

(Ord. of 5-27-2009)

Sec. 30-113. Exception to minimum frontage.

In a residential or farming district street frontage for lots fronting entirely on culs-de-sac may be reduced up to 20 percent below the lot width required in article IV of this chapter.

Sec. 30-114. Exception to minimum setback requirements.

The zoning board may, in its discretion, grant a variance to modify the requirement of a minimum setback from the front lot line of the property, in addition to any other reasons herein provided, when it determines that the strict enforcement would not be in harmony with the existing buildings or structures adjoining the land of the applicant involved.

(Ord. of 5-27-2009)

Sec. 30-115. Frontage on corner lots.

For the purpose of complying with the front yard setback requirements, the longer of the two street lines shall be interpreted as the front lot line of any corner lot. All dimensional regulations of article IV shall apply, except that the side yard which is adjacent to a street shall have a depth equal to one-half the sum of the required side yard and front yard depths for the district.

Sec. 30-116 Vision clearance at corner.

At street intersections in all districts, no building or structure shall be erected and no vegetation shall be maintained between a height of three feet and ten feet above street level within the triangle formed by the two intersecting street lines and a third line joining points on these street lines 15 feet from the intersection.

Secs. 30-117—30-150. Reserved.

ARTICLE V. SPECIAL REGULATIONS

Sec. 30-151. Access to state and town highways and roads.

- (a) No zoning certificate or permit will be issued by the zoning enforcement officer for construction of a main use or for the use of land requiring access onto a state highway until the zoning enforcement officer receives the approval, in writing, of the Rhode Island Department of Transportation, division of public roads. No zoning certificate or permit will be issued by the zoning enforcement officer for construction of a main use or for the use of land requiring access onto a town road until the zoning enforcement officer receives the approval, in writing, of the director of public works, Town of Burrillville.
- (b) Such approvals shall state that the proposed accessways will not substantially interfere with traffic flow and will not constitute a safety hazard to traffic on state and town highways.
- (c) Every building hereafter erected or moved shall be on a lot adjacent to an accepted and improved public street or a lot in an approved subdivision, for which the town holds a valid, up-to-date bond for road construction and which has been completed through the binder course of pavement. No certificate of occupancy shall be issued until a paved bituminous apron meeting the requirements of the Burrillville DPW has been installed and accepted.

Sec. 30-152. Multiple structures on one lot.

Only one principal structure shall be permitted on any lot in the F-5, F2, R-40, R-20, R-12 zones as well as the aquifer overlay zone. Where residential lots exist in the commercial or industrial districts as nonconforming uses, only one principal structure shall be permitted on a lot. Where commercially or industrially zoned land is to be used exclusively for residential purposes, only one principal structure shall be permitted on a lot.

(Ord. of 4-12-2000)

Sec. 30-153. Lots containing wetlands.

For any lot which has been determined by the Rhode Island Department of Environmental Management to contain a wetland, if the wetland area, including wetland buffer, is greater than 40 percent of the total area, the following restrictions shall apply:

- (1) Only single-family housing will be allowed in all residential zones;
- (2) All commercial and manufacturing uses must be sewerage;
- (3) Each lot shall have a minimum buildable area of 12,000 square feet excluding wetland and wetland buffer zone as defined by the Wetland Act of the State of Rhode Island;

~~(4) No individual sewage disposal system (ISDS) shall be located:~~

- ~~a. Within 200 horizontal feet of a "fresh water wetland" as defined in G.L. 1956, § 2-1-20, as amended.~~
- ~~b. Within 200 horizontal feet of a "river" as defined in said G.L. 1956, § 2-1-20, as amended.~~

Commented [JD1]: House keeping item unrelated to the 2023 laws: This has been deleted based on the earlier law that gives DEM/CRMC exclusive jurisdiction on wetland setbacks/buffer zones. Local zoning provisions to this effect have been superseded now that state regs are effective.

Sec. 30-154. Impervious surfaces.

Impervious surfaces shall be limited to 25 percent of the minimum lot size of any developed lot within an A zone or within 200 feet of the A zone boundary, within a wetland as determined by the department of environmental management or within a groundwater source area.

Sec. 30-155. Home occupations.

- (a) *Purpose and intent.* The purpose of this section is to permit residents a broad choice in the use of homes as a place of livelihood and the production of supplemental personal and family income, to maintain and preserve the character of residential neighborhoods by protecting them from adverse impacts of activities associated with commercial uses.
- (b) *Eligibility.* Certain home occupations are allowed within a dwelling or an accessory structure (where accessory structures are allowed) in all farming and residential districts.
- (c) *Town review.* Providing that all conditions noted below are met, no permit shall be required for home occupations.
- (d) *Allowable uses.* Allowable home occupations include the following, provided, however, the occupations do not violate the conditions set forth herein, or violate any other regulations by licensing authorities.
 - (1) Dressmaking;
 - (2) Sewing and tailoring;
 - (3) Telephone solicitation work, or any work conducted on a home computer;
 - (4) Photography studio;
 - (5) Tutoring or training;
 - (6) Home crafts;
 - (7) Food and beverage production;
 - (8) Studios for artists or craftworkers;
 - (9) Single-operator hairdresser;
 - (10) Professional services such as: offices for attorneys, real estate agents, insurance agents, accountants, stockbrokers, engineers, architects, landscape architects, writers, data programmers and app designers, web and graphic designers, interior designers, translators, sales representatives, and other small-scale service offices;
 - (11) Studio and private lesson space for musicians and singers;
 - (12) Online or small-scale in-person course instruction;
 - (13) Small-scale watch, jewelry, and electronics repair (computer and phone repair);
 - (14) Family day care;
 - (15) Small-scale indoor commercial recreation, health and fitness services and lessons, such as yoga and pilates studios, dance studios, certified massage therapy, physical therapy, sports performance training, martial arts;
 - (16) Small-scale automotive, small engine or motorcycle repair in a garage or outbuilding with no outdoor storage of equipment, materials or vehicles;

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- (17) Limited landscaping or other home-based service businesses, which are conducted off-site (off premises).

(e) *Conditions.* Home occupations are allowed subject to the following conditions:

- (1) *Size of use.* The use of the dwelling unit or, where permitted, an accessory structure by the resident for a business is incidental and subordinate to its use for residential purposes and occupies 25 percent or less of the floor area within the dwelling unit on the premises or the equivalent floor area within an accessory structure.
- (2) *On-site parking and traffic.* All allowable uses are allowed on any size residential lot so long as the use does not generate more than, on average: (1) one customer car visit per hour, and (2) no more than two commercial deliveries per day during normal business hours, and (3) all customer parking can fit on the property's driveway. Traffic, including traffic by commercial delivery vehicles, shall not be generated in greater volumes than would normally be anticipated in a residential neighborhood wherein no home occupation exists. Businesses that expect more than one customer car visit per hour, but no more than an average of four, may be allowed on lots of 20,000 square feet or greater. Businesses that expect more than four customer car visits per hour, but no more than an average of eight, may be allowed on lots of 40,000 square feet or greater. Blocking vehicle or pedestrian traffic on any portion of a public street, alley, or sidewalk is prohibited.
- (3) *Employees.* No more than two non-resident employees are allowed on the premises.
- (4) *Outside appearance.* There is no change in the outside appearance of the building or premises or any visible or audible evidence detectable from the property line of the conduct of such business, except that one sign for the business is allowed (see "signage" below).
- (5) *Noise.* The operation of any home occupation shall conform to all town noise ordinances.
- (6) *Signage.* One sign for the business not larger than two square feet in area. The sign shall be flush-mounted to the dwelling unit. Sign lighting shall be indirect only, and shall be shielded such that the light is not directed toward and does not shine upon adjacent properties. Vehicles or equipment may not be used for the primary purpose of advertising the home occupation at the site of the home occupation.
- (7) *Hazards and nuisances.* No hazard or nuisance, including noise, dust, odors, heat, glare, noxious fumes, vibrations, or hazardous waste shall be created, nor hazardous materials stored, to any greater or more frequent extent than would be expected in the neighborhood under normal circumstances wherein no home occupation exists. Commercial repair of vehicles, engines, and machinery, and all other uses prohibited in residential districts, is strictly prohibited, except where accessory to a farm.
- (8) *Outside goods and materials.* There shall be no outdoor display or sale of goods, outside storage, or stockpiling of materials on the premises. There will be no more than one vehicle outside for business use or delivery (as opposed to vehicles for normal residential use), and any and all outside storage of vehicles for commercial repair is strictly prohibited.
- (9) *Retail sales.* There shall be no retail sales on the premises, only as authorized herein this section.
- (10) *Parking.* Parking for the home occupation shall preferably be met on site, in a driveway, garage, or car port. For uses on lots of 20,000 square feet or greater with higher parking demand, a small outdoor parking area for up to four parking spaces may be allowed. For uses on lots of 40,000 square feet or greater with higher parking demand, a small outdoor parking area for up to eight parking spaces may be allowed. Under no circumstance shall more than eight parking spots be allowed in such parking areas. For such small outdoor parking areas, the use of pervious materials including, but not limited to, crushed shells or stone, gravel, lattice finishes that allow for turf to grow within the parking area, or re-enforced turf are strongly encouraged. Where pavement shall be used, treatment of stormwater runoff

from these surfaces shall comply with the most recent version of the Rhode Island Stormwater Design and Installation Standards Manual. Only in locations where there is adequate on-street parking, such parking shall be only in front of the property and not in front of abutting properties.

- (11) *Lighting.* All lighting related to the business use of the property shall be indirect only and shall be shielded such that the light is not directed toward and does not shine upon adjacent properties.
- (12) *Utility use.* The home occupation shall not cause a demand for municipal, community, or utility services that are substantially in excess of those usually and customarily provided for residential uses.
- (13) *Commercial equipment.* There shall be no storage of commercial equipment on the property except as allowed for farms.
- (14) *Hours of operation.* Visiting of customers and delivery shall be restricted to 7:00 a.m. until 9:00 p.m. daily.
- (15) *Screening.* For uses that require a small outdoor parking area (as opposed to driveway, garage, or car port parking), opaque fencing or evergreen vegetated buffers at least six feet in height shall be used to screen any parking area that falls within 50 feet of a side or rear lot line.
- (16) *Renter/owner responsibility.* If the proprietor of a home occupation rents or leases the property wherein the home occupation is intended to be conducted, the applicant must provide a letter of acknowledgment and consent from the property owner at the time the business is registered with the town.

(f) *Conditions for specific uses.*

- (1) *Food and beverage production.*
 - a. No noticeable odors from the food/beverage production emitting from the property.
 - b. Production of beer, wine and/or spirits is prohibited as a home occupation.
- (2) *Family daycare.*
 - a. Limited to a capacity of six children or adults being cared for within the daycare operations at any given time (not including any children or adults permanently residing there).
- (3) *Small-scale indoor commercial recreation, health and fitness services.*
 - a. Limited to a capacity of six clients on the premises at any one time, subject to business's ability to meet the requirements for on-site parking and traffic.
- (4) *Studio and private lesson space for musicians and singers.* Limited to a capacity of six clients on the premises at any one time, subject to business's ability to meet the requirements for on-site parking and traffic.
- (5) *Small-scale in-person course instruction.* Limited to a capacity of six clients on the premises at any one time, subject to business's ability to meet the requirements for on-site parking and traffic.
- (6) *Small-scale mechanical maintenance and repair, woodworking, furniture making, machining of metal, welding, and fabricating.*
- (7) *Off-premises businesses such as landscaping, snow plowing.* Limited to the storage of a single vehicle and/or trailer/equipment that is necessary to conduct such a business.
- (8) *Consignment shops, antique shops on a small scale (maximum 400 square feet).*

(Ord. of 4-25-2001; Ord. of 5-26-2004(1); Ord. of 3-24-2021(1))

Sec. 30-156. Off-street parking and loading.

(a) *Off-street parking.*

- (1) Any structure or use, erected or developed after the date of passage of this chapter (July 8, 1961) must provide off-street parking facilities in accordance with the following regulations:
 - a. Residential structures: Two car spaces for each dwelling unit.
 - b. Hotels, motels, lodging or guest house: One car space for each room for rent or each suite, plus one car space for each two employees.
 - c. Office uses: One car space for every 250 square feet of floor area.
 - d. Retail and service business: One car space for every 90 square feet of floorspace devoted to sales, plus one car space for every two employees.
 - e. Restaurants, theaters, churches, schools, and other places of assembly: One car space for every five persons of capacity.
 - f. Industrial and wholesale uses: Two car spaces for every three employees.
 - g. All other uses: Two car spaces for every three employees.
- (2) Plans and specifications for the required parking facility and its access drives shall be submitted at the time of application for the zoning certificate for the main use. In allotting space for off-street parking facilities, each parking space shall have a minimum width of nine feet, a minimum length of 18 feet and shall be served by suitable aisles to permit access and automobile maneuverability into all parking spaces.
- (3) All parking facilities provided under this section must be constructed on or adjacent to the site of the main use. Parking facilities shall conform to the following standards of construction:
 - a. The area shall have a dust-free hard surface and shall be provided with bumper guards where needed.
 - b. Where such area lies within a residential district, an opaque fence not less than four feet nor more than six feet in height or a compact evergreen [hedge] not less than four feet in height shall be erected and maintained between such area and the adjoining residential district.
 - c. Lighting fixtures used to illuminate the parking area shall reflect away from adjoining property and away from adjacent traffic arteries.
 - d. In any residence or farming district, the parking or storage of commercial vehicles of 1.5 tons capacity or greater and commercial or house trailers [shall] not be permitted except where such parking [or] storage is directly related to and is accessory to a permitted use or legal nonconforming use.
 - e. All parking lots subject to this section shall be screened and landscaped.

(b) *Off-street loading.*

- (1) All commercial and industrial structures erected subsequent to the adoption of this chapter shall provide off-street loading facilities. Plans and specifications for such loading facilities shall be submitted to the zoning enforcement officer at the time of application for the zoning certificate for the main use.
- (2) Where a loading facility is to be located in or abutting a residential or farming district, the restrictions contained in subsection (a)(3) concerning surfacing, screening and lighting shall apply.

(c) *Major recreational equipment parking/storage.*

- (1) The parking or storage of major recreational equipment, which includes travel trailers, pickup campers, motor homes, tent trailers, boats and boat trailers, but does not include house trailers or mobile homes, in farming or residence districts, shall comply with the following:
 - a. Such equipment may not be more than 12 feet in height.
 - b. Such equipment must be maintained for the personal use of a resident of the lot on which it is located.
 - c. No major recreational equipment:
 1. May be used for living, sleeping or housekeeping purposes while parked or stored;
 2. Shall be parked or stored in any front yard unless the side or rear yards are inaccessible;
 3. Shall be stored outdoors unless it is in condition for safe and effective performance of the function for which it was intended or may be made so within a six-month period.

(Ord. of 5-27-2009)

Sec. 30-157. Sign regulations.

- (a) *Purpose.* The purpose of this article is to promote and protect the public health, welfare and safety by regulating the use of existing and proposed outdoor signs, signs visible from the outside and other advertising devices. This article is intended to preserve and enhance the physical appearance and historic culture of the community, protect property values and contribute to an attractive business climate by allowing sufficient freedom to identify and promote the availability of goods and services. It is further intended to promote and protect public safety by reducing sign and advertising distractions, obstructions and hazards that may contribute to traffic accidents or personal injury. Models of projecting signs and monument signs, as defined below, may be obtained from the department of planning and economic development.

- (b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Directory sign means a sign which contains listings of two or more commercial establishments and which is designed and constructed to allow for changes to the listings to reflect changes in occupancy without major alterations of the entire sign. Each individual directory sign shall not exceed eight square feet.

Lighting, indirect means lighting that is external to the sign.

Monument sign means a sign that is constructed from brick, fieldstone, cement or wood, and secured at base grade level via cement footing. Monument signs shall be indirectly lighted from the sign base and not exceed five feet in height.

Shopping center means two or more retail or mixed-use establishments contained within the same building and/or sharing a parking lot. Shopping centers include shopping malls.

Sign means any device, whether freestanding or attached to a building or structure, or that is erected, painted, represented or reproduced on any building or structure, which displays, reproduces or includes any letter, work, name, number, model, insignia, design, device or representation used for one or more of the following purposes:

- (1) To identify the premises, occupant, or owner of the premises;
- (2) To advertise the sale, rental, or use of all or part of any premises;

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- (3) To direct vehicular or pedestrian traffic other than state or municipal highway and roadway markers; and
 - (4) Including any announcement, declaration, demonstration, display, illustration, insignia or any representation used to advertise or intended to advertise or promote the interest of any person or corporation.

Sign, freestanding means a sign supported by a pole, uprights, braces or frame on or in the ground and not supported by any wall, building or similar structure. This definition includes ground-mounted signs.

Sign height means the vertical distance measured from the ground at the base of the sign to the highest point of any portion of the sign.

Sign, obsolete means any sign which advertises a use, business or product which is no longer in service or sold.

Sign, off-premises means any sign or advertising device, not exceeding 15 square feet, which advertises a use or activity not located or a product not sold or manufactured on the lot on which the sign or device is located.

Sign, projecting means a sign erected to project approximately perpendicular from the exterior of any building or wall.

Sign setback means the setback measured from the property line to the outermost edge of the sign or supporting structure, whichever is closer to the lot line.

Sign, wall-mounted means a sign erected against or attached to the wall of any building or structure, except a freestanding sign support, including signs affixed to fences, screens and freestanding walls.

Sign, window means a business name (i.e., John Doe Shoe Store) or other related service description (i.e., Shoe repair) applied to a storefront area window using either paint or water soluble marker. Such signs shall not exceed 50 percent of the total window area.

- (c) *Exemptions.* The following signs shall be allowed in any zoning district without the necessity of obtaining a sign permit. Noncompliance with the terms of this section shall cause such a sign to forfeit its exempt status and require the owner to follow the permit procedure set forth in this article. Owners or lessees of such signs shall ensure that exempt signs conform to all other applicable regulations, and the owners and lessees shall be responsible for the safe and proper erection and maintenance of such signs:
 - (1) One sign not to exceed six square feet when identifying a residence.
 - (2) A memorial sign or tablet, or a sign not exceeding two square feet indicating the name of a building or the date of its erection.
 - (3) Bulletin boards for public or religious institutions when located on the property thereof, provided that such signs do not exceed 15 square feet and bear no commercial advertising.
 - (4) Pennants, spinners, streamers, banners, mobile signs and decorative flags when associated with events of religious, public or charitable organizations or new business openings for a period not to exceed 21 days. Such advertising device may be located off premises provided it is erected and maintained in a safe and proper condition.
 - (5) One sign customary and necessary in the offering of real estate for sale or to let by the owner or the owner's licensed broker or agent, which shall not exceed six square feet in residential zones or 20 square feet in nonresidential zones. Signs indicating the property has been sold must be removed within two weeks after the sale is closed.
 - (6) Construction or contractor signs where there is only one per location identifying the project, the building and subcontractors, not exceeding 32 square feet in area.

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- (7) Development/subdivision signs, one wall-mounted or freestanding sign, erected at the development/subdivision entrance. The sign shall not exceed 15 square feet.
 - (8) Signs erected by or on behalf of the United States of America, this state or the town pursuant to and in the discharge of any governmental function or required by any law, ordinance or governmental regulation (including state permit notice signs such RIDEM, RIDOT etc.).
 - (9) Political and pre-election signs erected no more than 60 days prior to the designated election day, and the signs shall be removed within ten days after the election. The candidate for office or a designee shall have the responsibility for the removal of signs advertising the candidacy.
 - (10) The following signs customary and necessary to the operation of filling and service stations:
 - a. Lettering on buildings displayed over individual entrance doors consisting of the words "washing," "lubrication," "repairing" or words of similar import, provided that there shall not be more than one such sign over each entrance and that the letters shall not exceed ten inches in height.
 - b. Lettering or other insignia which is a structural part of a gasoline pump or lighting fixture consisting only of a brand name, lead-warning sign and other signs as required by law.
 - c. A credit card sign not exceeding two square feet in area, affixed to the building or a permanent sign structure.
 - d. One sign bearing the brand or trade name of the station, of a design specified by the manufacturer, permanently affixed to the building or its own metal substructure, such sign not to exceed 30 square feet.
 - e. All point of purchase materials or signs located no further than ten linear feet from the gasoline islands or ten linear feet from the physical structure.
 - (11) Farm and home products for sale signs in residential zoning districts or properties used for residential purposes when up to 12 square feet in area, located on site, and which advertise the sale of farm, garden, nursery or home craft products grown, raised or produced on the premises.
 - (12) Flags of all nations, states, counties, towns and cities when flown in compliance with the United States flag code.
 - (13) One directory sign per shopping center or office building. Directory sign alterations may be made without application, provided changes are in keeping with the directory design and graphics.
 - (14) The numerical street address provided the height of numbers does not exceed six inches and that the numbers are not internally illuminated.
- (d) *Prohibited signs.* The following signs shall not be permitted in any zoning district
- (1) Signs that incorporate any flashing or changing illumination or animation.
 - (2) Any sign that constitutes a hazard to public safety, health or that impedes vision or access to or from public streets, sidewalks or other places or ingress or egress. This includes signs which, because of size, location, content or manner or illumination, obstruct the vision of a driver or detract from the effectiveness of traffic control devices.
 - (3) Searchlights and inflatables.
 - (4) Billboards.
 - (5) Signs affixed to utility poles and trees.
 - (6) Obsolete or unsafe signs.

(7) Mobile signs.

(e) *Permit procedure.*

(1) Permit required. Any person intending to erect, relocate or alter any sign within the town shall, except as provided in this article, first obtain a sign permit from the office of the building official.

(2) Application. Application for a sign permit shall be made on forms provided by the building official and shall contain or shall have attached all of the following information:

- a. A site plan which shall include the position of all existing and/or proposed signs, indicating the distance and relationship to all existing, proposed and/or adjoining structures or premises.
- b. A scaled drawing of each face of all existing and/or proposed signs.
- c. All size specifications, including the size of letters and graphics.
- d. Description of sign and frame materials and colors.
- e. Wall anchorage details.
- f. Foundation mounting assembly and/or footing details.

(3) Description of indirect lighting proposed for the signage (i.e., fixture type) and its location on the property or building.

(4) Review of applications. It shall be the duty of the building official, upon the receipt of a completed application for a sign permit, to forward such application for review and comment to those departments with the responsibility to do so and to examine such plans, specifications, other data, and if necessary visit the premises upon which the sign is to be located.

(f) *Nonconforming signs.* Any sign existing and in compliance with a prior sign ordinance on the effective date of the ordinance from which this article derives, but not in compliance with the terms of this article, shall be considered a legal nonconforming sign. The owner shall be permitted to maintain and/or repair such a sign, provided that the sign shall not be enlarged or structurally altered in any way unless it conforms with this article.

Any change of use requires that any sign identifying the new use must comply with the provisions of this chapter and the previous sign must be removed.

(g) *Requirements by zone.* For the purpose of this section, subsections (1) and (2), below, take precedence over the underlying zone district(s).

(1) *Route 102 overlay zone.* Signs shall be constructed of either wood or field stone and indirectly illuminated. Signs shall not exceed 40 square feet in area and be limited to ten feet in height. Monument signs are strongly encouraged within the Route 102 overlay zone. Only signs may be allowed within the protected 50-foot forested buffer per the Route 102 overlay zone.

Shopping centers and office buildings, individual signs and directory signs shall be coordinated as to location, color, material composition and design.

(2) *VPD/LDP overlay zone.* Signs shall be either constructed of wood or wood composite material. Projecting signs and or window signs may be allowed in mixed-use buildings within the VPD/LDP overlay zone. Projecting signs shall not exceed 15 square feet in area.

(3) *Commercial and industrial districts.* Signs shall be either constructed of wood, hardy board (hardiplank), or wood composite material and may be indirectly illuminated. Projecting signs and or window signs may be allowed in mixed-use buildings and shall not exceed 15 square feet in area. Projecting signs shall be a minimum of eight feet above sidewalk in zero set back situations.

Shopping centers, plazas and office buildings, individual signs and directory signs shall be coordinated as to location, color, material composition and design.

- (4) *Residential zone districts.* Signs shall not exceed 15 square feet in area and be limited to ten feet in height. Trees shall not be used as a means to secure or support signs. Sign lighting shall be indirect, only, and shall be shielded such that the light is not directed toward adjacent properties.

(Ord. of 5-26-04(2))

Sec. 30-158. Accessory dwelling units purpose and standards.

(a) *Accessory family dwelling unit.*

- (1) *Purpose.* The intent and purpose of this section is to allow the creation of quasi-independent living spaces within single family homes to provide accommodations for additional family members. These living spaces are most often referred to as "in-law" apartments.

The accessory family dwelling unit shall be located within a single family dwelling and shall be clearly a subordinate part of it. Nothing in this section shall infringe upon the right of an individual to add living space to a home in accordance with existing regulations and codes.

- (2) *Standards.* An accessory family dwelling unit, limited to no more than 800 square feet of building area, may be permitted, by right, in any residential zoning district with the following limitations:
- a. Only one accessory family dwelling unit may be allowed in any single-family detached dwelling. No accessory family dwelling unit may be allowed in a two-family or multi-family dwelling.
 - b. The unit will be accessible through the same means of ingress and egress as the principal residence.
 - c. The building must be owner occupied.
 - d. The unit may be occupied only by members of the family occupying the principal residence.
 - e. The utilities for the principal residence and the accessory unit will be common to both (i.e., one electric service to principal residence, common plumbing and heating systems, etc.).
 - f. Off-street parking will be provided for four vehicles on the premises.
 - g. The accessory family dwelling unit will meet all the requirements of article IV, zoning district dimensional regulations, as they pertain to the principal residence.
 - h. The unit will comply with all applicable state and local regulations.
 - i. *Variance.* A request for an accessory family dwelling unit which does not comply with the above conditions may be allowed by the zoning board of review subject to the issuance of a variance as provided in subsection 30-34(d) of this chapter.
- (3) An applicant for a permit to construct an accessory family dwelling unit must sign an agreement restricting occupancy of such units to family members, and indemnifying the Town of Burrillville from costs incurred to enforce the terms of said agreement. This agreement will be recorded in the land evidence records of the Town of Burrillville at the expense of the applicant. Said agreement will be applicable to and binding upon subsequent owners and will be enforceable against the applicant, his/her heirs, devisees, successors and assigns.

(Ord. of 10-22-97)

Sec. 30-159. Mixed use buildings.

(a) *Standards and requirements.*

- (1) A single dwelling unit in a commercial building may be allowed as of right in a village commercial or a general commercial district subject to the provisions hereinafter set forth.
- (2) Multiple dwelling units in a village commercial or a general commercial district may be allowed subject to a special use permit in accordance with the following conditions:
 - a. *Parking.* The applicant must demonstrate to the proper authority that the property housing the dwelling unit(s), or property under the control of the applicant by ownership or lease for a period of at least ten years, can provide off street parking as follows. Failure to maintain the required parking spaces may result in revocation of the occupancy permit for the residential units.
 1. For a residential unit of less than 800 square feet, one parking space per unit.
 2. For residential units in excess of 800 square feet two parking spaces per unit.
 - b. *Density limitations.* The square footage devoted to residential units shall not exceed three times the area devoted to a commercial use.
 - c. *Health and public safety.* The zoning board or in the case of a single residential unit the building official may consider the present commercial use of the building in determining the suitability for additional use as a residence. The zoning board or the building official may require as a condition of granting the residential use that the commercial use(s) may not change without the prior approval of the building official. Any such restriction shall be recorded in the land evidence records. The zoning board may accept written or oral testimony from the building official or fire marshal regarding access, light and air, and other relevant issues.
 - d. *Dimensional regulation.* The dimensional regulations set forth in section 30-111, table of dimensional regulations, shall apply where feasible on existing buildings and are required on all new construction subject to a dimensional variance granted by the zoning board of review.

(Ord. of 2-11-98)

Sec. 30-160. Halfway house.

A halfway house shall be allowed by special use permit in only residential and farming districts with the following restrictions, in addition to meeting the general standards as set forth in subsection 30-34(e)(4):

- (1) A halfway house shall be limited to no more than eight residents and any support staff.
- (2) There shall be a maximum of one halfway house per lot as defined in this chapter regardless of lot size or the number of structures on a lot.
- (3) No halfway house shall be located within 3,000 linear feet of another halfway house, a residential treatment facility, a community residence, a private or public school, nursing home, or an elderly-housing complex.

(Ord. of 4-12-00)

Sec. 30-161. Residential treatment facility.

A residential treatment facility shall be allowed by special use permit in only residential and fanning districts with the following restrictions, in addition to meeting the general standards as set forth in subsection 30-34(e)(4).

- (1) The residential treatment facility shall be limited to no more than eight residents and support staff.
- (2) There shall be a maximum of one residential treatment facility per lot as defined herein in this chapter regardless of lot size or the number of structures on a lot.
- (3) No residential treatment facility shall be located within 3,000 linear feet of another residential facility, a halfway house, a community residence, a private or public school, or a nursing home or elderly-housing complex.

(Ord. of 4-12-00; Ord. of 4-26-00)

Sec. 30-162. Medical marijuana.

- (a) *Purpose.* It is the intent of this section to regulate the cultivation and distribution of medical marijuana as allowed by the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act (G.L. 1956, § 21-28.6-1 et seq.) The town is dedicated to supporting the needs of patients requiring care through the use of medical marijuana consistent with the health, safety and general welfare of the community at large.
- (b) *Patient cultivation.* Patient cultivation shall be permitted in all zoning districts in the Town of Burrillville.
 - (1) The patient cardholder shall comply with all building, electrical, mechanical and plumbing permits as required by the Rhode Island State Building Code. The building official shall approve the application for permits pursuant to G.L. 1956, § 23-27.100.01 et seq.
 - (2) Possession limits: Patient cultivation possession limits shall be as follows unless otherwise stated in the Rhode Island General Statutes.

	Mature Plants	Immature Plants (Seedlings) and Unusable Marijuana	Usable Marijuana
Patient cardholder	12 plants	12 plants	2.5 ounces

- (c) *Primary caregiver cultivation.* Primary caregiver cultivation shall only be permitted in commercial and industrial zoning. Additionally, primary caregiver cultivation shall not be allowed unless each of the following criteria has been met:
 - (1) If the primary caregiver cardholder does not own the subject property, the owner(s) of the subject property shall provide notarized affidavit of approval of the proposed use prior to review and approval by the town.
 - (2) The primary caregiver cardholder shall apply for the appropriate approvals and inspections of the local fire chief or state fire marshall or their designee. The local fire chief or state fire marshall shall approve the application for permits pursuant to G.L. 1956, § 23-28.1 et seq. All permits applied for in furtherance of the application shall be sealed and kept confidential by the local fire chief and shall not be subject to review by any party other than the cardholder.
 - (3) The primary caregiver cardholder shall apply for a zoning certificate and the primary caregiver cardholder or a licensed contractor shall apply for all appropriate zoning, building, electrical,

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mechanical and plumbing permits as required by the Rhode Island State Building Code. The building official shall approve the application for permits pursuant to G.L. 1956, § 23-27-100.01 et seq.

- (4) A property containing medical marijuana, and cultivated by a primary caregiver, shall not be located closer than 500 feet to any house of worship, school, public or private, park, playground, play field, youth center, licensed daycare center, or other location where groups of minors regularly congregate. The distance cited in this subsection shall be measured by a straight line between the structure of the proposed site for the registered cardholder and the structure of the site or the use listed above at their closest points.
- (5) Notwithstanding subsection (c), no primary caregiver cultivation shall be permitted on any property located within a redevelopment area or a redevelopment district designated pursuant to this Code.
- (6) In addition to the requirements above, the primary caregiver cardholder shall demonstrate to the building official that the following requirements have been met.
 - a. That the area used for growing be secured by locked doors;
 - b. That the area used for growing has two means of egress;
 - c. That the area used for growing shall not be within ten feet of a heating or other ignition source such as an electric, propane, natural gas or oil;
 - d. That the area used for growing shall have proper ventilation to mitigate the risk of mold;
 - e. That the area used for growing shall have carbon filters installed to reduce odors;
 - f. That a monitored fire alarm system with hard-wired smoke detectors is installed on the premises in accordance with state fire code and/or to the satisfaction of the local fire chief.
- (7) Possession limits.

	Mature Plants	Immature Plants (seedlings) and Unusable Marijuana	Usable Marijuana
Primary caregiver	12 plants per patient cardholder (to whom he/she is connected through RIDOH registration process)	12 plants	2.5 ounces per patient cardholder (to whom he/she is connected through RIDOH registration process)

(d) *Cooperative cultivation.*

- (1) Residential cooperative cultivation, as defined under this chapter, shall be prohibited in all zoning districts.
- (2) Non-residential cooperative cultivation shall be prohibited in all zoning districts except in all industrial zoning districts and in the general commercial zone and only upon the issuance of a special use permit by the Burrillville Zoning Board of Review in accordance with section 30-34(e) of this chapter. Additionally, such special use permit shall not be granted unless each of the following standards have been met:
 - a. A cardholder shall only cooperatively cultivate in one location;

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- b. No single location shall have more than one cooperative cultivation. For the purpose of this section, location means one structural building, not units within a structural building;
 - c. The cooperative cultivation shall not be visible from the street or other public areas;
 - d. A written acknowledgement of the limitation of the right to use and possess marijuana for medical purposes in Rhode Island, that is signed by each cardholder, and shall be prominently displayed on the premises;
 - e. The property owner shall apply for the appropriate approvals and inspections of the local fire chief or the state fire marshall or their designee; the local fire chief or state fire marshall shall approve the application for permits pursuant to G.L. 1956, § 23-28.1 et seq.
 - f. If the cooperative cultivation does not own the subject property, the application shall include notarized affidavit of approval of the owner(s) of the subject property;
 - g. The property owner shall apply for a zoning certificate, and the caregiver cardholder or a licensed contractor shall apply for all appropriate zoning, building, electrical, mechanical and plumbing permits as required by the Rhode Island State Building Code. The building official shall approve the application for permits pursuant to G.L. 1956, § 23-27-100.01 et seq.
 - h. A non-residential cooperative cultivation must have displayed prominently on the premises an affidavit by a licensed electrician that the cultivation has been inspected and is in compliance with any applicable state or municipal housing and zoning codes;
 - i. The location of the cooperative cultivation must be reported to the division of state police by the applicant for the special use permit.
 - j. Notwithstanding subsection (d)(2):
 - 1. [(i)] A property containing medical marijuana, and cultivated by a non-residential caregiver cooperative, shall not be located closer to than 500 feet to any house of worship, school, public or private, park, playground, play field, youth center, licensed daycare center, or (ii) other location where groups of minors regularly congregate. The distance cited in this subsection shall be measured by a straight line between the structure of the proposed site for the registered cardholder and the structure of the site or the use listed above at their closest points.
 - 2. No caregiver cultivation shall be permitted on any property located within a redevelopment area or a redevelopment district designated pursuant to this Code.
- (3) In addition to the requirements above, the non-residential cooperative cultivation shall demonstrate to the building official that the following requirements have been met.
- a. That the area used for growing be secured by locked doors;
 - b. That the area used for growing has two means of egress;
 - c. That the area used for growing shall not be within ten feet of a heating or other ignition source such as an electric, propane, natural gas or oil;
 - d. That the area used for growing shall have proper ventilation to mitigate the risk of mold;
 - e. That the area used for growing shall have carbon filters installed to reduce odors;
 - f. That a monitored fire alarm system with hard-wired smoke detectors is installed on the premises in accordance with state fire code and/or to the satisfaction of the local fire chief.
- (4) Possession limits.

	Mature Plants	Immature Plants (seedlings) and Unusable Marijuana	Usable Marijuana
Non-residential cooperative cultivation	48 plants	24 plants	10 ounces

(e) *Compassion centers.* Compassion center uses, as established under G.L. 1956, § 21-28.6-1 et seq., shall be prohibited in all zoning districts except in the general commercial and industrial zones and only upon the grant of a special use permit by the Burrillville Zoning Board of Review in accordance with section 30-34(e) of this chapter. No use permitted under this subsection shall be established prior to submission and approval of a special use permit by the zoning board of review with the technical advice of the zoning official. Additionally, such special use permit shall not be granted unless each of the following standards have been met:

- (1) The application for a special use permit pursuant to this section shall provide the legal name and address of the compassion center, a copy of the articles of incorporation of the compassion center, and the name, address and date of birth of each principal officer and board member of the compassion center.
- (2) The site plan shall depict all existing and proposed building, parking spaces, driveways, service areas and other open uses. In addition to all other restrictions defined in this chapter, the site plan shall show the distances between the proposed use and the boundary of the nearest residential zoning district and the property line of all other abutting uses.
- (3) Findings.
 - a. That the requested use at the proposed location will not adversely affect the economic welfare of the nearby community;
 - b. That the requested use at the proposed location will not adversely affect the use of any property used for school, public or private, park, playground, play field, youth center, licensed daycare center, or other location where groups of minors regularly congregate;
 - c. That the requested use at the proposed location is sufficiently buffered in relation to any residential area in the immediate vicinity so as not to adversely affect said area; and
 - d. That the exterior appearance of the structure will be consistent with the exterior appearance of structures already constructed or under construction within the immediate neighborhood, so as to prevent blight or deterioration, or substantial diminishment or impairment of property values within the neighborhood.
 - e. Upon issuance of a special use permit, the compassion center shall apply for the appropriate approvals and inspections by the local fire chief or the state fire marshall or their designee. The local fire chief or state fire marshall shall approve the application for permits pursuant to G.L. 1956, § 23-28.1 et seq.
 - f. Upon issuance of a special use permit, the compassion center or its licensed contractor shall apply for all appropriate building, electrical, mechanical and plumbing permits as required by the state building code. The building official shall approve the application for permits pursuant to G.L. 1956, § 23-27-100.01 et seq.
- (4) Location.

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- a. All uses granted under subsection (e), compassion centers, shall not be located within:
 1. One thousand feet of the nearest residential zoning district, and lot line of a residence which is a nonconforming use in a non-residential zone in existence as of the effective date of this section; or
 2. One thousand five hundred feet of the nearest house of worship, school, public or private, park, playground, play field, youth center, licensed daycare center, or other location where groups of minors regularly congregate; or
 3. Two thousand feet of any other compassion center or non-residential cooperative cultivation site; or
 4. One thousand feet of any of the Burrillville town lines.
 - b. The distances specified in this subsection shall be measured by a straight line from the nearest property line of the premises on which the proposed compassion center is to be located to the nearest boundary line of a residential zoning district or to the nearest property line of any of the other designated uses set forth above.
- (5) Hours of operation. The proposed compassion center hours of operation shall be limited to the hours of no earlier than 7:00 a.m. and no later than 8:00 p.m.
- (6) Lighting.
- a. Lighting shall adequately illuminate the compassion center, its immediate surrounding area, any accessory uses, including storage areas, the parking facilities, the compassion center's front façade, and any adjoining public sidewalk.
 - b. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.
- (7) Security. The proposed compassion center shall implement the appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and shall insure that each location has an operational surveillance system, monitored intruder alarm system and security alarm system.
- (8) Parking. All uses permitted under this subsection shall comply with the off-street parking and loading requirements and regulations as set forth in this chapter.
- (9) Signage and advertising.
- a. All signage and advertising for a compassion center shall comply with all applicable provisions of this Code.
 - b. In addition, no signage or advertising shall use the word "marijuana" or "cannabis" or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols on the sign. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers.
- (10) Possession limits.

Compassion center	Inventory of seedlings, plants and usable marijuana limited to reflect the projected needs of registered qualifying patients.
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- (f) *Marijuana extraction.* The use of butane, propane or other solvents used for the purposes of marijuana extraction shall be strictly prohibited in all districts.
- (g) *Enforcement.*
- (1) Any person or organization found to be in violation of this article shall be subject to enforcement in accordance with section 30-32 of this chapter and subject to violations and penalties as provided in chapter 1, section 1-6, general penalty; continuing violations.
 - (2) All unpermitted pre-existing cultivation shall be required to comply with this section.
 - (3) All use permitted under this article shall comply fully with all licensing requirements of the town and laws of the State of Rhode Island.
- (h) *[Documentation confidential.]* Unless otherwise provided herein, all documentation, including but not limited to applications, approvals and permits in furtherance of any application by a cardholder, caregiver, residential or non-residential cooperative shall be sealed and kept confidential by the building official and shall not be subject to review by any party other than the cardholder(s).
- (i) *[Declared invalid or unenforceable.]* In the event that any of the terms or provisions of this act are declared invalid or unenforceable by any court of competent jurisdiction having jurisdiction over the subject matter of this act, the remaining terms and provisions that are not affected thereby shall remain in full force and effect.

(Ord. of 12-13-2017)

Sec. 30-163. Breweries, brewpubs, wineries, distilleries and farm wineries.

- (a) *Purpose.* The purpose of this section is to set standards which would allow for breweries, brewpubs, wineries, distilleries and farm wineries within the Town of Burrillville in accordance with G.L. 1956, § 3-6, and Department of Business Regulation, Commercial Licensing Regulations as applicable. These provisions establish the framework which will allow the town to locate and review applications for breweries, brewpubs, wineries, distilleries and farm wineries.

- (b) *Definitions.*

Brewery. An establishment where beer or malt beverages are made on the premises. A manufacturers license to make alcoholic beverages under G.L. 1956, § 3-6-1 as amended shall be required and such establishments must meet all local zoning, including but not limited to dimensional and parking regulations.

Brewpubs. An establishment where beer and malt beverages are made on the premises in conjunction with a restaurant or bar, and where 40 percent or more of the product made on site is sold on site. Brewpubs may distribute to off-site accounts or sell beer to take away in accordance with state law. A manufacturer's license to make alcoholic beverages under G.L. shall be required and such establishments must meet all local and state zoning and licensing requirements.

Distilleries. An establishment or facility that manufactures intoxicating liquor on the premises and has been issued a manufacturer's license under applicable G.L. 1956, § 3-6-1.

Farm brewery. An establishment located on a farm-zoned property of no less than five acres that produces beer or other malt beverages manufactured with at least one primary ingredient (hops or grains) grown on premises and whose annual production does not exceed 150,000 gallons of beer or malt beverage. A farm brewery must have all appropriate state licenses and may sell beer at wholesale to retailers consistent with said licenses. Direct sales to on-site consumers for consumption on or off site shall be in accordance with state law.

Tasting room. A tasting room is a part of a winery or brewery, located on the premises of the winery or brewery's production facilities, at which guests may sample the winery or brewery's products.

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Wineries. An establishment or facility that produces or manufactures and bottles wine on the premises for sale and to wholesalers and has applicable license issued under G.L. 1956, § 3-6.

Farmer-wineries. A plant or premises located on property in a farming zone, where wine is produced, rectified, blended or fortified from fruits, flowers, herbs, or vegetables, that shall produce wine or winery products grown on the premises for sale as defined by G.L. 1956, § 3-6-1.1, as amended and shall be required to meet all local and state licensing and zoning requirements.

(c) *General requirements.*

- (1) All projects shall be subject to development plan review, section 30-201 and the Burrillville Development Plan Review Regulations, which, at a minimum must address:
 - a. Parking.
 - b. Signage.
 - c. Access-egress.
 - d. Appropriate storage and handling-disposal of used materials.
 - e. Hours of operation.
 - f. Deliveries.
 - g. Loading areas.
 - h. Lighting.
 - i. Noise.
- (2) Breweries, brewpubs, wineries, distilleries and farm wineries owners shall be required to apply to the town council for all applicable licenses including but not limited to victualing and entertainment licenses.

(d) *Required documents:*

- (1) Licensing from the state department of business regulations (DBR).
- (2) RI department of environmental management (DEM) onsite wastewater treatment systems (OWTS) approval, as applicable.
- (3) A detailed site plan showing the premises, the interior and exterior and the parking areas. Location and description of tasting room if one is proposed.
- (4) A description and/or rendering of the architecture to be used.

(e) *Standards for approval:*

- (1) Does not negatively impact (detract from) neighboring properties.
- (2) Is in keeping with the existing uses of the area.
- (3) Is not inconsistent with the comprehensive plan.

(Ord. of 4-11-2018)

~~Sec. 30-164. Inclusionary zoning.~~

~~(a) Purposes. The purposes of this section of the Burrillville Zoning Ordinance are as follows:~~

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- ~~(1) Respect and perpetuate the historic diversity of the community through the development of housing for all populations within the town, including, but not limited to, housing for residents with a range of incomes;~~
 - ~~(2) Promote mixed income development in housing development projects throughout the town;~~
 - ~~(3) Encourage the development and availability of housing that qualifies as low and moderate income (LMI) housing as mandated by G.L. 1965, § 45-53, the Rhode Island Low and Moderate Income Housing Act, and the Rhode Island Comprehensive Housing Production and Rehabilitation Act of 2004, as amended, and maintain greater than ten percent of the town's total housing stock as LMI;~~
 - ~~(4) Promote LMI housing production in the town in accordance with the goals and policies of the Burrillville Comprehensive Plan's Housing Chapter and Affordable Housing Strategy; and~~
 - ~~(5) Allow landowners and/or developers a reasonable return in all residential development for which inclusionary zoning applies.~~

~~(b) Applicability.~~

- ~~(1) The inclusionary zoning requirements found in this chapter of the zoning ordinance shall apply to any subdivision or land development project in the Town of Burrillville that has the capacity to yield six or more lots or units of housing with no regulatory relief required. However, inclusionary zoning shall not be applied in the F-5 or F-2 districts.~~
- ~~(2) Inclusionary zoning under this section of the zoning ordinance shall not be applied to village planned development land development projects. The requirements for affordable housing specifically provided in section 30-209. Village planned development land development project shall govern those applications.~~
- ~~(3) Applicants must acknowledge and demonstrate to the planning board the applicability or inapplicability of the inclusionary zoning requirements through a letter and supporting documentation during the pre-application phase of review. The applicant shall develop a conventional yield plan per the requirements of the subdivision regulations for determining the basic maximum number of dwelling units.~~
- ~~(4) When a subdivision or land development project application that creates fewer than six dwelling units is approved and leaves a portion of the same parcel undeveloped, the portion left undeveloped shall not be further subdivided or developed for a total of six or more dwelling units on the parcel within 20 years of final approval of the first development unless the undeveloped portion is subject to the inclusionary requirements of this chapter. The number of inclusionary units required in the subsequent development shall be calculated as if the earlier development were part of it. This provision does not come into effect when an entire parcel receives master plan approval and is developed in phases.~~

~~(c) Requirements for LMI housing.~~

- ~~(1) Any subdivision or land development project to which this section applies in accordance with section (b) shall include a minimum of 15 percent of housing units that qualify as LMI housing as defined in G.L. 1965, § 45-53. These units shall be deed restricted to households making 80 percent of the area median income or less for rental and 100 percent of the area median income or less for homeownership units.~~
- ~~(2) The planning board may adjust these income limits in response to unique opportunities associated with an individual project if an adjustment is deemed to be consistent with the comprehensive plan. Financial hardship on the part of the applicant shall not be considered just cause for adjusting the target income limits.~~

(d) ~~Density bonuses.~~ The Town of Burrillville herein acknowledges the requirement under state law to establish incentives that will offset the cost differential associated with LMI housing. To meet this requirement, the town establishes the following process:

- (1) ~~The applicant shall add pairs of housing units, one market rate unit and one inclusionary unit, to the basic maximum number only until the percent of deed restricted units equals or exceeds 15 percent of the total number of housing units. The resulting total number of units at that point shall be the maximum bonus number of dwelling units.~~
- (2) ~~The maximum bonus number of dwelling units for subdivisions with a basic maximum number of between six and 30 units is provided below for reference. Where the basic maximum number exceeds 30 units, the applicant shall be responsible for calculating the correct maximum bonus number of dwelling units.~~

Basic Maximum Number	Additional Market Rate Units	Additional Deed Restricted Units	Maximum Bonus Number	Percent Deed Restricted Affordable Housing
6	2	2	10	20.0%
7	2	2	11	18.2%
8	2	2	12	16.7%
9	2	2	13	15.4%
10	3	3	16	18.8%
11	3	3	17	17.6%
12	3	3	18	16.7%
13	3	3	19	15.8%
14	3	3	20	15.0%
15	4	4	23	17.4%
16	4	4	24	16.7%
17	4	4	25	16.0%
18	4	4	26	15.4%
19	5	5	29	17.2%
20	5	5	30	16.7%
21	5	5	31	16.1%
22	5	5	32	15.6%
23	5	5	33	15.2%
24	6	6	36	16.7%
25	6	6	37	16.2%
26	6	6	38	15.8%
27	6	6	39	15.4%
28	6	6	40	15.0%
29	7	7	43	16.3%
30	7	7	44	15.9%

- (3) ~~The maximum bonus number described above in subsection (d)(1) shall be considered the default target for the planning board. The applicant shall show a conceptual layout of the subdivision with the maximum bonus number at the pre-application meeting. The conceptual plan shall, at a minimum, contain the same information as the yield plan.~~
- (4) ~~The applicant and the planning board may mutually agree to pursue a smaller number of bonus units during the pre-application meeting with the following limitations:~~

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- a. ~~Where LMI housing will be provided on-site or on another site, the percent of LMI units for the entire proposal shall never be less than ten percent per state law requirements.~~
- b. ~~The planning board may not require more than half of the bonus units to be LMI housing.~~
- c. ~~Elimination of the obligation to provide any LMI housing is at the discretion of the planning board and may only occur where the board can demonstrate there is no further need for LMI units in the town.~~

~~(e) Design requirements and reduction of dimensional requirements.~~

- (1) ~~Design of housing.~~ The exterior appearance of the inclusionary units in any development shall be visually compatible with the market rate units in the development. External building materials and finishes shall be substantially the same in type and quality for inclusionary units as for market rate units. In the context of a subdivision of single family homes, inclusionary units shall have the appearance of a single family home when more than one unit is proposed for a building.
- (2) ~~Housing types.~~ Applicants are encouraged to explore the development of a mix of housing types within a single subdivision or development. Allowable housing types are those permitted in the underlying zoning.
- (3) ~~Reduction in dimensional standards.~~ In order to accommodate housing at a density that exceeds the basic maximum number of units, the planning board may approve proposed deviations from the dimensional requirements in the form of reduced frontage, reduced setbacks, or increased building coverage with the following stipulations:
 - a. ~~Minimum yard setbacks in the rear and side yards shall not be reduced where they are adjacent to another residentially zoned lot that is separate from the proposal.~~
 - b. ~~In the R 12, R 20, and R 40 districts, where cluster development is not proposed, deviations from dimensional requirements proposed by the applicant shall be of a magnitude reasonably necessary to accommodate the total number of units.~~
 - c. ~~In the R 12, R 20, and R 40 districts, where cluster development is proposed, the planning board, at its discretion, may further deviate from the dimensional standards in section 30-203 Cluster development and/or reduce the amount of required open space in order to accommodate the increased number of residential units.~~
 - d. ~~The planning board is authorized to allow for multiple structures/units on a single lot. In these instances, restrictions under section 30-152 Multiple structure on one lot shall not apply.~~
- (4) ~~Considerations for approval.~~ When considering any proposed reduction in dimensional requirements, the planning board shall consider whether the proposal provides for:
 - a. ~~Site design that integrates market rate and inclusionary units into a cohesive neighborhood;~~
 - b. ~~Site layout that is suitable to the housing types proposed by the applicant. For example, very small setbacks between dense housing types may not be appropriate for the neighborhood or conducive to quality of life for residents;~~
 - c. ~~Reduced setbacks that are reasonably compatible with neighborhood development patterns;~~
 - d. ~~Proposed units that have adequate access to private or shared yard space for recreation and enjoyment; and~~
 - e. ~~Proposed access for utilities and public safety that are deemed adequate.~~

- ~~(f) Alternatives to on-site construction of inclusionary units.~~ The applicant may propose, and the planning board may approve, an alternative method of increasing the number of LMI housing units in the town. The options

available are listed below. The applicant may satisfy all or a portion of the inclusionary housing requirements with any one or both alternatives at the sole discretion of the planning board.

(1) ~~General criteria.~~ In addition to any specific criteria listed below for each alternative, the planning board will consider whether:

- a. ~~Existing physical conditions on the site present unusual challenges to development of increased housing density (e.g., high water table, presence of wildlife habitat, lot geometry, etc.);~~
- b. ~~An alternative approach furthers the housing needs of the community as specifically identified in the comprehensive plan; or~~
- c. ~~An alternative approach would create higher quality housing or would develop housing in a location that provides greater access to amenities, jobs, and/or transit.~~

(2) ~~Land dedication.~~ Applicants may propose donations of land in fee simple, on or off site, that the town, at its sole discretion, determines are suitable for the construction of inclusionary units. In addition to the criteria provided in section (f)(1) above, the planning board shall consider the following:

- a. ~~Whether the site can accommodate the number of inclusionary units proposed to be accommodated through this alternative approach.~~
- b. ~~Whether there are environmental constraints, legal encumbrances or other conditions that would otherwise limit the development potential of the site.~~

(3) ~~Off-site new construction.~~ Applicants may propose the construction of the required number of inclusionary units on a site or sites other than the one that is the subject of the application. The construction of any off-site units shall follow the requirements of section (g) unless an alternative schedule is approved by the planning board.

(4) ~~Off-site rehabilitation.~~ Applicants may propose the required number of inclusionary units through the rehabilitation of existing structures on a site or sites other than the one that is the subject of the application. The rehabilitation of any off-site units shall follow the requirements of section (g) unless an alternative schedule is approved by the planning board. Rehabilitated off-site units shall be in full compliance with all applicable construction and occupancy codes and shall be sufficiently maintained or rehabilitated so that all major systems meet standards comparable to new construction. In addition, such units must constitute a net increase in the number of LMI units town-wide.

(g) ~~Timing of construction.~~ The planning board, at its discretion, may require that inclusionary units be built (a unit is considered "built" upon the issuance of an occupancy permit) using the schedule noted below as a guide:

Market Rate Units (% built)	Inclusionary Housing Units (% built)
Up to 30%	None required
30% to 50%	At least 30%, or not less than 1 housing unit
51% to 75%	At least 75%
76% or more	100%

Approval of the final plan associated with any application that triggers inclusionary zoning shall include a final construction schedule that details the number of inclusionary units that shall be constructed in comparison with the construction schedule for market rate units.

(h) ~~Certifying buyers and maintaining affordability.~~

(1) ~~Basic requirement.~~ All inclusionary units required under this section shall be eligible for the Town of Burrillville's official inventory of LMI housing as maintained by Rhode Island Housing. The required

minimum term of affordability shall be in perpetuity (i.e., 99 years) and shall be renewable for the same term upon resale of the unit prior to expiration of the term. All deed restriction documents shall be provided to the town and found acceptable prior to final plan approval.

~~(2) *Eligible occupants.* Ownership inclusionary units shall be occupied by their purchasers as their primary residence and not rented for any other occupancy. Rental inclusionary units may not be sub-leased.~~

~~(3) *Qualification and monitoring.* The developer or owner shall contract with a monitoring agency approved by Rhode Island Housing and the Planning Board for the following purposes:~~

~~a. To determine pricing for initial sale, resale, lease, transfer or sublease of the inclusionary units.~~

~~b. To qualify purchasers or renters for initial occupancy based on household size and income, and to monitor ongoing compliance.~~

~~c. To assist in the development of a marketing and resident selection plan that meets state and federal fair housing requirements, to be approved by the planning board.~~

~~(4) *Long term affordability.* Long term affordability shall be assured through a land lease and/or deed restriction recorded in the town's land evidence records before the sale or lease of the inclusionary unit. The lease or deed restriction shall include information regarding:~~

~~a. The basis for calculation of the maximum allowable sales or rental price for the inclusionary unit both initially and for future buyers or renters.~~

~~b. Restrictions concerning who may occupy the inclusionary unit, and for what period.~~

~~c. A marketing plan that meets local preferences and state and federal fair housing requirements.~~

~~d. Provisions for monitoring and assurance of compliance over time.~~

~~e. Provisions under which the town, a non-profit organization designated by the town, or Rhode Island Housing may exercise a right of first refusal to purchase an inclusionary unit being offered for sale.~~

~~(Ord. of 12-8-2021(2))~~

Secs. 30-165—30-200. Reserved.

ARTICLE VI. SPECIAL USE REGULATIONS

Sec. 30-201. Development plan review.

(a) *Purpose.* The purpose of the development plan review article is to assure that, to the fullest extent feasible, the best design and planning practices and best available technology are used to avoid or minimize impacts of development on the natural and manmade environment of the Town of Burrillville. In addition, this ordinance ensures that an application for a development plan demonstrates consistency with the Town of Burrillville Comprehensive Plan and ~~Development Plan Design Standards Section of the Subdivision and Land Development Regulations~~ the Burrillville Development Plan Review Regulations. All reasonable means shall be used to avoid adverse impacts on the public health, safety and welfare.

(b) *Authority.* The development plan review article is adopted pursuant to the authority contained in Title 45, Chapter 24, Section 49 of the Rhode Island General Laws, titled Development Plan Review. Additionally, the Burrillville Town Council by resolution dated August 23, 1995 provides the planning board with the authority

to adopt, modify and amend regulations and rules governing land development within the Town of Burrillville and to act as the review agent to conduct site plan reviews for such developments.

- (c) *Applicability.* The following types of development shall be subject to planning board review in accordance with the Burrillville Subdivision and Land Development Regulations Section 15-6.6 Development Plan Review. Further, development plan(s) ~~not involving subdivision~~ shall demonstrate conformance with the Burrillville Development Plan Review Regulations~~section 10-10 of the Burrillville Subdivision and Land Development Regulations, entitled "Development Plan Design Standards."~~
- (1) Any proposed commercial or industrial development, including additions and expansions of existing development, constructed after the effective date of this section which, in aggregate, exceeds 10,000 square feet or generates greater than 500 vehicle trips per day as defined in the Institute of Transportation Engineers, Trip Generation Manual.
 - (2) Any proposed commercial or industrial development, including additions and expansions of existing development, which would result in the use or storage of hazardous materials.
 - (3) As defined in the hazardous substance list prepared by the Rhode Island Department of Labor, Division of Occupational Safety, or hazardous wastes as defined in section 30-3 of this chapter, in quantities above those normally found in household use. For the purposes of this section, household quantities of hazardous materials or wastes shall mean 675 gallons or less of oil on site at any time to be used for heating of a structure or to supply an emergency generator, or 25 gallons (or the dry weight equivalent) of other hazardous materials or wastes on site at any time.
 - (4) All commercial and industrial developments within any of the town's aquifer overlay districts.
 - (5) Any development that proposes to clear, grade or disturb greater than 20,000 square feet of land, except clearing conducted pursuant to a validly issued subdivision approval, building permit, or earth removal permit, or for existing agricultural, forestry or related purposes. Exemption from this section for the purposes of clearing, grading and site disturbance for existing agricultural, forestry and related uses shall be determined at the sole discretion of the building official.
 - (6) Any project involving the development of land which is filled to a depth of more than four feet over any area of more than 10,000 square feet or involving the moving and grading of more than 2,000 cubic yards of fill on the site.
 - (7) Any development involving the filling or alteration of wetlands or the wetland buffer area; any development within the 100-year flood plain; any development within 200 feet of rivers, ponds, lakes, and vernal pools; and land within 100 feet of other resource areas.
 - (8) Any development requiring license pursuant to G.L. 1956 § 42-98-4, shall submit a development plan in accordance with this section. The planning board shall review the proposal involving the siting, construction or alteration of a major energy facility for conformance and shall forward its findings, together with the record supporting its findings and a recommendation for final action, to the siting board established pursuant to G.L. 1956 § 42-98-1 et seq.
 - (9) Any other development which may, in the opinion of the building official, significantly alter local drainage patterns and may require development of environmentally sensitive areas.
 - (10) Any principal solar energy system.
- (d) *Guidelines.* The specific and objective guidelines, standards and minimum requirements as required per G.L. 1956 Title 45, Chapter 24, Section 49, shall be those described in the Section entitled "Burrillville Development Plan Review Guidelines—Traditional Village Design Elements" as described in the Burrillville Subdivision and Land Development Regulations as amended.

(e) *Review procedures.* All developments described above in subsection (c), Applicability, subsections (1) through (9) shall be subject to review by the Burrillville Planning Board, which shall serve as the permitting authority. Land clearing associated with subsection (5) shall be required to submit soil erosion and sediment control plans as drafted by a RI Registered Professional Engineer or Surveyor. Proposals involving development, as specified above, shall be subject to the review process described ~~below in~~ Section 15-6.6 Development Plan Review – Review Procedures, of the Town of Burrillville Subdivision and Land Development Regulations sections (1) and (2).

~~(1) Development plan project(s) proposing building foot print(s) in aggregate of 10,000 square feet or less shall be reviewed according to the minor development plan review procedures of section 10-6.4 of the Burrillville Subdivision and Development Plan Regulations as the same may be amended from time to time.~~

~~(2) Development plan project(s) proposing building foot print(s) in aggregate greater than 10,000 square feet shall be reviewed according to the major development plan review procedures of section 10-6.5 of the Burrillville Subdivision and Development Plan Regulations as the same may be amended from time to time.~~

~~(3) Land disturbance projects not involving permanent structures or impervious parking such as forestry or agricultural practices shall be reviewed as minor developments as described in subsection (e)(1) above.~~

(Ord. of 4-12-2000; Ord. of 6-13-2001; Ord. of 5-28-2003(2); Ord. of 12-12-2007(1); Ord. of 5-27-2009; Ord. of 5-24-2017 ; Ord. of 2-12-2020(1))

Sec. 30-202. Aquifer zoning.

(a) *Purposes.*

- (1) In order to protect the water resources of the Town of Burrillville, prevent the development or use of land in the groundwater sources and aquifer area in a manner tending to adversely affect the water quality within the Town of Burrillville, or tending to destroy or have a substantially adverse effect on the environment of the town by virtue of pollution of the land or water by foreign substances including noxious liquids, gases or solid wastes or any potentially harmful conditions which may endanger the health, safety and general welfare of the citizens of the Town of Burrillville. Through use of the following sections, density and uses will be controlled over and around our groundwater sources and aquifer zones;
- (2) To protect, preserve and maintain the quality and supply of groundwater reservoirs upon which the residents of the Town of Burrillville and others depend for drinking water supply;
- (3) To protect the quality and supply of water by regulating the use and development of land adjoining wetlands and watercourses which replenish groundwater reservoirs, to protect primary groundwater recharge areas, and to prevent uses of land detrimental thereto; and
- (4) To otherwise protect the health, safety and general welfare of the public.

(b) *Description and designation.* Groundwater sources are those that are upstream from any public well site or lying within the drainage basin of a known public water sources. Some examples of such groundwater sources are as follows:

Wallum Lake, Wilson Reservoir, Chocklog River Basin, Round Top River Basin, Herring Pond (a.k.a. Spring Lake), Slatersville Reservoir, Branch River Basin, Nichols Pond, Tarkiln Pond, Pascoag Reservoir, Chepachet River Basin, Sucker Pond, Clear River Basin, and any other bodies of water which are or may be a recharge area.

And other such areas as may be from time to time delineated by the Ground Water Protection Act (G.L. 1956, § 46-13.1-1 et seq.).

- (1) *Designation.* The aquifer zones and wellhead protection areas are herein established as overlay zones or districts as shown on the "Aquifer Overlay Map of the Town of Burrillville" (duplicated from the U.S. Geological Survey Water Resources Investigations 18-74 on the map number plate 1) and as most recently identified by the Rhode Island Department of Environmental Management (DEM) Office of Water Resources as public water supply Wellhead Protection Areas. Said maps are hereby adopted by reference and are declared to be a part of this section. Said maps shall be on display at the office of the zoning enforcement officer, or available at the Rhode Island DEM, and shall include all land in the town denoted as overlaying saturated stratified drift or of any thickness and of any transmissivity and shall identify all groundwater sources and aquifers. These overlay zones shall take precedence over any other zone use regulation overlaying them in this zoning chapter, unless otherwise mentioned.

- (2) *Description of aquifer zones.* All areas of stratified drift delineated on the "Aquifer Overlay Map of the Town of Burrillville."

- (3) *Appeal of designation.* Where the bounds of the aquifer zones are in doubt or in dispute, as delineated by the overlay map, the burden of proof and all associated expenses shall be borne by the owners of the land in question to show where said aquifer zones are property [properly] located. At the request of the landowners, the town shall engage, at the owner's expense, a professional hydrogeologist or a soil scientist to determine more accurately the location and extent of the aquifer zone.

In the event the classification of groundwater is such that the groundwater source is not suitable for public or private drinking with or without treatment, then the applicant may apply for an exemption from the provisions of this section; provided, however, that the applicant can demonstrate by clear and convincing evidence that any intended use will not cause further deterioration, degradation, or, if applicable, materially interfere with restoration of such groundwater source.

- (4) *Multiple zone parcels.* Parcels containing more than one "A" zone, or if any part of a parcel lies within an "A" zone, the most restrictive zone shall take precedence.

- (5) *Applicability.* The provisions of this section shall apply insofar as groundwater sources are suitable for public or private drinking sources with or without treatment as designated by the director of the department of environmental management under General Laws of Rhode Island, as amended.

- (c) *Aquifer zones and uses.* Land located in an aquifer zone shall have uses that are more restricted than the normal use described in article III as follows:

Transmissivity (feet/day)	Overlay District	Permitted Uses
0—2,500	A-80	Single-family residential, multifamily ¹ , recreation/open space, farming ² , commercial ¹ , industrial ¹
2,500—5,000	A-100	Single-family, duplex residential, recreation/open space, farming ² , commercial ³ , industrial ³
5,000+	A-120	Single-family, multifamily, recreation/open space, farming ² , commercial ³ , industrial ³

¹ Must be sewered.

² Permitted by special use permit only.

³ Nonresidential uses within the aquifer overlay district shall be permissible only if it complies with the maximum wastewater flow requirements specified in subsection 30-202(d), below. With the exception of land within the A-80 district, flow requirements shall apply to all non-residential uses within the aquifer overlay zoning district, even if said use is connected to the municipal or a private sewer/wastewater treatment system.

- (d) *Lot dimensional requirements.* The dimensional requirements shall only apply to residential uses in all aquifer overlay districts and to nonresidential uses in the A-80 if they are greater than those of article IV and said land lies in whole or in part in any aquifer zone. Any dimensional requirements not detailed below shall be the same as those of article IV.

<i>District</i>	<i>Lot Sizes (square feet)</i>	<i>Lot Width (feet)</i>	<i>Front Yard (feet)</i>	<i>Rear Yard (feet)</i>	<i>Side Yard (feet)</i>	<i>Percent of Building Coverage</i>
A-80	80,000	300	40	40	15	15
A-100	100,000	325	40	40	20	8
A-120	120,000	350	40	40	25	5

The table below establishes the maximum wastewater flows permissible for nonresidential development within the A-100 and A-120 aquifer overlay district. Flows are to be determined in accordance with the Rhode Island Department of Environmental Management's "Rules and Regulations Establishing Minimum Standards Relating to Location, Design and Construction and Maintenance of Individual Sewage Disposal Systems", as amended.

<i>Lot Size (in square feet)</i>	<i>Maximum Wastewater Flows</i>	
	<i>(in gallons per day)</i>	
	<i>Lot served by individual subsurface disposal system</i>	<i>Lot served by municipal sewer</i>
At least 20,000 sq. ft. but less than or equal to 40,000 sq. ft.	100 gpd	200 gpd
Greater than 40,000 sq. ft. but less than or equal to 60,000 sq. ft.	215 gpd	430 gpd
Greater than 60,000 sq. ft. but less than or equal to 80,000 sq. ft.	329 gpd	658 gpd
Greater than 80,000 sq. ft. but less than or equal to 100,000 sq. ft.	443 gpd	886 gpd
Greater than 100,000 sq. ft. but less than or equal to 120,000 sq. ft.	565 gpd	1,130 gpd
Greater than 120,000 sq. ft.	671 gpd plus 115 gallons per day for each 20,000 additional square feet ¹	1,342 gpd plus 230 gallons per day for each 20,000 additional square feet ²

¹ For example, a parcel of 140,000 square feet could have maximum wastewater flows of 786 gallons per day (671 gpd + 115 gpd).

² For example, a parcel of 140,000 square feet could have maximum wastewater flows of 1,572 gallons per day (1,342 gpd + 230 gpd).

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- (e) *Disposal of sewage.* Sanitary sewage service shall be provided so as to service all applicable structures and uses by the public sewer system of the Town of Burrillville. Where public sewers are not available, individual sewage disposal systems (ISDS) may be permitted, provided that wastewater generation shall not exceed an average daily rate of 450 gallons per day per residential unit. Calculations of the rate of wastewater discharge shall be based upon standards provided in the Rhode Island Department of Environmental Management (RIDEM) "Rules and Regulations Establishing Minimum Standards Relating to Location, Design and Construction and Maintenance of Individual Sewage Disposal Systems", as amended.
- (f) *Prohibited uses.* The following uses are prohibited in aquifer zones ("A" zones) and wellhead protection areas:
- (1) Storage and/or loading of road salt or deicing chemicals.
 - (2) Incinerators, sanitary landfill sites, solid waste transfer stations and wastewater treatment plants, except publicly owned sewage treatment facilities.
 - (3) Septage disposal inconsistent with the requirements of this section.
 - (4) All uses which involve the use or storage of hazardous substances designated under 40 CFR 116, pursuant to section 311 of the Federal Clean Water Act and subsequent amendments thereto or other toxic pollutant as defined under G.L. 1956, § 46-13.1-3, as amended. Provided, however, that minor or insignificant quantities of such substances for office use may be used or stored on the premises if, in the opinion of the zoning enforcement officer and building official, the presence of such substance does not constitute a potential for degradation of surface water or groundwater resources in the area and such substance is contained in a suitable storage area. Insignificant quantities of hazardous substance may be constructed as that which is necessary for the operation of an office or business including the operation of equipment, vehicles or other mechanical systems necessary for the operation of a permitted use. All uses which involve the use or storage of hazardous wastes or materials required for water or wastewater treatment such as storage of chemical products required by statute, rule or regulation are prohibited; such storage in freestanding, above-ground containers with enclosed and covered, full secondary containment are excluded from these criteria.
 - (5) Storage or piping of petroleum or refined petroleum products, except within buildings in which said petroleum products will provide heat when burned. Storage of liquid fuel for said heating purpose in excess of 300 gallons is prohibited except for storage of said liquid fuel which conforms with the regulations of the Rhode Island Department of Environmental Management (DEM); provided, however, that the department of environmental management has promulgated regulations for said storage. Underground storage of petroleum fuel or refined petroleum products in any quantity is prohibited.
 - (6) The alteration of any natural site features or topography including but not limited to the cutting or removal of trees or other vegetation, or dumping, filling, excavation, grading, transferring or removal of any gravel, sand, loam or other soft material, rock or ledge, prior to obtaining all permits and approvals for final development plans, including where the use of land is for the primary purpose of agriculture. Where such alteration is less than one-half acre in area or 100 cubic yards in volume and is incidental to a permitted use and performed in the normal course of maintenance or operation of such permitted use, this paragraph shall not apply.
 - (7) All uses not specifically permitted in the aquifer zones and wellhead protection areas (this section) are prohibited.
- (g) *Fine for violations.* Fines to help ensure conformance of this section will be as follows:
- Any violation of sections 30-202 shall have a fine of \$100.00 per day. This fine shall begin on the day of finding of said violation and continue until the removal of the violation.

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- (h) *Groundwater sources and aquifer zones separability.* If the provisions of the "groundwater sources and aquifer zone" section of the zoning chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the "groundwater sources and aquifer" portion of the zoning chapter which can be given effect without the invalid provision or application, and to this end the provisions of this section of the zoning chapter are declared severable.

(Ord. of 3-10-99(1); Ord. of 4-12-00)

Sec. 30-203. Cluster development.

- (a) *Objectives.* To enable the community to better protect natural resources by steering development away from features such as wetlands and jurisdictional buffers, steep slopes in excess of 15 percent, and rock and or ledge areas, encourage developers to use more creative approaches in the development of land, encourage a more efficient, aesthetic and desirable use of open space, encourage variety in site designs and development of the town and to enable more efficient and economical provision of community services and facilities particularly through minimization of road length.

- (b) *Definitions.*

Cluster development shall mean the division of land into lots used or available for use as building sites where said lots are clustered together into one or more groups of lots separated by intervening common open lands.

Environmentally constrained land shall mean natural features, resources, or land characteristics that are sensitive to change and may require cluster techniques to prevent degradation of the site, or may require limited development, or in certain instances, may preclude development. Such features include: rock outcroppings, ledge, hydric soils, wetlands and jurisdictional buffers, archeological sites, scenic meadow areas or slopes exceeding 15 percent in steepness.

- (c) *Standards and requirements.*

- (1) Cluster development for residential, detached single-family uses, excluding mobile homes, shall be permitted in F-2, R-40, R-20 and R-12 districts provided the following requirements are met:
 - a. The developer must follow the general site planning techniques of the Burrillville Subdivision Regulations.
 - b. The maximum number of dwelling units shall not exceed that which a conventional yield plan would produce according to the underlying zone district minimum lot sizes. Where the aquifer overlay zone exists, its minimum lot size requirements shall be used in the yield plan calculation to determine density only if development is proposed within that zone.
 - c. Environmentally constrained land shall exclude land for rights-of-way, wetlands and jurisdictional buffer areas, hydric soils 0—18 inches to water table and seasonal high water table soils 19 to 36 inches, ledge areas, and steep slopes in excess of 15 percent. Additionally, in cases involving former farms where field areas still exist, development shall be steered away from field areas in order to protect natural views to the greatest extent possible.
 - d. Open space shall be protected in perpetuity by restrictive covenants and deed restrictions. In situations where open space areas offer passive recreation, such as walking paths or congregation areas, a maintenance program shall be developed and recorded as part of a home owner's association document. Town ownership of open space shall be looked at on a case by case basis. Fifty percent of the land area within cluster applications shall be protected as open space, 25 percent of which land area shall be considered useable upland and not environmentally constrained land as defined in subsection (b), Definitions, above.

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- e. All water supply sources must be consistent with the Rhode Island Department of Health Regulations. All onsite wastewater treatment systems shall be approved by RI DEM or in the case of sewer lines; the Burrillville Sewer Commission.

- (2) The dimensional regulations for lot size for cluster development of single family, multi-family and mixed use building units may be reduced as follows:

	F-2 District	R-40 District	R-20 District	R-12 District
Minimum lot area(square feet)	40,000	20,000	12,000	6,000
Minimum lot width(feet)	100	75	50	50
Minimum yards:				
Front, (feet)	40	30	20	20
Rear, (feet)	30	30	30	20
Side, each side (feet)	20	20	10	10
Maximum building coverage (percentage)	15	15	20	30

- (3) A cluster development which includes townhouses or multi-unit buildings shall be permitted provided no more than three units shall be allowed in any one building in the F-2 and R-40 zone districts.

(Ord. of 12-12-2007(2))

Sec. 30-204. Multiunit dwellings.

All multiunit dwellings as defined in section 30-3, and all townhouses, as defined in section 30-3 of this chapter shall conform to the following regulations and standards:

- (1) *Standards for development.*
- No more than six dwelling units shall be permitted in a structure.
 - No more than one multiunit dwelling structure shall be allowed on any one lot of record unless allowed at the planning board's discretion as part of an application subject to inclusionary zoning.
 - All multiunit structures shall be serviced by a public sewerage system and a public water system. If public sewers are not available, a private sewerage system (ISDS) may be substituted for the public system, provided that such system meets Rhode Island Department of Environmental Management regulations and standards. Where local, state or other standards are in conflict, the severest standard shall prevail.
 - Maximum lot coverage. The total ground area occupied by all principal buildings, together with all accessory buildings, shall not exceed 35 percent of the total area.
- (2) *Dimensional regulations.* Unless different lot sizes are approved as part of an application subject to inclusionary zoning, each zoning lot shall meet the following minimum lot size and front, side and rear yard dimensions:

Minimum front yard depth (feet): 55

Combined minimum width of side yard (feet): 40

Minimum width of any one side yard (feet): 15

Minimum rear yard depth (feet): 30

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- a. *Height.* Principal building shall not exceed 35 feet in height; no accessory or other structure shall exceed 15 feet in height.
 - b. *Buffer strip.* The governing authority shall determine the need for and size of a landscaped buffer strip to be located along the rear and side lot lines.
 - c. *Special buffer requirements adjacent to other residential zones.* Along any boundary line adjacent to a residential zone that requires a greater side or rear yard than those required in the apartment development standards, a buffer strip equal to the difference shall be provided, measured from the property line.
 - d. *Rubbish disposal.* Each building shall be provided with an enclosed fireproof waste pen of sufficient size to accommodate all trash and waste stored on the premises. Waste pen and utility area shall be properly screened and buffered from all buildings and property lines.
- (3) *Density requirements.* Unless different lot sizes are approved as part of an application subject to inclusionary zoning, multiunit dwellings shall be limited in number to total lot size in accordance with following: 15,000 square feet of area for each of the first two units, and then all additional units in conformance with the following table:

Apartment Type	Unit Lot Requirements (square feet)
0—1 bedroom	1,500
2 bedrooms	3,000
3 bedrooms	4,500

- a. *[Additional rooms.]* Rooms designated as dens or similar connotations, which could be converted to use as bedroom(s), shall be considered as bedrooms for the purpose of this section.
- b. *Distances between buildings on the same lot.* If approved as part of a cluster development, the minimum distances between two buildings or any two rows of buildings substantially parallel to each other shall be 50 feet. The minimum distance between two abutting ends of buildings in the same general plane row shall be 25 feet.
- c. *Off-street parking.* Minimum off-street parking shall be provided and maintained as follows:
 1. Two car spaces per dwelling unit (270 square feet per space, including access, egress and general circulation).
 2. No parking line shall be permitted within ten feet of any boundary line or within the required minimum front yard.
 3. The circulation system, including roads, entrances, exits and other means of access constructed as part of a multifamily dwelling development shall be constructed so as to accommodate emergency vehicles, including fire apparatus.

(Ord. of 5-27-2009; Ord. of 12-8-2021(2))

Sec. 30-205. Special flood hazard areas and flood fringe lands.

- (a) *Purpose.* The purpose of this section is to ensure public safety; minimize hazards to persons and property from flooding, to protect watercourses from encroachment and to maintain the capability of floodplains to retain and carry off floodwaters.
- (b) *Applicability.* The special flood hazard areas are herein established as a floodplain overlay district. The district includes all special flood hazard areas within the Town of Burrillville designated as zone A, AE, AH, AO, A99,

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V, or VE on the Providence County Flood Insurance Rate Map (FIRM) and Digital FIRM issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Providence County FIRM that are wholly or partially within the Town of Burrillville are panel numbers 44007C0020G, 44007C0040G, 44007C0045G, 44007C0110G, 44007C0120G, 44007C0130G, 44007C0135G, 44007C0140G, 44007C0145G, 44007C0151G, 44007C0155G, and 44007C0165G dated March 2, 2009. The exact boundaries of the district shall be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Providence County Flood Insurance Study (FIS) report dated October 2, 2015. The office of the building official shall be responsible for floodplain management. The FIRM and FIS report and any revisions thereto are incorporated herein by reference and are on file with the building official.

- (1) The degree of flood protection required by the section is considered reasonable but does not imply total flood protection. If any section, provision, or portion of this section is adjudged unconstitutional or invalid by a court, the remainder of the section shall control.
 - (2) For the purposes of this section, "other development" shall be defined as any action exclusive of that which requires the issuance of a building permit under the Rhode Island State Building Code. Such other development shall include, but not necessarily be limited to, the following:
 - a. Earth, gravel or mineral removal or extraction.
 - b. Alteration of the topography by cutting, filling or grading.
 - c. Storage of bulk materials outside of a structure.
 - d. Construction or placement of facilities or improvements not normally requiring a building permit.
 - (3) The requirements set forth in this article shall be in addition to any applicable requirements in this chapter and in any other regulation which may be applicable.
- (c) *Definitions.* Unless specifically defined below, words and phrases used in this section pertain to floodplain management, have the same meaning as they have in common usage and to give this section its most reasonable application.

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

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

Base flood. The flood having a one percent chance of being equaled or exceeded in any given year, also referred to as the 100-year flood, as published by the Federal Emergency Management Agency (FEMA) as part of a flood insurance study (FIS) and depicted on a flood insurance rate map (FIRM).

Base flood elevation (BFE). The elevation of the crest of the base flood or 100-year flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

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

Building. See definition for "Structure."

Cost. As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor's estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor's overhead; contractor's profit; and grand total. Items to be excluded include: cost of plans and specifications, survey costs,

permit fees, outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.

Development. Any manmade change to improved or unimproved real estate, including but not limited to the construction of buildings or structures; the construction of additions, alterations or substantial improvements to buildings or structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

Dry floodproofing. Any combination of structural and non-structural protection measures incorporated in a building that is not elevated above the base flood elevation that keeps water from entering the building to prevent or minimize flood damage. Note: For insurance purposes, a dry floodproofed, non-residential structure is rated based on the elevation of its lowest floor unless it is floodproofed to one foot above the BFE.

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

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

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

Finished living space. Fully enclosed areas below the base flood elevation (BFE) that are not considered a basement cannot have finished living space and needs to be designed to be exposed to flood forces. These spaces can only to be used for parking, building access or limited storage. Finished living space can include, but is not limited to, a space that is heated and/or cooled, contains finished floors (tile, linoleum, hardwood, etc.), has sheetrock walls that may or may not be painted or wallpapered, and other amenities such as furniture, appliances, bathrooms, fireplaces and other items that are easily damaged by floodwaters and expensive to clean, repair or replace.

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

Flood boundary and floodway map (FBFM). The official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated the limits of the regulatory floodway and 100-year floodplain.

Flood insurance rate map (FIRM). The official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas (100-year floodplain) and the insurance risk premium zones applicable to a community. FIRM published after January 1990 may also show the limits of the regulatory floodway.

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

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

For the purposes of these regulations, the term "regulatory floodway" is synonymous in meaning with the term "floodway".

Functionally dependent use or facility. A use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.

Historic structure. Any structure that is:

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

Lowest floor. The lowest floor of the lowest enclosed area (including basement).

Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles and other similar vehicles or transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

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

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

Mean sea level (MSL). Average height of the sea for all stages of the tide, usually determined from hourly height observations over a 19-year period on an open coast or in adjacent waters having free access to the sea. The National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) to which base flood elevations shown on a community flood insurance rate map (FIRM) are referenced.

New construction. Structures for which the "start of construction" commenced on or after effective date of floodplain regulations, and includes any subsequent improvements to such structures.

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

Recreational vehicle. A vehicle which is:

- (1) Built on a single chassis;

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- (2) Four hundred square feet or less when measured at the largest horizontal projection;
 - (3) Designed to be self-propelled or permanently towable by a light duty truck; and
 - (4) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway. See definition for "Floodway."

Special flood hazard area (SFHA). The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. SFHAs are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the flood insurance study (FIS) for a community. BFEs provided on flood insurance rate map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. SFHAs include, but are not necessarily limited to, the land shown as zones A, A1-30, AE, AO, AH, and the coastal high hazard areas shown as zones V, V1-30, and VE on a FIRM. The SFHA is also called the area of special flood hazard.

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

Structure. A walled and roofed building which is principally above ground, including a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures.

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

Substantial improvement. Any combination of repairs, reconstruction, rehabilitation, alterations, additions or other improvements to a structure, taking place during a ten-year period, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure as determined at the beginning of such ten-year period. This term includes structures that have incurred "substantial damage", regardless of the actual repair work performed. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a "historic" structure, provided that the alteration will not preclude the structure's continued designation as a "historic structure".

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

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

Water surface elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Wet floodproofing. Measures designed to minimize damage to a structure or its contents by water that is allowed into a building.

(d) *Requirements and restrictions.*

- (1) *Development permit.* Except where construction is covered by a building permit or by approval of a subdivision or land development project by the Burrillville Planning Board, any other development shall require the issuance of a development permit by the building official or designee. Said permit shall be in a form authorized by the town council.
- (2) *[Application.]* The application for a flood hazard development permit shall be submitted to the code enforcement officer and shall include:
 - a. The name and address of the applicant;
 - b. An address or a map indicating the location of the construction site;
 - c. A site plan showing location of existing and proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and the dimensions of the lot;
 - d. A statement of the intended use of the structure;
 - e. A statement as to the type of sewage system proposed;
 - f. Specification of dimensions of the proposed structures;
 - g. The elevation (in relation to mean sea level) of the lowest floor, including basement, and if the lowest floor is below grade on one or more sides, the elevation of the floor immediately above;
 - h. Base flood elevation data for all new, relocated or substantially improved structures;
 - i. The elevation (in relation to mean sea level) to which the structure will be floodproofed;
 - j. The description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
- (3) *[Other permits.]* Prior to the issuance of a building or development permit, the applicant shall submit evidence that all necessary permits and approvals have been received from all government agencies from which approval is required by federal or state law.
- (4) *Permit fee.* A permit fee (based on the cost of the construction) may be required to be paid to the Town of Burrillville and a copy of a receipt for the same shall accompany the application. An additional fee may be charged if the code enforcement officer and/or board of appeals needs the assistance of a professional engineer.
- (5) *Review of flood hazard development permit applications.* The building official or designee shall:
 - a. Review all applications for flood hazard development permits to determine that all pertinent requirements as described in this section have been or will be met;

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- b. Utilize, in the review of all flood hazard development permit applications, the base flood data contained in the "Flood Insurance Study—Town of Burrillville, Rhode Island, Providence County," as described in this section;
 - c. Make interpretations of the location of boundaries of special flood hazard areas shown on the FIRM maps dated March 2, 2009;
 - d. In A zones, in absence of FEMA BFE data and floodway data, obtain, review, and reasonably utilize other BFE and floodway data as a basis for elevating residential structures to or above the base flood level, and for floodproofing or elevating non-residential structures to or above the base flood level.
 - e. In review of flood hazard development permit applications, determine that all necessary permits have been obtained from those federal, state and local government agencies from which prior approval is required;
 - f. Notify adjacent municipalities, the state department of environmental management and the state bureau of civil emergency preparedness prior to any alteration or relocation of a watercourse and submit copies of such notifications to the Federal Emergency Management Agency and maintain carrying capacity of altered watercourse; and
 - g. Maintain, as a permanent record, copies of all flood hazard development permits issued and data relevant thereto, including reports of the zoning board of review on variances.
- (6) *Development standards.* The following standards shall apply to any construction or other development located wholly or partly within an area of special flood hazard as defined in this section. Please also refer to the current Rhode Island State Building Code, One and Two Family Dwelling Code, Plumbing Code, Mechanical Code, and Electrical [Code] for state standards.
- a. No watercourse may be altered in a manner which will, in the opinion of the building official or designee, result in any decrease in the capacity of the watercourse, and no land shall be graded or altered in such a manner as to increase the base flood elevation within the Town of Burrillville. Where any alteration is permitted, the building official or designee will notify the adjacent communities, the Rhode Island Statewide Planning Program and the Federal Emergency Management Agency.
 - b. In a regulatory floodway, any encroachment is prohibited which would cause any increase in the base flood level unless hydrologic and hydraulic analyses prove that the proposed encroachment would not increase flood levels during the base flood discharge.
 - c. The filling or excavation of land may be permitted only under the following conditions:
 - 1. Said action will not encroach upon a watercourse.
 - 2. Said action will not result in an increase in the potential flood level. Where it is determined that said action may result in an increase in the potential flood level, the building official or designee shall require appropriate measures to offset the potential increase. Adequate drainage shall be provided so as to reduce the exposure of the site or any other land to flood hazard.
 - d. No outdoor storage of materials or equipment which is likely to cause damage to property, create a potential obstruction to floodwaters, create a potential fire hazard or pollute the waters during flood periods shall be permitted in any special flood hazard area. Such materials or equipment shall include but not necessarily be limited to: lumber and other buoyant materials, water-soluble materials, volatile or flammable materials, acids or poisons.

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- e. Provision shall be made for anchoring facilities, equipment or yard features which are capable of movement or flotation in floodwaters. Such items shall include but shall not necessarily be limited to: fences, sheds, animal shelters, tanks, storage boxes, planters, vehicles, boats and other items normally positioned or stored on a site outside of a structure.
 - f. The use of flood-resistant materials shall be used for structures within an area of special flood hazard.
 - g. Construction methods and practices shall be used that minimize flood damage.
 - h. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located to prevent water entry to accumulation.
 - i. Onsite waste disposal systems shall be designed to avoid impairment or contamination of the floodway.
 - j. New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration
 - k. Base flood elevation data is required for subdivision proposals or other development greater than 50 lots or five acres.
- (7) *Specific standards.* Construction standards in special flood hazard areas (SFHA), zones A, A1-30, AE.
- a. *Residential construction.* All new construction, substantial improvements, and repair to structures that have sustained substantial damage shall have the bottom of the lowest floor, including basement, elevated to or above the base flood elevation (BFE).
 - b. *Non-residential construction.* All new construction, substantial improvements, and repair to structures that have sustained substantial damage which are commercial, industrial or non-residential structures shall:
 - 1. Have the bottom of the lowest floor, including basement, elevated to or above the base flood elevation (BFE); or
 - 2. In lieu of being elevated, non-residential structures may be dry floodproofed to one foot above the BFE provided that together with all attendant utilities and sanitary facilities the areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, and provided that such structures are composed of structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Rhode Island registered professional engineer or architect shall review and/or develop structural design specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with acceptable standards of practice or meeting the provisions of this section. Such certification shall be provided to the building official or designee.
 - c. *Fully enclosed areas below the base flood elevation of elevated buildings.* All new construction, substantial improvements, or repair of substantial damage to residential or non-residential structures that include fully enclosed areas formed by a foundation and other exterior walls below the base flood elevation (BFE) of an elevated building, shall be designed to preclude finished living space and be designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls (wet floodproofing). Designs for complying with this requirement must either be certified by a Rhode Island registered professional engineer or architect, or meet the following minimum criteria listed in sections 1—7 below:

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1. Provide a minimum of two openings (hydraulic flood vents) having a total net area of not less than one square inch for every one square foot of enclosed area subject to flooding. These hydraulic openings must be located on at least two different walls. Only the area (square footage) that lies below the BFE can be used in the calculation of net area of vents required.
 2. The bottom of all openings shall be no higher than one foot above grade. At least one side of the structure's fully enclosed area must be at or above grade. Fill placed around the foundation walls must be graded so that the elevation inside the enclosed area is equal to or higher than the adjacent outside elevation on at least one side of the building. The foundation slab of a residential structure, including the slab of a crawlspace, must be set equal to the outside finished grade on at least one side of the building.
 3. The openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic entry and exit of flood waters in both directions without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means. Other coverings may be designed and certified by an engineer or approved by the building official or designee.
 4. The area cannot be used as finished living space. Use of the enclosed area shall be the minimum necessary and shall only be used for the parking of vehicles, building access or limited storage. Access to the enclosed area shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator). The enclosed area shall not be used for human habitation or partitioned into separate rooms.
 5. All interior walls, floor, and ceiling materials located below the BFE shall be unfinished and resistant to flood damage.
 6. Electrical, plumbing, machinery or other utility equipment that service the structure (furnaces, oil or propane tanks, air conditioners, heat pumps, hot water heaters, ventilation, washers, dryers, electrical junction boxes, circuit breaker boxes and food freezers) are prohibited in the fully enclosed area below the BFE. Utilities or service equipment located in this enclosed area, even if elevated above the BFE in the space, will subject the structure to increased flood insurance rates.
 7. A residential building with a structurally attached garage having the floor slab below the BFE is considered an enclosed area below the BFE and must meet the standards of [subsection] (7)c. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters in both directions. Flood openings or vents are required in the exterior walls of the garage or in the garage doors. The human intervention necessary to open garage doors when flooding occurs is not an acceptable means of meeting the openings requirements. In addition to the automatic entry of floodwaters, the areas of the garage below BFE must be constructed with flood resistant materials. Garages attached to non-residential structures must also meet the aforementioned requirements or be dry floodproofed as per the requirements of [subsection] (7)b.2.
- d. *Manufactured (mobile) homes and recreational vehicles (RVs).* In all special flood hazard areas (SFHA), any manufactured (mobile) homes to be newly placed, substantially improved or repaired as a result of substantial damage, shall be elevated so that the bottom of the lowest floor is at or above the base flood elevation (BFE). This includes SFHAs outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing

manufactured home park or subdivision, or on a site in an existing park which a manufactured home has incurred substantial damage as a result of a flood.

All manufactured (mobile) homes within a SFHA shall be placed on a permanent foundation which itself is securely anchored and to which the structure is securely anchored so that it will resist flotation, lateral movement and hydrostatic pressures. Anchoring may include, but not be limited to, the use of over-the-top or frame ties to ground anchors.

All manufactured (mobile) homes within a SFHA shall be installed using methods and practices which minimize flood damage. Adequate access and drainage should be provided. Elevation construction standards include piling foundations placed no more than ten feet apart, and reinforcement is provided for piers more than six feet above ground level.

Recreational vehicles placed on sites within a SFHA shall either (i) be on the site for fewer than 180 consecutive days; and (ii) be fully licensed and ready for highway use; or (iii) be elevated and anchored. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

Public utilities and facilities in manufactured (mobile) homes or subdivisions with a SFHA shall be constructed so as to minimize flood damage.

- e. *Accessory structures.* Detached accessory structures in zones A, AE, A1-30, AO, and AH (i.e., garages, sheds) do not have to meet the elevation or dry floodproofing requirement if the following standards are met:
1. The structure is no more than 500 square feet and has a value less than \$3,000.00.
 2. The structure has unfinished interiors and must not be used for human habitation. An apartment, office or other finished space over a detached garage is considered human habitation and would require the structure to be elevated.
 3. The structure is used solely for parking of vehicles and/or limited storage.
 4. The accessory structure must be wet-floodproofed and designed to allow for the automatic entry and exit of flood water.
 5. The accessory structure shall be firmly anchored to prevent flotation, collapse and lateral movement.
 6. Service facilities such as electrical, mechanical and heating equipment must be elevated or floodproofed to or above the base flood elevation.
 7. The structure must comply with the floodway encroachment provision in subsection (6)b.

(e) *Variance.*

- (1) The zoning board of review may hear and grant a variance as prescribed in this section subject to the prerequisites contained therein. In addition to applying the criteria and requirements of said section, the board shall undertake the following in granting a variance from the provisions of this article:
 - a. Describe in its decision the exact extent of the variance granted.
 - b. Indicate in its decision that the granting of such variance may affect the flood insurance rates as they apply to the subject property up to amounts as high as \$25.00 per \$100.00 of insurance coverage, and further, that construction or other development below the base flood elevation may increase risk to life and property.

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- c. Forward a copy of its written decision and findings to the applicant, the building official or designee, the Rhode Island Statewide Planning Program and the Federal Insurance Administration in the annual report of the town to the administration.

- (2) No variance may be granted which will result in any increase in flood levels.

(f) *Enforcement.*

- (1) It shall be the duty of the building official or designee to enforce the provisions of this article. If the code enforcement officer finds that any provisions of this article are being violated, he shall notify, in writing, the person responsible for such violation indicating the nature of the violation and ordering the action necessary to correct it.
- (2) When the above action does not result in the correction or abatement of the violation, the municipal officers, upon notice from the code enforcement officer, are hereby authorized and directed to institute any and all actions, whether legal or equitable, necessary to the enforcement of this article. Any person who continues to violate any provision of this article after receiving notice of such violation shall be guilty of a violation of this chapter and subject to a fine of \$500.00 for each violation. Each day such a violation is continued is a separate offense.

(Ord. of 2-11-2009; Ord. of 6-24-2020(1))

Sec. 30-206. Reserved.

Editor's note(s)—An ordinance adopted Oct. 13, 1999, repealed provisions previously numbered as § 11-8.6 which pertained to regulation of earth removal and derived from the original zoning ordinance adopted Dec. 14, 1994.

Sec. 30-207. Telecommunications antennas and towers.

- (a) *Purposes.* The purpose of this section is to establish general guidelines for the siting of towers and antennas. The goals of this section are to:

- (1) Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the community;
- (2) Encourage strongly the joint use of new and existing tower sites;
- (3) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- (4) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; and
- (5) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.

- (b) *Definitions.* As used in this section, the following terms shall have the meanings indicated:

Alternative town structure shall mean manmade trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna shall mean any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves.

FAA shall mean the Federal Aviation Administration.

FCC shall mean the Federal Communications Commission.

Government authority shall mean either the building official or the zoning board of review of the Town of Burrillville.

Height shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

Preexisting towers and antennas shall have the meaning set forth in subsection (c)(3) of this section.

Public officer shall mean the building official of the Town of Burrillville.

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

(c) *Applicability.*

- (1) *New towers and facilities.* The requirements set forth in this chapter shall govern the location of all new towers and facilities that exceed, and antennas that are installed at a height in excess of, the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not apply to towers and antennas.
- (2) *Amateur radio, receive-only antennas.* This chapter shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
- (3) *Pre-existing towers and antennas.* Any tower and antenna for which a permit has been properly issued prior to the effective date of this chapter shall not be required to meet the requirements of this chapter, other than the requirements of subsections (d)(3) and (d)(4). Any such towers or antennas shall be referred to in this chapter as "preexisting towers" or "preexisting antennas."

(d) *General guidelines and requirements.*

- (1) *Principal or accessory use.* Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to set-back requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antenna that are installed, in accordance with the provisions of this chapter shall not be deemed to constitute the expansion of a nonconforming use or structure towers and base facilities may not take away required parking spaces of an existing building.
- (2) *Inventory of existing sites.* Each applicant for an antenna and or tower shall provide to the building department an inventory of existing towers that are either within the Town of Burrillville or within ten miles of the border thereof, including specific information about the location, height, and design and capacity of each tower. The building department may share such information with other applicants applying for administrative approvals or special use permits under this chapter or other organizations seeking to locate antennas within the town, provided, however that the building department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- (3) *Federal requirements.* All towers must meet or exceed current standards and regulations of the RI State Building Code, FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. Failure to bring towers and antennas into compliance with such revised

standards and regulations shall constitute grounds for the removal of the tower and antenna at the owner's expense.

- (4) *Building codes: safety standards.* To ensure the structural integrity of towers, the proposed plan shall be prepared and sealed by a certified structural engineer, additionally, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state building codes, as amended. If upon inspection, the building official concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standard. If the owner fails to bring such towers into compliance within said 30 days, the Town of Burrillville may remove such tower at the owner's expense.

(e) *Procedures generally.*

- (1) Building permits are required for all telecommunications antennas, towers and similar facilities.
- (2) Each applicant for such building permit shall apply to the building department, providing the information set forth in subsection (g)(2) below.
- (3) The building department shall respond to each such application within 30 days after receiving it by either approving or denying the application. If the building department fails to respond to the applicant within the said 30 days, then the application shall be deemed to be approved.
- (4) In connection with any such administrative approval, the building department may, in order to encourage shared use, administratively waive any zoning district setback requirements by up to ten percent pursuant to section 30-33(b) of this chapter.
- (5) If an administrative approval is denied, the applicant may appeal said denial in accordance with the provisions of the zoning chapter concerning appeals of administrative decisions.

(f) *Permitted uses.*

- (1) *General.* The uses listed in this subsection are deemed to be permitted uses and shall not require a special use permit. Nevertheless, all such uses shall comply with subsections (d)(3) and (d)(4) above, and this article and all other applicable statutes and ordinances.
- (2) *Specific permitted uses.* The following uses are specifically permitted:
 - a. Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial or general commercial zoning district; provided however, that such tower shall be set back from any existing off-site residence a distance equal to the height of the tower or in the case of an unoccupied lot, setback a distance equal to the height of the tower plus the residential yard setback for the adjacent residential lot; setback from any commercial, manufacturing structure or use, and parking area equal to a distance of 1½ times the height of the facility; and the proposed site provides the opportunity to minimize the adverse visual effects of telecommunication facilities.
 - b. Installing an antenna on an existing structure other than a tower (such as a building, sign, light pole, water tower, or other free-standing nonresidential structure) that is 50 feet in height or greater, so long as said additional antenna adds no more than 20 feet to the height of said existing structure; and
 - c. Installing an antenna on any existing tower of any height, so long as the addition of said antenna adds no more than 20 feet to the height of said existing tower; provided, however, that such specific permitted use shall not include the placement of additional buildings or other supporting equipment used in connection with said antenna.

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- d. Towers and antennas erected on land or structures owned by the Town of Burrillville for public safety purposes.

(g) *Special use permits.*

(1) *General.* The following conditions shall require the issuance of special use permits:

- a. If the tower or antenna is not a permitted use under article IV of this chapter or permitted to be approved administratively pursuant to article III of this chapter, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
- b. In granting a special use permit, the zoning board of review may impose conditions to the extent the board concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
- c. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer.
- d. Any enlargement, expansion, extension, addition of cells or construction of new or replacement towers or transmitters, beyond the original approved capacity, shall be subject to site plan review and follow the same procedure as for an original grant of a special use permit.

(2) *Information required.* Each applicant requesting a special uses permit under this chapter shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the zoning board of review to be necessary to assess compliance with this chapter. The date of balloon deployment pursuant to subsection (b) below shall be incorporated into the public meeting notice.

- a. The applicant will also submit a report that includes a description of the tower and the technical, economic and other reasons for the tower design. The report will also describe the capacity of the tower including the number and type of transmitters and receivers that it can accommodate and the basis for the calculation of capacity. To encourage colocation, towers should be designed to handle capacity beyond that required by the applicant.
- b. Between the date of advertisement of the public meeting date, and the scheduled public meeting date, a (tethered aerostat) balloon shall be required to be deployed at the height of the proposed tower. All cost associated with balloon deployment will be borne by the applicant.
- c. Applicants proposing to erect wireless communication towers, accessory facilities and structures on land or structures shall provide evidence of contractual authorization from the owner(s) to conduct wireless communications services on the property.
- d. Applicants other than licensed carriers shall provide evidence that a licensed carrier will locate on the proposed facility once erected.
- e. Each applicant shall submit an evaluation of five potential sites for antenna platforms within five miles of the proposed site. Applicants will also submit proof that owners of existing or potential sites within the search area have been contacted and that permission was sought to install a device on those structures, and that permission was denied, or that such locations do not satisfy requirements to provide the service needed. Failure to present evidence of a good faith effort on the part of the applicant to utilize existing facilities shall be grounds for denial of the application.
- f. The applicant must demonstrate that the tower complies with all applicable standards of the federal and state governments by providing a copy of the requests made by the applicant to the

FAA and the FCC. The applicant shall also provide the written response from the FAA and the FCC that the proposed tower complies with applicable regulations administered by the agency or that the tower is exempt from those regulations. A copy of the response from each agency shall be included in the application. If such response is not received within 60 days, the application will be considered incomplete. The applicant shall send a subsequently received agency statement, if any, to the building official.

- (3) *Factors considered in granting special use permits.* The zoning board of review shall consider the following factors in determining whether to issue a special use permit, although the board may waive or reduce the burden on the applicant of one or more of these criteria, if the board concludes that the goals of this chapter are better served thereby.

- a. Height of the proposed tower;
- b. Proximity of the tower to residential structures and residential district boundaries;
- c. Nature of uses on adjacent and nearby properties;
- d. Surrounding topography;
- e. Surrounding tree coverage and foliage;
- f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- g. Proposed ingress and egress; and
- h. Availability of suitable existing towers and other structures as discussed in subsection (f)(4) of this section.

Every application for special use permit shall be accompanied by a description of the narrowing process that eliminated other potential sites. The applicant shall also provide a written statement from a radio frequency engineer justifying the height of the proposed facility.

- (4) *Availability of suitable existing towers or other structures.* No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the zoning board of review that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

- a. No existing towers or structures are located within the geographic area to meet applicant's engineering requirements.
- b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- d. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- e. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- f. Proof that owners of existing towers or structures within the search area of the proposed tower location have been contacted and that permission was sought to install a device on those structures, and that permission was denied.

(h) *Design standards.* The following design standards shall apply to all towers and antennas approved by right, or for which a special use permit is required; provided, however, that the building official or zoning board of review, as applicable, may reduce the standard setbacks and separation requirements if the goals of this chapter would be better served thereby.

(1) *Setbacks and separation.*

- a. Towers must be set back a distance equal to the height of the tower from any residential structure plus the residential yard setback for the adjacent residential lot. Where the zoning board of review feels that the factual circumstances warrant it, the board may require that the tower be set back a distance equal to the height of the tower from any lot line.
- b. Guys and accessory facilities must satisfy the minimum zoning district setback requirements for accessory structures.
- c. Towers over 90 feet in height shall not be located within one mile of any existing tower that is over 90 feet in height.
- d. Towers must be set back a distance equal to 1½ the height of the tower from the lot line of any adjoining commercial, manufacturing structure or use, and parking area.
- e. All supports and anchors shall have a minimum ten-foot horizontal setback from any overhead utility lines.

(2) *Aesthetics; lighting.*

- a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color, so as to reduce visual obtrusiveness.
- b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities into the natural setting and built environment.
- c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- d. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

(3) *Landscaping.*

- a. Tower facilities shall be landscaped with a buffer of evergreen plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.
- b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.
- c. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the perimeter may be sufficient buffer.
- d. No signs shall be allowed on any communication tower except as required for public safety purposes, by the Federal Communication Commission or by the town. All signs shall conform to the sign requirements of the zoning chapter.

(4) *Security fencing.*

- a. Towers shall be enclosed by security fencing not less than six feet in height.
- b. Towers shall also be equipped with an appropriate anti-climbing device.

- (i) *Removal of abandoned antennas and towers.* Any antennas or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower/or the owner of the property on which the tower is located shall remove same within 30 days of receipt of notice from the building official notifying the owner of such abandonment. The applicant shall post a bond which shall be reevaluated every two years, to cover the cost of removal. If the town shall determine that the bond is insufficient to cover the cost of removal, then the applicant or property owner shall increase the value of the bond. If such antenna or tower is not removed within said 30 days, the town may remove such antenna or tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(Ord. of 2-12-1997; Ord. of 3-24-1999(2); Ord. of 5-27-2009)

Sec. 30-208. Rural residential compounds.

- (a) *Objectives and applicability.* The objective of the rural residential compound is to provide for flexibility of design for residential development and to allow a better relationship between residential development and the natural, historic and rural characteristics of the land. Lots may contain less than the frontage and provide flexibility in the front, side, and rear yard setback requirements as prescribed by this chapter for the underlying district, provided that the requirements of this section are met.

The planning board may grant approval for the creation of a rural residential compound in the F-5 district. A rural residential compound is a parcel of land on which no more than five single-family household structures are grouped on a portion or portions of the property, on smaller lots and within building envelopes and with flexible dimensional requirements other than those permitted in the underlying zoning district. Individual lot frontages may be permitted on private as well as public streets. Within such rural residential compounds, any contiguous open space shall remain undeveloped and be set aside for conservation, agricultural uses, passive recreation, and/or for the preservation of valuable and/or sensitive features or structures of the rural landscape.

(b) *Definition, purpose and review process.*

- (1) A residential compound is a parcel of land containing lots for single-family dwellings having an average overall density of no greater than one dwelling unit per ten acres of land.
- (2) Residential compounds are intended to preserve the rural character of the town by permitting low-density residential development on large parcels of land while relieving the applicant from compliance with the design and improvement standards applicable to conventional land development and subdivisions.
- (3) The compound shall contain a maximum of five residential building lots, and no fewer than two building lots.
- (4) For the purpose of review and approval, residential compounds will be considered minor land development projects and subject to the review and approval by the planning board under the provisions of the Town of Burrillville land development and subdivision regulations. Any proposed rural residential compound shall require a public hearing in accordance with the public hearing and notice requirements section of the Burrillville subdivision and land development regulations.

- (c) *Permitted uses.* The permitted uses applicable to residential compounds shall be those provided in the F-5 zoning district, the only district in which residential compounds are allowed.

(d) *Density calculation and dimensional regulations.*

- (1) The maximum number of building lots allowable in a residential compound shall not exceed five lots, and no fewer than two building lots.
- (2) The planning board may allow flexible lot width or frontage requirements for lots within a rural residential compound, provided however, that no building lots shall be reduced in area to less than two acres. The planning board may reduce those areas or portions of lots within the minimum prescribed front-rear-side yard setbacks, known as building envelopes, to designate an appropriate area for the siting of a house.
- (3) The requirements of this ordinance cannot be utilized contemporaneously with any other subdivision such as a minor or major subdivision for the purpose of increasing the density allowed under section (d)(1) above.

(e) *General requirements.*

- (1) A parcel proposed for development as a residential compound shall have frontage on a town-accepted street. Such frontage shall be a minimum of 50 feet. This provision is intended to accommodate legal nonconforming lots with substantial backland but only minimum frontage and shall not be construed as a means of increasing the density allowed under section (d)(1) above.
- (2) Each proposed lot must contain a minimum of two acres suitable for development. Land unsuitable for development shall be RIDEM verified wetland areas and land determined by the planning board to be unbuildable because of natural physical conditions.
- (3) No lot or parcel which has been developed as a residential compound shall be further subdivided or reduced in size. This provision shall not prevent the development in incremental stages of a parcel as a residential compound as long as each component lot shall not be changed after having received final approval from the planning board.

(f) *Open space.* At least 50 percent of the total land area of the parcel proposed for development shall be designated as permanent open space in accordance with the provisions of the Town of Burrillville land development and subdivision regulations. To the extent possible, the proposed open space shall be contiguous. Any land within a rural residential compound not designated as a building lot shall be conveyed to the town and accepted by it for park, open space, agricultural, or other specified open space use or uses, or be conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space, or be conveyed to a corporation or trust owned or to be owned by the owners of lots or units within the development, or owners of shares within a cooperative development. Each owner will have an undivided interest in and to those open space lots and ownership shall pass with conveyances of the lots or units. While the open space areas will generally be owned by the owners of the residential compound, the town reserves the right to request that the land be conveyed to the town or a non-profit organization for the town's use as a park or open space.

- (1) The open space lot created shall be protected against future development and unauthorized alterations in perpetuity by appropriate deed restrictions and conservation easements. In any case where the land is not conveyed to the town, a restriction enforceable by the town shall be recorded providing that the land shall be kept in the authorized condition(s) and not be built upon or developed for accessory uses such as parking or roadway. The planning board shall approve the form and content of any such restrictions and easements at the time of final approval of the residential compound.
- (2) Any buildings, structures, parking areas or impervious improvements associated with open space use may be located on the open space lot, or lots, provided, however, that any structure is within keeping the lot, or lots, as part of the open space. The planning board shall approve the facility and location of all such facilities and their design in terms of massing, scale and materials.

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- (3) The owner(s) of the open space lot, or lots, shall guarantee perpetual maintenance by appropriate deed restrictions, and the planning board shall approve the form and content of any such restrictions at the time of final approval of the subdivision. The restrictions shall contain the following provisions:
- a. If the building lot owners and/or their open space lot owners, and/or their successors or assigns fail to maintain the open space lot or lots, the Town of Burrillville may, at its option and its sole discretion, perform any necessary maintenance and enforce the payment for such costs, including reasonable attorneys' fees, by an action of law or in equity against the building lot owners and/or their open space lot owners or their successors or assigns.
- (g) *Design and improvement standards.*
- (1) Streets and drainage improvements within the parcel to be developed as a residential compound shall be privately owned and maintained in common by the residents of the residential compound. At the time of final approval, the planning board shall approve the form and content of the following legal documents to be recorded contemporaneously with the final plat.
 - a. A covenant by the owner of the parcel, binding on his successors and assigns, that the Town of Burrillville shall not be asked or required to accept or maintain the private streets within the parcel that do not meet the engineering and design requirements for town-accepted streets, for a minimum of 99 years from the date of recording, or, if only a lesser period is legally enforceable, for that period with as many automatic renewals as are necessary to total 99 years. Such restrictions shall state that all expenses for improvements to private streets to meet town requirements shall be born[e] by the owners of the property, including such improvements which may be deemed necessary for public use should the property owners wish a private roadway be made a town-accepted road.
 - b. A document or documents establishing the method of ownership, and providing for the maintenance of the streets and drainage improvements.
 - (2) Streets and appropriate drainage facilities within a residential compound shall be designed, constructed and inspected in compliance with the Town of Burrillville land development and subdivision regulations. The planning board shall have the authority to require additional improvements in order to protect the public health, safety, and welfare, if warranted by the characteristics of the land, or if the street will be used by persons other than the residents of the compound.
 - (3) If the planning board determines that an existing private right-of-way which is proposed to be used as access from the compound to a town-accepted road is not adequate for public health, safety and welfare purposes, the planning board shall have the authority to require improvements to the private right-of-way. Such improvements may include improved pavement surface, increased pavement width, increase in depth below finished grade for removal of boulders or ledge, improvements in the grade of ascent or descent, surface water run-off control, natural water flow protection, or drainage improvements. Any such improvements required shall be shown on a plan certified by a professional engineer, and such plan shall be included in the submission requirements for final plan approval and recorded with the endorsed plat. No final approved plat shall be endorsed or recorded and building permits issued for any property in rural residential compounds until such required improvements are completed.
 - (4) Streets, drainage, and other improvements within a residential compound may be bonded pursuant to the Town of Burrillville land development and subdivision regulations.
- (h) *Approval process.* Residential compounds shall be reviewed as minor land development projects by the planning board under the Town of Burrillville land development and subdivision regulations.

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- (1) Approval of a rural residential compound shall be granted only upon the planning board's determination that the plan preserves open space; utilizes the natural features of the land, allows for more efficient provision of access; provides for stability and appropriate long term safety and capacity of the road system both internal and external roads of the residential compound, be they private roads, public ways, or town-accepted roads; and preserves the aquifer overlay district and the rural character of the land.
 - (2) Rural residential compounds are to be allowed by the planning board only when a subdivider can demonstrate to the board that such development would be a better use of the land than a conventional subdivision and is the best interests of the residents of the Town of Burrillville. To this end, the planning board shall require the subdivider to provide an alternate plan or plans for developing the land as a conventional subdivision.
 - (3) The final plan approved by the planning board and recorded in the land evidence records of the Town of Burrillville shall contain the following statement: "These premises are subject to restrictions and conditions that are contained in instruments recorded contemporaneously with this plan and are incorporated herein by reference."

(Ord. of 3-10-99(2); Ord. of 4-23-2008(2))

Sec. 30-209. Village planned development land development project.

- (a) *Definition and purpose.* A village planned development (VPD) is a land development project developed by a single owner or a group of owners that is fully planned and developed as a comprehensive site. Village planned developments allow the developer greater flexibility in terms of the arrangement of buildings on the land while providing the town with a method of directing higher density growth towards existing village areas and providing a continuation of pedestrian circulation within those areas. Growth area number 4 as shown on the accompanying VPD overlay zone map is viewed as an exception to the above, because there is currently no formerly recognized village in this area. However, per the Route 102 development management district overlay zone, a new village is recommended for this area.
- (b) *Intent.* The intent of this article is to encourage development that promotes a harmonious variety of uses within a concentrated area thereby providing developers with development options not ordinarily allowed through conventional zoning. The mix and orientation of the allowed uses in the VPD shall be compatible within the proposed development and compliment adjacent village area neighborhoods. Each VPD shall promote shared services and facilities, the use of public sewer - although individual sewerage disposal systems or other treatment systems may be allowed- public or private water systems, (except in growth area number 4 which will require ISDS and private wells), and the creation of safe, pedestrian-friendly environments to accommodate residential living, shopping and/or working.
- (c) *Objectives.* The objectives of village planned development are:
 - (1) To allow for compatible mixed uses on a site, which are ordinarily not permitted together through conventional zoning.
 - (2) To coordinate architectural styles, building forms, and structural/visual relationships in an innovative, aesthetic, and functionally efficient manner.
 - (3) To provide flexibility of zoning in exchange for creative design and added amenities.
 - (4) To encourage land development and redevelopment (such as mixed-use developments) within or adjacent to the town village centers that preserves their natural and/or historical features.
 - (5) To encourage the redevelopment and rehabilitation of deteriorated and/or underutilized historic or nonconforming structures and areas.

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- (6) To promote pedestrian friendly environments which provide both a safe walking atmosphere and a logical connection of destinations within and adjacent to existing village centers.
 - (7) To enhance the quality of life for the inhabitants, users, and/or workers who will be utilizing or otherwise benefiting from the provided amenities.
 - (8) To focus growth within or adjacent to the villages of Pascoag and Harrisville, or in the case of growth area number 4, establish a new village in Nasonville.
 - (9) To provide areas that allow increased density thereby reducing land cost(s) per building site to encourage affordable housing availability.
- (d) *Types of village planned developments.* The following types of village planned developments may be approved by the planning board only when geographically sited according to the village planned development overlay zone ("VDP overlay zone") map.
- (1) *Village residential land development project:* Predominantly residential VPD that also includes public recreational uses (i.e., playgrounds and town commons) and open space. Examples of predominantly residential VPD's include:
 - a. Age-restricted housing (e.g. retirement communities) with a clubhouse or other recreation facility or other appropriate service, and useable open space.

The purpose of subsection (d)(1)a. above is to create housing with limited impacts on town services. All village residential land development projects shall utilize varied, architectural housing styles that reflect those within Burrillville's two National Historic Districts of Harrisville and Oakland, (e.g. capes, bungalows (cottages), colonials, mill house duplex(s) etc.) and not exceed two units per building. The Stillwater Mill Complex is exempt from this provision.
 - (2) *Village mixed-use land development project:* A mixed-use VPD that includes residential, commercial, retail, recreational, open space preservation, and/or municipal uses, the purpose of which is to promote redevelopment in growth areas 1, 2 and 3.
 - a. Like subsection (d)(1) above, these projects shall utilize varied, architectural housing styles that reflect those within Burrillville's two National Historic Districts of Harrisville and Oakland, (e.g., capes, bungalows (cottages), colonials, mill house duplex(s) etc.).
 - b. Commercial and retail gross floor areas within mixed-use buildings must not exceed 4,000 square feet. The Stillwater Mill Complex is exempt from this provision as well as section 30-204 in its entirety.
 - (3) *Village industrial land development project:* Predominantly light-industrial VPD that also includes commercial, recreational, governmental, and/or open space preservation uses, the purpose of which is to take advantage of highway access. Industrial VPD's are to be encouraged within growth area number 4. Examples industrial VPD's include:
 - a. A corporate park that mixes offices with recreation, restaurants, daycare facilities, and other uses that may be considered accessory to the main employment use.
 - b. A corporate and light industrial park that mixes offices with light manufacturing and/or research and development, and other uses that may be considered accessory to the main employment use.
 - c. In any industrial VPD, the retail (including restaurant) use shall be accessory to the main employment use, and thus no single retail or restaurant use shall exceed 6,000 square feet of G.F.A., nor shall the total of all retail and restaurant use exceed 30 percent of the G.F.A. of the entire industrial VPD.

(e) *Review requirements.*

- (1) VPD(s) shall be considered major land development projects and subject to review and approval by the planning board according to the standards of the Town of Burrillville Subdivision and Land Development Regulations as adopted June 13, 2001, and as subsequently amended.
- (2) In addition to the review requirements set forth in the subdivision and land development regulations, the applicant shall be required to include a statement of appropriateness demonstrating that the proposed development is in conformance with the VPD section objectives and purposes and consistent with the Burrillville Comprehensive Plan.
- (3) The planning board may apply such special conditions, restrictions or stipulations to any VPD and make findings of fact, as it may deem necessary to maintain consistency with the comprehensive plan, zoning chapter, and subdivision and land development regulations to maintain harmony with neighboring uses.
- (4) Standards for building coverage, building height, access to state and town highways and roads, lots containing wetlands, impervious surfaces, loading, signage, site planning design, streets, sidewalks and bicycle paths, blocks, utilities, erosion and sediment control, landscaping, drainage systems, etc., for VPD(s) shall generally be those as stated in the subdivision and land development regulations.
- (5) All parking standards shall be determined by use, and in accordance with ITE Trip Generation Guidelines, as amended, and as approved by the town planner and town engineer, and exempt from section 30-156 in its entirety.
- (6) Final plan approvals granted by the planning board and recorded in the Land Evidence Records of the Town of Burrillville shall contain the following statement: "These premises are subject to restrictions and conditions that are contained in instruments recorded contemporaneously with this plan and are incorporated herein by reference."

(f) *General requirements.*

- (1) Village planned developments shall have a minimum of 50 feet frontage on a town-accepted street.
- (2) Village residential and village mixed-use land development projects are strongly encouraged within growth areas 1, 2, and 3 and shall be linked to existing village areas through the installation of curbing and sidewalks, walking paths, and useable, public open space. The purpose of this requirement is to promote pedestrian friendly environments and a logical connection of destinations within and adjacent to existing village centers. In order to effectuate this requirement and promote a continuation of traditional block and grid street patterns common to the older villages of Pascoag or Harrisville, cul-de-sacs are not allowed.
- (3) Visual connections must be established between the proposed housing units and existing structures found within Burrillville's two National Historic Districts. Such is accomplished through architectural design and the use of historic building materials that are compatible within the National Historic Districts such as: wood or brick, building style and features such as: period lighting and other outdoor fixtures, and native landscaping.
- (4) Village residential land development projects shall be allowed in the VPD overlay zone as set forth on the Burrillville Zoning Map as amended in conjunction with this chapter, even if also located in the aquifer overlay district.
- (5) Provided proposals comply with the objectives, review requirements and general requirements sections contained herein, the total lot density of any village planned development shall be calculated according to the existing R-12 zone district (i.e., using a minimum area size per dwelling unit of 12,000 square feet).

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- (6) The planning board shall determine all other flexible dimensional requirements for village planned developments including lot dimensions, internal frontage requirements (if applicable), building setbacks, and buffer zone requirements where different units exist in an effort to maintain historic village design. The basic minimum standards for such flexible dimensional requirements shall be that of the R-12 zone. Pursuant to G.L. 1956, § 45-24-47(b), as amended, the planning board may authorize zoning incentives of up to 50 percent of the R-12 zone dimensional requirements, (excluding minimum lot size) provided that all objectives review requirements and general requirements are met.
- (7) Twenty percent of all proposed units must be affordable to those residents within the income range of 30 to 80 percent of area median income as determined by HUD. All units shall be maintained and operated according to either the HUD or Rhode Island Housing and Mortgage Finance Corporation federal subsidy program requirements for as long as the proposed use is residential (i.e., all units must be subsidized housing units according to G.L. 1956, § 45-53, section 2, definition 2.23, subsidized housing or affordable, as subsequently amended). Additional covenants and restrictions may be prescribed as necessary by the planning board to ensure affordability.
- (8) A letter of eligibility in support of the affordable units from either HUD or RIHMFC must be submitted along with any VPD proposal prior to final approval of any village plan proposal.
- (9) Affordability restricted units shall be built and occupied prior to, or simultaneously with the construction of any other units in the approved application.
- (10) Provisions shall be made for the guaranteed maintenance and ownership of private infrastructure, through such legal documentation, as required by the planning board and approved by the town solicitor.
- (g) *Design and improvement standards.*
- (1) Streets and drainage improvements in VPD's may be either: privately or publicly owned. At the time of final approval, the planning board shall approve the form and content of a document or documents, establishing the method of ownership and providing for the maintenance of the streets and drainage improvements, to be recorded contemporaneously with the final plat.
- (2) Streets and appropriate drainage facilities within a VPD shall be designed, constructed and inspected in compliance with the Town of Burrillville Land Development and Subdivisions Regulations. The planning board shall have the authority to require additional improvements in order to protect the public health, safety, and welfare, if warranted by the characteristics of the land, or if public improvements are to be used by the general public. Any such improvements required shall be shown on a plan certified by a professional engineer, and such plan shall be included in the submission requirements for final plan approval and recorded with the endorsed final plat. No final approved plat shall be endorsed for any property in a village planned development until such required improvements are either completed or bonded.
- (3) Streets, drainage, and other improvements within a VPD shall be bonded pursuant to the Town of Burrillville Land Development and Subdivision Regulations.
- (h) *Aquifer zones and uses.* Village planned developments, as described in herein, shall be permitted in aquifer overlay district, however, only within the village planned development overlay zone, if the requirements of this section are met, and that all uses which are prohibited under section 30-202(f) (other than individual wastewater treatment plants for onsite wastewater disposal), shall remain prohibited.
- (Ord. of 2-25-04(2))

Sec. 30-210. Development management district overlay zone.

(a) *Establishment of the development management district overlay zone.*

- (1) *Purpose.* This development management district overlay zone is established to work in conjunction with underlying zoning districts to implement land use development policies contained in the Bronco Highway Development Management Study Report of February 2003 ("Bronco Highway Plan") and the Burrillville Comprehensive Plan.

Design standards for the development district are structured to encourage development that preserves the rural character of Route 102, protects sensitive environmental and cultural resources, enhances the community and improves the tax base while minimizing traffic impacts on Bronco Highway. The district is intended to prevent strip commercial development and associated commercial sprawl along Bronco Highway by encouraging development of industrial and commercial office parks along the highway and concentrating retail development at commercial nodes in existing and proposed village centers.

- (2) *Applicability.* The development management district provisions and standards supplement those of the applicable underlying zone and other applicable overlay zones. Where the development management district and base zone provisions conflict, the management overlay zone provisions shall control. The overlay zone applies to all properties listed in the development management district overlay zone table and shown on the accompanying district map contained in Attachment A [attached to the ordinance adopted September 24, 2003].
- (3) *Review procedure.* All multiple lot and/or multi-unit residential, commercial and industrial development proposals within the development overlay district shall be subject to site plan review procedures as specified in section 11.8.1 of the zoning chapter.

(b) *Allowed uses and special use limitations.*

- (1) *Allowed uses.* Table 1.A shows the schedule of allowed uses within each base zone. With some exceptions, the activities allowed within the base zone are also allowed within the development management district. The district adds the flexibility of mixing compatible uses on a given site. Mixed use development is encouraged within the district.

ZONE USE AMENDMENTS

TABLE 1.A. ROUTE 102 OVERLAY ZONE USES

PRINCIPAL USE	F-5	F-2	R-40	R-20	R-12	OS	VC	GC	LI	GI
1. Agricultural uses:										
A building or structure to be used for the display and sale of the products produced by the uses allowed herein on the land										N
2. Residential uses:										
Mixed use building								Y		
3. Open recreational uses:										
Drive-in theatre								N		
4. Public and semi-public uses:										
Church or other place of worship (subject to development plan review)										N
Trade school / technical school										N

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Daycare center or nursery school											N	
5. Office uses:												
Professional, scientific, medical and technical services and finance and insurance industries												Y
Temporary real estate (one-year renewal and limited to new subdivisions or other new developments)									N			
6. Restaurant and entertainment:												
Lunchroom or restaurant as an integral part of an industrial development: (a) not including entertainment												S
Drive-in restaurant									N			
7. Service business:												
Auto body or paint shop									N	N	N	
Package store									N			
Personal convenience service, including but not limited to barber shop, shoe repair, dry cleaner, laundry pickup									N			
Specialty services, including but not limited to copy center, photo studio, interior decorating shop, tailor, catering service, etc.									N			
Mortuary or funeral home									N			
Radio or television studio									N			
Veterinary office or animal hospital									N			
Vehicle rental agency									N	N		
8. Retail business:												
Auto, truck or heavy equipment sales in a building (including repairs)												
Recreational trailer sales and service										N		
Truck or heavy equipment sales in a building (including repairs)									S	S		
9. Wholesale business and storage:												
Wholesale business and storage of non-flammable and non-explosive material in a building												N
Open lot storage of new building material and machinery										N	N	
10. Service industries:												
Blacksmith, machine or welding shop												N
Bus, truck and heavy equipment repair												N
Professional, scientific, medical and technical services and finance and insurance industries									Y			
11. Industrial uses:												
Professional, scientific, medical and technical services and finance and insurance industries										Y	Y	
The smoking, canning or curing of meat and fish products										N	N	

The manufacture, compounding, processing or packaging of bakery goods, candy, cosmetics, drugs, food products (not including meat, fish, yeast, vinegar and the rendering of fats and oils, and other similar operations)									S	S
Retail outlet for industrial use (as an accessory use)										S
Textile dyeing or finishing										N

- (2) *Prohibited uses.* Commercial retail, rental, sales and service uses are not permitted to have access on Bronco Highway within the development management district. Where permitted by the underlying zone, such uses may be allowed within the district provided that they obtain frontage and access from roads other than Bronco Highway. Specific uses prohibited along Bronco Highway include but are not limited to:
- Convenience stores.
 - Fast food restaurants.
 - Service stations, including quick servicing.
 - Car washes.
 - Flea markets.
 - Self service storage facilities.
 - Open lot storage (except agricultural products).
- (3) *Temporary uses.* The short-term use of land for the sale of agricultural products may be allowed by special permit within the development management district provided that such use is temporary, is restricted exclusively to the sale of agricultural products, and the property owner has demonstrated adequate provisions for traffic control, site security and public health and sanitation. No permit for this use may be issued for a term exceeding three years.
- (4) *Buffer zones and setbacks.* In order to maintain the rural and forested appearance of Bronco highway within the development management district, a vegetated buffer with a minimum depth of 50 feet must be maintained along both sides of Bronco Highway as measured from the limit of the highway right-of-way. No buildings, signs, structures or other site improvements may be constructed within this buffer zone. Existing trees, shrubs, and other naturally occurring vegetation may not be removed from this buffer zone without express written permission from the planning board. Permission may be granted by the planning board for the selective removal of dead, dying, or diseased trees upon submission of documentation by a licensed arborist certifying that such removal is necessary to protect the health of the surrounding forest and/or to protect the public health, safety and welfare.
- (5) *Signs.* Internally illuminated signs and signs incorporating blinking, flashing, or moving lights are prohibited within the development management district.

(Ord. of 9-24-03)

Sec. 30-211. Solar energy systems.

- (a) *Purpose.* The purpose of this section is to regulate solar installations, whether roof- or ground-mounted or integrated into other structures such as canopies. This is done by providing standards for the placement,

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design, construction, operation, monitoring, modification and removal of such installations. These standards are used to address public safety, minimize impacts on abutting properties, scenic, natural and historic resources, and are compatible with the general neighborhood in which they are located. Such installations shall also be consistent with the Town of Burrillville's Comprehensive Plan, as well as any state and office of energy resources rules and regulations.

(b) *Applicability.* The provisions of this section shall apply to installation, construction, operation, and repair of all solar energy systems, regardless of type, and the decommissioning of all ground-mounted solar energy systems.

(c) *Definitions.*

Abandonment means the solar energy system shall be considered abandoned when it either fails to operate as originally designed or operations are discontinued for more than one year, without the written consent of the planning board.

Conservation opportunity areas means areas identified in the 2015 DEM Wildlife Action Plan, as amended, as priority areas for conserving Rhode Island's species of greatest conservation need and key habitats.

Previously disturbed site means landfills (as identified by the state department of environmental management as of the date of the approval of this section), mines, quarries, and gravel pits (as identified by the RIGIS land use/land cover aerial photo data of 2021), brownfields (as identified by the state department of environmental management or the U.S. Environmental Protection Agency as of the date of the approval of this section), and superfund sites (as identified by the U.S. Environmental Protection Agency as of the date of the approval of this section). A previously disturbed site is only the portion(s) of a lot that is(are) disturbed or contaminated, and not the entire lot on which a previously disturbed site is located.

Solar energy system means all equipment, machinery and structures utilized in connection with the conversion of solar energy to electricity, to provide for heating, cooling, water heating or electricity generation. A solar energy system can be small-scale or large-scale, per the table in subsection (d) of this section.

Solar energy system, building-integrated means a type of building-mounted solar energy system that is constructed as an integral part of a principal or accessory building or structure and where the building integrated system features maintain a uniform profile or surface of vertical walls, window openings and roofing. Such a system is used in lieu of a separate mechanical device replacing or substituting for an architectural or structural component of the building or structure that appends or interrupts the uniform surfaces of walls, window openings, and roofing. A building-integrated system may occur within windows or skylights, into roofing systems such as shingles or roof paneling, or other building or structure envelope systems such as siding.

Solar energy system, building-mounted means a solar energy system that has its electricity-generating solar panels attached to any part or type of roof on a building or structure that has an occupancy permit on file with the municipality and that is either the principal structure or an accessory structure on a recorded parcel. This system also includes any solar-based architectural elements and building-integrated solar energy systems.

Solar energy system, canopy (or solar canopy) means an elevated structure, built to cover a parking area, that hosts solar panels and provides shade. Solar canopies are separate and distinct from solar panels installed onto a carport structure.

Solar energy system, ground-mounted means a solar energy system that has its electricity-generating solar panels mounted on a structure, pole or series of poles constructed specifically to support the system and not attached to any other principal or accessory structure.

(d) *Summary of solar energy system classification.* The following table provides a summary of how different types of solar energy systems are divided between large-scale and small-scale for the purposes of this section. For the purposes of determining classification, the area covered by a ground-mounted solar energy

system will be measured on a site plan by drawing a five-foot buffer around the outer edge of the panels and then reporting the total area within that buffer.

Large-Scale

Ground-Mounted Solar Energy Systems greater than 1,500 SF on lots of less than one (1) acre.

Ground-Mounted Solar Energy Systems greater than 2,500 SF on lots equal to or greater than one (1) acre.

Small-Scale

Ground-Mounted Solar Energy Systems less than or equal to 1,500 SF on lots of less than one (1) acre.

Ground-Mounted Solar Energy Systems less than 2,500 SF on lots equal to or greater than one (1) acre.

Building-Mounted Solar Energy Systems (including Building-integrated Solar Energy Systems).
Solar Canopies.

(e) *Requirements for all solar energy systems (small-scale and large-scale).*

- (1) *Compliance with laws, ordinances and regulations.* The construction and operation of all solar energy systems shall be consistent with all applicable local, state and federal laws, ordinances, regulations and requirements, including but not limited to, all applicable safety, construction, electrical and communications requirements. All buildings and fixtures forming part of a solar energy system installation shall be constructed and maintained in accordance with the state building code.
- (2) *Building permit and building inspection.* No solar energy system shall be constructed, installed or modified without first obtaining the appropriate permit from the building department and shall be subject to periodic inspections as deemed necessary by the building official.
- (3) *Glare.* All solar energy systems shall be designed and located to prevent reflective glare toward any inhabited buildings on adjacent properties. Glare generated from solar panels shall not interfere with traffic or create a safety hazard.
- (4) *Utility lines.* Utility lines and cables shall be located underground to the greatest extent practicable. Any utility lines and cables that remain above ground should be sited to reduce their visibility from public rights-of-way to the greatest extent practicable.

(f) *Requirements for small-scale solar energy systems.* A small-scale solar energy system is permitted in all zoning districts as a matter of right, provided:

- (1) The system meets all applicable requirements for accessory structures in section 30-111, table of dimensional regulations, and section 30-112(3), yard exceptions, as well as all applicable zoning requirements from other sections of this zoning ordinance, including but not limited to signage (section 30-157), unless otherwise specified below. Small-scale solar energy systems are not subject to subsection (g), requirements for large-scale solar energy systems;
- (2) *Roof-mounted solar energy systems.* These solar energy systems may only be placed on code compliant structures. On flat roofs, accessory solar energy systems shall be set back from the edge at least two feet;
- (3) *Ground-mounted solar energy systems.* These solar energy systems shall be no more than ten feet above finished grade at their highest point. (Note that solar canopies are not considered ground-mounted solar energy systems and follow the height requirements for accessory structures as found in section 30-111.)

(g) *Requirements for large-scale solar energy systems.* A large-scale solar energy system is permitted per the requirements below.

- (1) *Planning board review.* Large-scale solar energy systems must be reviewed by the Burrillville planning board in accordance with section 30-201, development plan review.

(2) *Special use permit required.* The development of a large-scale solar energy system shall also require the issuance of a special use permit from the zoning board of review per section 16-48.

(3) *Location and coverage.*

- a. Commercial and industrial districts. Large-scale solar energy systems are allowed, by special use permit, in the Village Commercial (VC), General Commercial (GC), Limited Industrial (LI), and General Industrial (GI) zoning districts as outlined in section 30-71, zoning district uses, only in the areas and under the conditions described herein.

A large-scale solar energy system in these zoning districts must be accessory to an active permitted principal use with a pre-existing occupancy permit on the lot and shall not exceed 20 percent of the buildable area of the lot on which it is located (or two acres, whichever is less), inclusive of all area within the required fencing for the system.

- b. Previously disturbed sites. Large-scale solar energy systems are allowed, by special use permit, in any zoning district other than the Open Space (OS) district as outlined in section 30-71, zoning district uses, only in the areas and conditions described herein.

A large-scale solar energy system in these zoning districts may be a principal use on a previously disturbed site, as defined herein, determined by the planning board and approved by the zoning board of review through the special use permit process. Such large-scale solar energy system shall only be located on the portion of a lot considered a previously disturbed site and shall not exceed 60 percent of the area of the lot on which it is located (or 20 acres, whichever is less), inclusive of all area within the required fencing for the system. On previously disturbed sites within the Village Commercial (VC), General Commercial (GC), Limited Industrial (LI), and General Industrial (GI) zoning districts, if the planning board deems among other things that a commercial or industrial use other than a large-scale solar system can be accommodated on all or a portion of the previously disturbed site, then the land dedicated to solar shall be reduced to an area allowed by the board.

- c. Agricultural uses. Large-scale solar energy systems are allowed only in the areas and under the conditions described herein, by special use permit, in any zoning district, as outlined in section 30-71, zoning district uses, where the following agricultural uses are permitted by right or allowed by special use permit:

1. Raising of animals subject to the premises being kept in a humane, sanitary manner,
2. Commercial nursery with retail outlet,
3. Commercial nursery, orchards, raising of crops for profit,
4. Wineries,
5. Farmer-wineries and farmer breweries.

A large-scale solar energy system must be accessory to one of the agricultural uses listed above, and such agricultural use must be the active permitted principal use with an occupancy permit on the lot. The large-scale solar energy system shall not exceed 20 percent of the buildable area of the lot on which it is located (or two acres, whichever is less), inclusive of all area within the required fencing for the system.

- d. Open Space District. Large-scale solar energy systems are prohibited in the Open Space (OS) zoning district as outlined in section 30-71, zoning district uses.
- e. Conservation opportunity areas. Large-scale solar energy systems are prohibited in conservation opportunity areas as defined in section 30-211(c), definitions.

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- (4) *Insurance.* Comprehensive general liability coverage in the minimum amount of \$500,000.00 for bodily or personal injury and \$100,000.00 for property damage.
- (5) *Fees and surety.* All applicable fees including, but not limited to, planning and zoning board review fees, as well as all surety bonds to cover the cost of removal, shall be paid by the owner, or operator, prior to the issuance of any building permits. Surety bonds must be renewable every five years after a cost evaluation has been conducted and submitted to the planning board, to ensure decommissioning costs may be entirely covered. The planning board reserves the right to request a cost evaluation for decommissioning more frequently than every five years, with such request made in writing to the owner and/or operator. The owner or operator of a solar energy system shall notify the building official by certified mail return receipt requested of the date of discontinued operations and plans for removal. Such surety will not be required for municipally or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation. In no event shall the amount exceed 125 percent of the cost of removal and compliance with any other requirements set forth herein.
- (6) *Plans and surveys.* All plans related to design, construction, installation or modification of a solar energy system shall be prepared, signed and stamped by either a professional engineer, surveyor (for property line information), or landscape architect (for landscape information) licensed to practice in the State of Rhode Island.
- (7) *Maintenance.* The solar energy system shall be maintained by the solar energy system owner and/or operator and shall be cleared of debris, weeds, trash, etc. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. The equipment shall remain in good repair and working order. Malfunctioning or inoperable equipment shall be removed from the property and disposed of in accordance with all applicable federal, state, and local regulations.
- (h) *Standards for approval of large-scale solar energy systems.*
- (1) *Access and safety.* The solar energy system has adequate and permanent access from a town-accepted roadway or state highway. Reasonable accessibility for emergency service vehicles shall be required, and a means of shutting down the solar energy system connection to any utility provider interconnection shall be clearly and sufficiently marked. The applicant shall provide documentation that a public safety preparedness and response plan, detailing the standards, procedures, and communication protocol to be utilized at the facility and in the event of an emergency has been provided to the town's emergency management agency director, and documentation indicating that the plan has been distributed to all fire districts.
- (2) *Setbacks.* All large-scale solar energy systems shall meet minimum front, side and rear yard setback and buffer requirements in the applicable zoning district, except that any such system built accessory to a commercial or industrial use per section 30-211 (g)(3)a. or accessory to an agricultural use per section 30-211 (g)(3)c. shall not be constructed in any front yard.
- (3) *Height.* The maximum height of large-scale ground-mounted solar energy systems shall not exceed ten feet unless the zoning board of review finds that there is significant need and/or benefit of allowing an increased height. The height shall be measured from the ground level or the base of the system's pedestal to the highest point of the solar energy system, including the top of any support structure.
- (4) *Screening.* A vegetated buffer, consisting of deer-resistant evergreen plantings and, where relevant, earthen berms, designed to screen the installation but not impede its solar energy capture efficiency, shall be planted/installed and maintained surrounding the perimeter of the security fence wherever the system would otherwise be visible from a public right-of-way or residentially zoned property. The height of such vegetated buffer shall be at least as tall as the height of the system at planting and at least 1.5 times the height of the system when the plantings reach their full expected height, and at a

minimum depth of ten feet. The planning board may also consider how the topography of the site may be used to achieve this objective, and may require taller screening where the topography would make the solar energy system visible from a public right-of-way or residentially zoned property even with the minimum required screening. If it is not possible to screen the solar energy system on site so that it is not visible from any public right-of-way or residentially zoned property, the applicant may enter into an agreement with a neighboring property owner(s) to install screening off site to achieve this objective.

- (5) *Security.* A fence, of at least six feet in height, shall surround the perimeter of the installation, and be secured from unauthorized entry.
- (6) *Land clearing.* Forested areas shall not be clear-cut for the purpose of installing solar energy systems and trees shall not be topped. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the solar energy system, and shall not exceed 20 percent of the tree and vegetation cover as identified by the RIGIS land use/land cover aerial photo data of 2021. Approval of land clearing beyond 20 percent or the strategic topping of trees shall be advised by the planning board for approval at the discretion of the zoning board of review through the special use permit process based upon consideration of: increasing buffer to neighbors, replanting of trees in other areas on site or in town, creation of a tree bank either on site or elsewhere in town, or any other approved offset to the additional tree clearing. Any discretionary relief deemed appropriate shall not exceed an additional five percent of the tree and vegetation cover as identified by the RIGIS land use/land cover aerial photo data of 2021. In granting any such relief under the special use permit process, the zoning board of review must find that there are physical/geographical limitations on the subject land that would warrant additional tree/land clearing such as wetlands, the slope of the land or other topographical issues that would result in a 20 percent limitation making the solar array unfeasible. The special use permit allowing an additional five percent tree/land clearing shall only be granted on land of ten acres or less.
- (7) *Mechanical equipment.* All mechanical equipment associated with solar energy systems, including but not limited to controls, energy storage devices, batteries, heat pumps, exchangers or other materials, hardware or equipment necessary to the process by which solar radiation is converted into another form of energy shall be located and enclosed within structures/fencing to prevent unauthorized access.
- (8) *Ground cover.* Pollinator plants/flowers or slow growth/no-mow grasses are the preferred treatment versus standard grasses, gravel, crushed stone or the like. However, each application shall be assessed during the development plan review process to determine the most appropriate ground cover.
- (9) *Utility connections.* No site plan for the installation of a large-scale solar 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 facility, and copies of site plans showing the proposed location have been submitted to the utility for review.
- (10) *Signage.* No signs are allowed on the security perimeter fencing except for a sign displaying the installation name, address and emergency contact information, and trespassing/warning/danger signs to ensure the safety of individuals who may come in contact with the installation. No sign shall exceed four square feet in area.
- (11) *Lighting.* Lighting of solar energy facilities and appurtenant structures shall be limited to that required for safety and operational purposes.
- (12) *Combining or subdividing of lots.* The provisions of this article shall apply to all legal lots in the town in existence as of the date of approval of this article. The provisions of this subsection shall continue to apply to any lots that are subsequently combined or subdivided. No combining of or subdividing of existing lots at the time of the approval of this article shall permit the expansion of these provisions to the new lots.

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(i) *Required documents for large-scale solar energy systems.* Pursuant to G.L. 1956, § 45-23-38, the planning board shall review all large-scale solar energy system plans in accordance with section 30-201, Development plan review. The applicant shall provide the following documents, provided that the planning board may, at its discretion, waive any document requirement as it deems appropriate upon written requests of the applicant. The same documents shall be presented to the zoning board of review for purposes of special use permit approval.

- (1) Class I survey site plan showing:
 - a. Property lines and all physical features for the project site;
 - b. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting and screening vegetation or structures; and
 - c. Calculated area of any proposed ground-mounted solar energy system.
- (2) Blueprints or drawings of the solar energy system showing the proposed layout of the system and any potential shading from nearby structures or vegetation.
- (3) One- or three-line electrical diagrams detailing the solar energy system, associated components and electrical interconnection methods, with all current state electrical code compliant disconnects and over current devices.
- (4) Documentation of the major system components to be used, including the photovoltaic panels, mounting system and inverter.
- (5) Name, address and contact information for proposed system installer, landowner, applicant, agents and/or attorneys representing the project.
- (6) An operation and maintenance plan, including provisions for emergency shutdown and for maintaining contact information for a responsible party for the public and agents of the town to contact with inquiries or concerns throughout the useful life of the system. Such plan shall also provide detailed information regarding any chemicals, solvents or other compounds used to clean or otherwise maintain the solar panels and provide information on their storage, disposal and handling.
- (7) Proof of liability insurance by a carrier licensed in Rhode Island. The certificate shall provide that the insurance shall not be modified or cancelled unless 30 days prior notice is given to the town and that the town is named as an additional insured.
- (8) Description of financial surety that satisfies the requirements of subsection (g)(5).
- (9) Decommission plan for any ground-mounted systems.
- (10) Data and/or mapping sufficient to demonstrate that the proposed large-scale solar energy facility will not be located on a conservation opportunity area as defined herein.
- (11) Data and/or mapping sufficient to demonstrate the boundaries of a previously disturbed site for any proposed large-scale solar energy facility on a previously disturbed site per section 30-211 (g)(3)b.

(j) *Utility notification.* No installation of a large-scale solar energy facility shall commence, and no interconnection shall take place until an interconnection agreement pursuant to applicable tariff and consistent with the requirements for other generation has been executed with the utility. Off-grid facilities shall be exempt from this requirement, unless they are proposed to be located within setback distance from the sideline of an existing utility right-of-way.

(k) *Abandonment/decommissioning.*

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- (1) *Abandonment.* When a solar energy system has been determined to be abandoned, the zoning official shall issue a notice, sent by certified mail, to the current owner of the property, to remove the solar energy system within 90 days from the date of the notice.
- (2) *Decommissioning.* Any ground-mounted solar energy system which has reached the end of its useful life shall be removed within 180 days from the date of discontinued operations and the owner shall send notice to the town clerk, planning department, and utility company, by certified mail at least 90 days prior to the expected decommissioning, of the proposed date that the site will be remediated. Decommissioning shall consist of:
- a. Physical removal of all solar energy system structures, equipment, security barriers and transmission lines from the site. The utility company the system is interconnected to must be contacted within 90 days of system de-energization to remove the transmission lines from the site.
 - b. Disposal of all solid and hazardous waste in accordance with all federal, state and local laws, regulations and ordinances.
 - c. Stabilization or revegetation of the site as necessary to minimize erosion and in compliance with all state and local laws, regulations and ordinances and shall be approved by the Burrillville zoning official or his/her designee.
- (3) *Failure to remove.* If the owner and operator fail to remove the solar energy system in accordance with the provisions of this section, the town may enter the property and physically remove the solar energy system. The cost of such removal shall be the responsibility of the owner and operator of the solar energy system, using the surety required under subsection (g)(5) and any additional funds that may be needed, and the town will have all rights associated in compliance with the decommissioning agreement, including the recording of a municipal lien against the landowner in the town's land evidence records for all costs associated therewith.
- (l) *Sale or transfer of system.* The property owner of any ground-mounted solar energy system shall send notice to the town clerk, town planner and utility company, by certified mail, of any change in ownership or management of the system, including all relevant names, addresses, and contact information, no later than 30 days after such change.
- (m) *Exemptions.* Nothing herein shall preclude the town from installing ground-mounted or other solar energy systems on any town-owned or controlled property regardless of the zoning district.
- (Ord. of 2-12-2020(1) ; Ord. of 08-17-2022(4))

Sec. 30-212. Electric generating facility management overlay zone.

- (a) *Establishment of the electric generating facility management overlay zone.*
- (1) *Purpose.* This overlay zone is established to work in conjunction with underlying zoning districts to implement land use development policies contained in the Burrillville Comprehensive Plan. This overlay zone is a set of requirements which are superimposed over the existing electric generating facility as shown on the town's approved zoning map as the designated electric generating facility management overlay zone. This overlay zone establishes reasonable standards in accordance with the following purpose and intent:
- Acknowledge the existing, large scale energy generating uses active within the overlay, and establish reasonable standards for their alteration and enlargement within the overlay.

- Provide the town with a means of ensuring that the impacts of these uses on surrounding neighborhoods are minimized, and that conditions related to pollution, noise, odor, traffic, and other nuisances are improved over time.

- Ensure that these uses are contained within the overlay zone, and not allowed to expand beyond it.

(2) *Applicability.* The electric generating facility management provisions and standards supplement those of the applicable underlying zone and other applicable overlay zones. Where the electric generating facility management and base zone provisions conflict, the overlay zone provisions shall control. The overlay zone applies to the properties: East of Sherman Farm Road, West of Douglas Pike, North of West Iron Stone Road all within the Town of Burrillville (currently including: AP 007/002; 024/016; 024/002; 024/003; 024/004; 024/020; 024/005; 025/003; 007/003; 008/001; 025/001; 025/002; 025/004; 025/005; 025/006; 025/007; 025/008; 025/009; 008/002; 024/001).

(3) *Review procedure.* All new development, alteration or enlargement of electric generating facilities within the overlay district shall be subject to special use permit procedures as specified in section 30-34, Zoning board of review, (e) Special use permit.

(b) *Allowed uses and special permit criteria.*

(1) *Allowed uses.* Electric generating facilities are allowed uses in this overlay zone only with the approval of a special use permit and the following criteria. All uses allowed within the underlying zoning district are also allowed per section 30-71, Table 1: Zoning district uses. Electric generating facilities are not allowed in any base zoning district.

(2) *Special permit criteria.* The zoning board of review may approve an application for the establishment, alteration or enlargement of an electric generating facility only where it has determined that the following criteria have been met:

- a. Any change to the use or property does not result in an intensification of an existing nuisance for the surrounding neighborhood, whether related to pollution, noise, odor, traffic, or other nuisances; and
- b. Where a new component is proposed for the electric generating facility (such as a "peaker" power plant, energy storage facility, etc.), mitigating changes to the existing uses will be required to improve conditions, whether related to pollution, noise, odor, traffic, or other conditions, that could negatively impact the environment or surrounding communities.

(Ord. of 2-12-2020(1))

Sec. 30-213. Ground-mounted solar energy system moratorium.

That the Town of Burrillville (the "town") adopts a "Ground-mounted solar energy system moratorium ordinance" as follows:

For the purposes of this ground-mounted solar energy system moratorium ordinance, a "ground-mounted solar energy system" shall mean a principal solar energy system that has its electricity-generating solar panels mounted on a structure, pole or series of poles constructed specifically to support the system and not attached to any other principal or accessory structure, and located within the VC, GC, LI and GI principal use districts, as identified and defined in sections 30-71 and 30-211 of the Burrillville Code of Ordinances, but shall not include accessory use, roof-mounted, or residential accessory solar energy systems; and

Whereas, the town has been experiencing increasing pressure to approve large scale ground-mounted solar energy systems, with many solar companies actively seeking potential locations for such uses and directly soliciting property owners; and

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Whereas, the town updated its zoning ordinance for solar energy facilities in 2019 and 2020, ultimately adopting a regulatory approach to address location, scale, use conditions, and performance standards of ground-mounted solar energy systems, with the intention of allowing the town and its residents and businesses to benefit from the advantages of renewable energy, without compromising valued open space and greenspace, natural resources and community character; and

Whereas, the town's zoning ordinances limit larger-scale commercial ground-mounted solar energy systems to commercial and industrial zoned lands; and

Whereas, with the great pressure to approve larger-scale ground-mounted solar energy systems in the VC, GC, LI and GI zoning districts, there is a substantial likelihood that the buildable lands in said districts will soon be exhausted, thereby precluding other, intended opportunities for important commercial and industrial uses to support the Town's economy and work force; and

Whereas, the ground-mounted solar energy system use is essentially permanent, and may take existing commercial and/or industrial land out of circulation and will make it difficult, if not impossible, to resume future diverse commercial or industrial operations, and may affect the pattern of development around the town; and

Whereas, large-scale ground-mounted solar energy systems can be a good use of brownfields or other previously disturbed land, the challenge in Burrillville is that commercial and industrial land is limited, and the town's comprehensive plan places a premium on business and industries that create and retain good paying jobs; and

Whereas, commercial and industrial zoned land in Burrillville equates to a "highest and best use" consisting of quality jobs and an array of taxes paid to the town (i.e., property, real estate, tangible property, etc.); and

Whereas, while solar energy is a renewable, green resource, its generation is not without environmental impacts, and the land use impacts particularly in terms scale and land disturbance of large-scale ground-mounted solar energy systems; and

Whereas, the development of such ground-mounted solar energy systems could pose serious threats to the public health, safety and welfare of the residents of Burrillville through the overdevelopment of parts of the town without adequate provisions for safety, land-use compatibility, and preventing significant clear cutting of land; and

Whereas, an unforeseen and unintended result of the current ground-mounted solar energy system ordinance has led to the town's zoning board granting at least one variance for a large scale ground-mounted solar energy systems in a zoning district where such use is prohibited by ordinance, by statute and by relevant case law; and

Whereas, the proposed moratorium pauses large-scale ground-mounted solar energy systems and will not prohibit rooftop or residential solar installations; and

Whereas, the time provided by this moratorium will allow the town to evaluate the existing comprehensive plan and zoning ordinance to evaluate suitable areas within the community for ground-mounted energy system development (e.g., brown fields, gravel pits, abandoned quarries, etc.) and define unsuitable areas (e.g., wetlands, conservation land, protected soils, flood zones, threatened species, etc.), and better regulate land clearing, provide design standards, address mitigation for forest habitat loss, monitoring, maintenance, and decommissioning; and

Whereas, the unexpected high demand for large-scale ground-mounted solar energy system sites has demonstrated the potential for rapidly changing the face of the town, thereby raising novel legal, planning, environmental, and economic issues and creating an urgent need to review the current regulation of this use; and

Whereas, the town will need at least 365 days to study its own ordinances, zoning regulations and its comprehensive plan to determine the implications of future proposed ground-mounted solar energy systems and to develop reasonable ordinances and zoning regulations or amendments thereto governing the location and operations of such ground-mounted solar energy systems to address the concerns cited above; and

Whereas, the town council hereby declares that these facts create an emergency pursuant to article 1, section 1.03 of the Home Rule Charter of the Town of Burrillville and requires the adoption of this ground-mounted solar energy system moratorium ordinance as immediately necessary for the preservation of the public health, safety and welfare.

Now, therefore, it is ordained that a ground-mounted solar energy system moratorium ordinance is hereby adopted imposing a moratorium on all ground-mounted solar energy systems, which moratorium shall be effective immediately upon passage, and applicable to the maximum extent permitted by law and subject to the severability clause below, to all proceedings, applications and petitions that have not reached the master plan approval stage pursuant to G.L. 1965, § 45-23-40(G), and on any new construction or use, requiring approval under the terms of the town's land-use ordinances and regulations for such town until the effective date of the necessary amendments to the land-use ordinances or regulations or until December 15, 2022 and may be revisited prior to expiration and extended to such date as may be established by ordinance; and

Be it further ordained that the planning board, zoning board of review, board of appeal, code enforcement officer, all town agencies and all town employees shall neither accept, process, approve, deny, or in any way act upon any applications, plans, permits, licenses and/or fees for any construction or uses governed by this ground-mounted solar energy system moratorium ordinance for such ground-mounted solar energy systems for said period of time. This restriction shall specifically and by inference, not include all applications and petitions that have received a master plan approval, accessory use, roof-mounted, or residential accessory solar energy systems; and

Be it further ordained that those provisions of the town's land-use ordinances and land development and subdivision regulations which are inconsistent or conflicting with the provisions of this ground-mounted solar energy system moratorium ordinance, are hereby repealed to the extent that they are applicable for the duration of the ground-mounted solar energy system moratorium ordinance hereby ordained, but not otherwise; and

Be it further ordained that to the extent any section or provision of this section is declared invalid by a court of competent jurisdiction, such declaration shall not invalidate any other section or provision of this section; and

Emergency clause: In view of the declaration of emergency cited in the preamble, this ground-mounted solar energy system moratorium ordinance shall take effect immediately upon passage by the town council and shall apply, to the maximum extent permitted by the law but subject to the severance clause above, to all proceedings, applications and petitions not vested (G.L. 1965, § 45-24-44; Town of Burrillville Zoning Ordinance, article 3, section 30-74), and shall stand repealed as of effective date of the necessary amendments to the land-use ordinances or regulations or until December 15, 2022 or such date as may be established by ordinance. Pursuant to article 3, section 3.16(D) Ordinances in emergency of the Home Rule Charter of the Town of Burrillville. Enactment by the town council dealing with any emergency or emergencies may be adopted on the date of introduction without publication thereof, shall contain a declaration of the existence of the emergency, which declaration shall be conclusive as to the existence of such emergency and shall take effect upon passage. Such emergency ordinance shall be temporary and for the period of the emergency only, may be enacted only after consulting with the town manager or his/her duly designated subordinates, and may authorize departments, commissions, offices and agencies of the town government to act outside and beyond the usual requirement of ordinances, resolutions, rules and regulations. The town council may, by resolution, declare the emergency ended.

(Ord. of 12-8-2021(1))

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Sec. 30-214. – Criteria for Special Uses.

Each of the following uses is permitted in a specific district to the extent indicated in section 30-71. Zoning district uses, for that use and district, subject to all provisions of the applicable district, and the provisions in this section. Any use below is permitted in the underlying zoning district if it meets all the requirements for that district, meets the specific and objective criteria listed in this section, and receives an approval of a special use permit per the standards of section 30-34(e) Special use permit.

(a) Standards For Non-Residential Uses in Residential Zoning Districts

The standards below apply to any non-residential use permitted as a special use permit in a residential zoning district, in addition to the standards for any particular use per the section 30-215 below. Where there are conflicts with any standards for a particular use per section 30-215 below, the stricter applies.

- (1) Retail Sales: Any retail sales are clearly subordinate to the primary use.
- (2) Hours of Operation and Deliveries: With the exception of Town of Burrillville services and Hospital emergency rooms, no earlier than 7:00 a.m. and no later than 10:00 p.m.
- (3) Lighting: Outdoor lighting at the proposed facility must not spill over beyond the site's property lines and should be the minimum intensity necessary to adequately and safely light the facility and its parking lot and access drives.
- (4) Outdoor Storage, Sales, and Display: Except for Town of Burrillville services, Commercial Nurseries and Greenhouses, and Agricultural uses, outdoor storage, sales, and display are prohibited.
- (5) Parking: Any non-residential use in a residential zoning district will follow the parking requirements of section 30-156. Parking for any special event, class or other such gathering that attracts more than the usual number of customers must be accommodated on site and must not spill over into the surrounding neighborhood unless otherwise permitted by the Town of Burrillville.
- (6) Signage: All signage for non-residential uses in residential zoning districts must comply with the standards for signs in residential zoning districts per section 30-157, Sign regulations.

(b) Raising of animals subject to the premises being kept in a humane, sanitary manner; Commercial nursery with retail outlet; Commercial nursery, orchards, raising of crops for profit; A building or structure to be used for the display and sale of the products produced by the uses allowed herein on the land; The storage of equipment and materials used in and for the agricultural uses permitted in this section

(1) Setbacks:

- a. No farm animals (livestock, horses, or poultry) are allowed to be housed or permitted to graze within 100 feet of any property line nor in any front yard.
- b. No building or structure other than a dwelling or display and sales area, nor the storage of equipment and materials, is permitted within 75 feet of any property line nor in any front yard.

(2) Waste: All animal waste should be properly stored and disposed of in a manner to maintain sanitary and nuisance free conditions. Manure should be removed from the site or composted. Any compost piles must be located a minimum of 200 feet from a lot line and any areas where manure is stored or composted must be visually screened from dwellings on adjacent lots.

(3) Sales for Commercial Agriculture: The sale of farm produce raised on the lot is permitted as an accessory use to any commercial agriculture use provided:

a. The indoor display and sales area is limited to one building or structure not to exceed 200 SF in area. Additional display and sales areas are allowed outdoors.

b. Provision is made for at least two (2) off-street parking spaces.

(4) Sales for Commercial Nurseries: The sale of garden produce and nursery stock raised on the lot is permitted as an accessory use to any commercial nursery use, provided:

a. Provision is made for at least one (1) parking space for every 1,000 SF of indoor sales area.

(5) See section 30-214(a) Standards For Non-Residential Uses in Residential Zoning Districts.

(c) Kennels; Riding stables or academies

(1) Minimum Lot Area: A minimum lot area must be five (5) acres for riding stables or academies and three (3) acres for kennels, with the exception that kennels serving only domestic cats need only meet the minimum lot size required by the applicable zoning district on which they are located.

(2) Setbacks: Open exercise areas and buildings containing animals must be a minimum of 100 feet from any property line, with the exception of the following:

a. Kennels serving only domestic cats need only meet the minimum setbacks required by the applicable zoning district on which they are located.

b. A building that is sufficiently soundproof so as not to create a nuisance to adjoining property owners or the general public, and that has no outdoor area for animals, may meet a 50-foot setback from any property line. Documentation of soundproofing must be provided with any application.

(3) Outdoor Exercise Areas: Outdoor exercise areas must be enclosed by a fence at least five (5) feet in height and such areas must always be maintained in a sanitary and odor-free condition.

(4) Animal Waste: All animal wastes must be properly stored and disposed of. Manure and other animal waste must be removed from the site or must be composted in enclosed bins, which must not be stored within 100 feet of a lot line. Areas where manure or other animal waste is stored or composted must be visually screened from dwellings on adjacent lots.

(5) See section 30-214(a) Standards For Non-Residential Uses in Residential Zoning Districts.

(d) Mixed use building

(1) See section 30-159 for additional criteria related to Mixed use buildings.

(d) Multifamily dwelling

(1) Water/Sewer Service: Public sewer and water systems must be available and used and must be connected to the dwellings before a certificate of occupancy can be issued.

(2) See section 30-204 for additional criteria related to Multifamily dwellings.

(e) Congregate living facility or assisted living domicile; Rest home or nursing home

(1) Minimum Lot Area per Dwelling Unit: The minimum respective lot area per dwelling unit is as follows:

a. Congregate Living: 5,500 SF per dwelling unit

b. Assisted Living: 3,000 SF per dwelling unit

c. Rest Home or Nursing Home: 1,500 SF per patient accommodation or bed or three (3) acres, whichever is greater

(2) Setbacks: No building containing a dwelling unit or related facilities may be located within 75 feet of any property line or within 150 feet of any existing residential structure in an F-5, F-2 or R-40 zone, except in the case of areas of the site that contain individual, single unit dwellings when the setback may be reduced to the required setback for the underlying zone for this area of the site. This section does not supersede other, more restrictive requirements and standards of the Zoning Ordinance.

(3) Minimum Floor Area: The minimum floor area for dwelling units is as follows:

a. Congregate Living: 400 SF per dwelling unit

b. Assisted Living: 300 SF per dwelling unit

(4) Detached Accessory Structures: Detached accessory structures shall be separated from any other building by a minimum of ten (10) feet.

(5) Water/Sewer Service: Public sewer and water systems must be available and used and must be connected to systems before a certificate of occupancy can be issued.

(6) Utilities: Utilities must be placed underground.

(7) Signage: A comprehensive plan for directional signage shall be provided to assure that major pathways connect housing with on- and off-site activities such that visitors and residents can easily orient themselves.

(8) Parking: Clearly demarcated and direct pedestrian routes should extend from any onsite parking areas and public frontage sidewalks to building entrances.

(9) Emergency Vehicles: Adequate space shall be provided for the ingress, egress, and parking for emergency vehicles, such that emergency personnel can easily and safely reach their patients.

(f) Inn or bed and breakfast

(1) Occupants: There must not be more than 16 occupants at any one time, including the property owner and any other permanent residents. In the R-12 zoning district, there must not be more than 12 occupants.

(2) Exterior Evidence: There is to be no exterior evidence of the activity other than a sign permitted per section 30-157 and the required parking per section 30-156.

(3) Location of Guest Rooms: Guest rooms may be located in the principal building and/or up to one accessory building.

(4) Length of Stay: No guest may be registered for more than 21 consecutive nights.

(5) Registration Records: The owner is to maintain a guest register and retain registration records for a minimum of three (3) years. The register and all records are to be made available for inspection by the zoning official or designee.

(6) Parking: All required parking must be accommodated on site.

(g) Halfway house, residential treatment facility

- (1) Minimum Lot Area: 20,000 SF in the R-12 zoning district.
- (2) Residential Density: The lot shall contain at least 1,500 SF for each resident of the facility at full capacity.
- (3) Parking: Notwithstanding the provisions of section 30-156, the minimum number of off-street parking spaces provided is to be one space for each staff member plus one space for each three adult residents. Additional parking spaces may be required by the zoning board of review through the special use permit process based upon the nature of the specific facility.
- (4) Non-Resident Services: A facility may provide counseling services to non-residents as well as residents provided that the facility includes a separate waiting area and separate meeting room for such non-resident services. Parking for non-resident counseling services shall be provided in accordance with the requirements of section 30-156.
- (5) Room/Apartment Standards: Residents and their dependents must be housed in rooms and/or apartments. Each room or apartment must have its own kitchen facilities unless the residential counseling facility contains a common kitchen adequate to prepare and serve meals for all residents.
- (6) Staff: A staff member must be on site at the residential facility at all times.

(h) Bathing beach; Golf practice range or golf course (regulation 9 or 18 holes); Swimming pool, commercial or municipal; Other outdoor commercial recreation

- (1) Setbacks: Proximity of any active recreation portion of the site to any residential structure existing at the time of application for a special use permit (other than a dwelling occupied or owned by the applicant) must not be less than 100 feet.
- (2) Motorized Vehicles: No motorized vehicles may be used for competitive or exhibition purposes.
- (3) Buffer: A landscaped buffer area of 25 feet in width must be provided between these recreation uses and any abutting residential property.
- (4) See section 30-214(a) Standards For Non-Residential Uses in Residential Zoning Districts.

(i) Commercial picnicking area, overnight or family camping areas

- (1) Minimum Lot Area: There shall be a minimum lot area of ten (10) acres.
- (2) Setbacks: No building or campsite shall be located within 100 feet of any property line.
- (3) Large Recreational Vehicles: Campsites for recreational vehicles over 20 feet in length shall be grouped in an area separate from other campsites.
- (4) Campground Roads: Campground roads shall have a minimum width of ten (10) feet per travel lane and shall be readily traversable with a well-drained surface.
- (5) Roads for Recreational Vehicles: Roads to be used by recreational vehicles over 20 feet in length shall have a minimum internal radius of 60 feet.
- (6) Turnarounds: Turnarounds shall be provided for all dead-end roads over 100 feet in length and those to be used by recreational vehicles over 20 feet in length shall have a minimum internal radius of 60 feet.

(7) Water and Sewage; Electrical Systems; and Fire Safety: Water supply, sanitary conveniences and sewage facilities; electrical systems (if provided); and fire safety features shall be provided in accordance with the most recent Standards for Recreational Vehicle Parks and Campgrounds of the National Fire Protection Association.

(8) Residence: Within the camping area, one dwelling unit may be permitted for the residence of the camping area owner or operator.

(9) Retail Sales: Within the camping area, the sale of camp supplies and a snack bar are permitted accessory uses provided they do not exceed a total of 500 SF of floor area and they are used only by persons using the camping area.

(10) See section 30-214(a) Standards For Non-Residential Uses in Residential Zoning Districts.

(j) Drive-in theater

(1) Minimum Lot Area: The minimum lot area must be five (5) acres.

(2) Setbacks: All structures and outdoor activities must be located a minimum of 100 feet from any property line.

(3) Height: The maximum height of any structure must not exceed that allowed in the underlying zone, except where for each additional foot of setback from all property lines an additional foot of height may be achieved on a drive-in theater screen to a maximum of 50 feet.

(4) Lighting: Outdoor lighting at the proposed theater, including any lighting from a projector or screen, may not spill over beyond the site's property lines and will be the minimum intensity necessary to adequately and safely light the event area, including any parking lots and access drives.

(5) Access/Egress: Provide enough off-street stacking of cars to accommodate peak traffic.

(k) Clubs, lodges, social and community center buildings provided that they are nonprofit organizations (subject to development plan review)

(1) Minimum Lot Size: In the R-12 zoning district, the minimum lot size for a club, lodge, social or community center building is 15,000SF.

(2) Accessory Outdoor Facilities: Outdoor facilities other than parking, such as, but not limited to, swimming pools, tennis courts, and putting greens are permitted as accessory uses, provided the minimum lot area is five (5) acres. Such uses are subject to a landscaped buffer area of 25 feet in width between any abutting residential property.

(3) Setbacks: In the F-5 and R-12 zoning districts, all buildings or outdoor facilities other than parking must not be located within 100 feet of any property line.

(4) See section 30-214(a) Standards For Non-Residential Uses in Residential Zoning Districts.

(l) Day care center or nursery school

(1) Setbacks: No building may be located within 50 feet of any property lot line, except in non-residential districts, where the required setbacks of the respective zone apply.

(2) Outdoor Play Space: A graded and suitably fenced play area, including a minimum of 75 SF of play space for each child who would be using the play area at any one time, must be provided. The minimum required play area must be free of hazards and regulated wetland soils and provide a suitable play surface. Active play areas, defined as areas containing playground equipment, including but not limited to swings and other apparatus, must not exceed 1% in grade.

(3) Buffers: A landscaped buffer area must be provided within all boundaries of a lot as follows:

Residential Districts: 25 feet

Commercial Districts: 25 feet

Industrial Districts: 50 feet

The buffer area will be designed to mitigate impacts to and from adjacent uses, particularly in cases where facilities are located in commercial and industrial districts. This buffer requirement is typically applied to the portion of the site dedicated to child care use, including such items as play area(s). The play area or areas shall not be located within the designated buffer area.

(4) Access: The applicant will accommodate all pedestrian and vehicular traffic to and on site and must provide an acceptable area for dropping off children on site.

(5) See section 30-214(a) Standards For Non-Residential Uses in Residential Zoning Districts.

(m) Elementary or secondary school, junior college or university (subject to development plan review)

(1) Lot Coverage: Lot coverage must not exceed 15% of the lot area, except for Colleges and Universities which are subject to the standards of the underlying zoning district.

(2) Circulation: Bus and other vehicular drop off areas should be separated from one another and designed and located to minimize traffic congestion and to promote pedestrian safety using pavement markings, signs, and designated walkways.

(3) Minimum Lot Area: There shall be a minimum lot area of five (5) acres.

(4) Building Setbacks: In the F-5, F-2, R-40, R-20, and R-12 zoning districts, any building must not be located within 75 feet of any side or rear property line. In the VC and GC zoning districts, any building must not be located within 30 feet of any side or rear property line.

(5) Active Outdoor Area Setbacks: Any playground, field, outdoor classroom or other actively used outdoor space must not be located within 50 feet of any property line.

(6) See section 30-214(a) Standards For Non-Residential Uses in Residential Zoning Districts.

(n) School conducted as a private gainful business for teaching such subjects as dancing, singing, music

(1) See section 30-214(a) Standards For Non-Residential Uses in Residential Zoning Districts

(o) Hospital and health clinic (subject to development plan review)

(1) Lot Area: There must be a minimum lot area of five (5) acres for hospitals and 60,000SF for health clinics.

(2) Emergency Entrance: Public parking areas should be separated from the emergency entrance area.

(3) Setbacks: Any building must not be located within 75 feet of any property line. Any generator or laundry facility must not be located within 100 feet of any property line.

(4) Parking: All parking must be located in the side or rear yards.

(p) Telephone exchange or electric power substation, provided no business activity is connected therein

(1) Setbacks and Screening: As stipulated below based on the size of the structure.

a. Small Structures- between two (2) feet and eight (8) feet in height

- No setbacks are required
- Screening or landscaping around the structure is required

b. Medium Structures – over eight (8) feet in height and 1,500 SF or less.

- Must meet setbacks for underlying zoning district
- Screening or landscaping around the structure is required
- A curb cut and designated parking area should be provided if no on-street parking is available.

c. Larger Facilities/Buildings.

- Provide a setback of 100 feet to the property line if the facility is in or adjacent to residential districts.
- Parking must be provided to adequately serve the intended use of the facility or building, as determined by the Zoning Official

(2) See section 30-214(a) Standards For Non-Residential Uses in Residential Zoning Districts

(q) Telecommunications antennas and towers

(1) See section 30-207 for criteria related to Telecommunications antennas and towers.

(2) See section 30-214(a) Standards For Non-Residential Uses in Residential Zoning Districts

(r) Principal solar energy systems

(1) See section 30-207 for criteria related to Principal solar energy systems.

(s) Energy storage facility

(1) Utility Lines and Electrical Circuitry: All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

(2) Signage: The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of an energy storage facility, and 24-hour emergency contact

information, including reach-back phone number. Disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

- (3) Lighting: Shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
- (4) Vegetation and Tree Cutting: Areas within 10 feet on each side of an energy storage facility shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.
- (5) Fencing: An energy storage facility, including all mechanical equipment, shall be enclosed by a 7-foot-high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
- (6) Screening and Visibility: An energy storage facility shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfere with ventilation or exhaust ports.

(t) Indoor commercial recreation

- 1. Accessory Facilities: Indoor commercial recreation facilities in the LI and GI districts may include related accessory retail sale of items directly related to the principal use, so long as the floor space of these retail services does not exceed 20% of the total floor area of the building.
- 2. Co-Location with Industrial Uses: Indoor commercial recreation facilities, when located in the LI or GI districts and in a building or complex that also includes industrial uses, are subject to the following conditions:
 - a. The applicant must accommodate all pedestrian and vehicular traffic to and on site and provide an acceptable area for dropping people off on site. To the extent possible, parking stalls dedicated to the public must be located to preclude pedestrian crossing of interior drives.
 - b. Clearly demarcated and direct pedestrian routes should extend from any public sidewalks to any sidewalks or pedestrian ways that front on-site buildings and along driveways.

(u) Drive-in restaurant

- (1) Location On-Site: Drive through facilities, including required stacking lanes, must be located in the rear or side yards only.
- (2) Curb- Cuts: Drive through facilities must not generate the need for an additional driveway curb cut.
- (3) Minimum Lot Size: 20,000 SF
- (4) Stacking Spaces: A minimum of ten (10) stacking spaces entering and one stacking space exiting must be provided for each drive through window, including the vehicle being serviced.
- (5) Size: Stacking lanes must be a minimum of ten (10) feet wide and 20 feet long.

(6) Circulation: Stacking lanes should be separate from internal aisles which allow traffic to circulate through the site without entering the drive through facility.

(7) Exiting Space: Exiting stacking space must be separate from other circulation aisles and must be at least 50 feet from the curb line of the street to which they will exit.

(8) Traffic/Pedestrian Circulation: Stacking lanes should be designed and located to prevent traffic congestion and to promote pedestrian safety using pavement markings, signs, and designated walkways.

(v) Mortuary or funeral home

(1) See section 30-214(a) Standards For Non-Residential Uses in Residential Zoning Districts

(w) Radio or television studio

(1) See section 30-214(a) Standards For Non-Residential Uses in Residential Zoning Districts

(x) General automotive repair

(1) Vehicular Access: Vehicular access into the building should be positioned so as not to be visible from the public way.

(2) Repair Activities: Limited repair activities must be conducted within the principal building.

(3) Location: When located in a shopping center or co-located with a group of commercial structures on the same lot, the use should be located to the side or rear of these commercial buildings.

(4) Storage: All materials must be stored within the building. Vehicles that are not actively under repair or vehicles that are used as a source for parts must not be stored on the site.

(y) Carwash

(1) Minimum Lot Size: For self-service type facilities: 25,000 SF. For automatic facilities: 35,000 SF.

(2) Automobile Access: Automobile access into the building should be positioned so as not to be visible from the public way.

(3) Water Recycling: Water should be recycled on site.

(4) Stacking Spaces: Adequate vehicle stacking space must be provided for all carwash facilities. For self-service facilities: minimum of three (3) vehicles per bay at the entrance and one (1) vehicle per bay at the exit. For automatic washing facilities: minimum of five (5) vehicles per bay at the entrance and two (2) vehicles per bay at the exit, or one (1) vehicle per bay at the exit if the facility includes automatic drying and no additional manual services past the exit.

(5) Water and Sewer: Public water and sewers must be provided to the facility.

(6) Building Surfaces: Building surfaces should be faced with impact resistant materials such as brick or other masonry surfaces.

(7) Vacuuming Facilities: Vacuuming facilities may be outside the building but must not be located within the front yard and must meet setback requirements if adjacent to a residential district

(8) Storage: All storage must take place indoors, and any work materials such as racks, towels, etc. used outdoors during business hours must be moved indoors during non-business hours.

(9) Waiting Areas: All non-self-service facilities must have a safe waiting area for patrons, separated from the stacking lanes and work areas.

(z) Recreational trailer sales and service

(1) Inventory Location: Inventory must not be located on any required parking area or in the public right-of-way.

(2) Pedestrian Access: Pedestrian access to outdoor display areas shall be clearly delineated and separated from any traffic flow or movements on the property either by permanent walls, barriers or vegetation; or removable barriers that can create a safe barrier between pedestrians and vehicles.

(3) Storage: Storage shall be either on the side or rear of the building.

(aa) Open storage of sand and gravel

(1) Buffer: A landscaped buffer area of 50 feet in width must be provided between such use and any abutting residential property.

(2) Setbacks: Any open storage area must be located no less than 100 feet from any abutting residentially zoned property.

(3) Road Maintenance: All roads accessing and within the site shall be treated to minimize dust conditions.

(bb) Sawmill

(1) Buffer: A landscaped buffer area of 50 feet in width must be provided between such use and any abutting residential property.

(2) Setbacks: Any structure used for milling operations must be located no less than 100 feet from any abutting residentially zoned property.

(cc) Storage of flammable material

1. Fire Safety: All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment, as approved by the local fire marshal.

2. Federal Standards: The applicant must demonstrate compliance with the standards for Fire Protection and Prevention for flammable liquids and other materials per § 1926 Safety and Health Regulations for Construction of the Code of Federal Regulations.

(dd) The manufacture or compounding of hazardous materials as defined in G. L. 1956, § 23-19-1 et seq., and similar processes of manufacture and compounding; Bus, truck and heavy equipment repair; Laundry or dry cleaning plant

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- (1) Containment: Hazardous materials must be stored within an impermeable containment area which is capable of containing at least 110 % of the volume of the largest container of hazardous material present in such an area or 10% of the total volume of all such containers in such area, whichever is larger, without overflow of released hazardous material from the containment area. Containment measures may include dikes, sumps, doorway lips, or similar structures to inhibit the ability of spilled material to pass through the opening.
- (2) Floor Drains: Floor drains are not allowed in areas where hazardous materials are sold, used, or stored unless the site design shows specific compliance with the following:
- Floor drains must connect to the sanitary sewer system or to an on-site holding tank or tanks when the discharge contains petroleum-based oil, grease or other harmful or hazardous substances. Such tanks must have a 1,000-gallon minimum capacity and be installed in accordance with RCSA §22a-449(d)-1.
 - Interceptors and separators must be provided when floor drains connect to the sanitary sewer system.
 - Floor drains must not be connected to a stream or other water body, storm sewer, storm drainage system or a storm building drain.
 - Floor drains must have trap seals.
 - Floor drains that only accept animal fecal waste and first discharge into a settling tank prior to release into an onsite wastewater treatment system may be allowed.
- (3) Loading/Transfer Areas: Any area that may be used for transfer of hazardous materials must be designed to prevent contaminated storm water runoff and ground water intrusion. Such loading docks (excluding those that allow a vehicle to enter the building) must be protected with a permanent roof or other structure that protects the loading dock from direct rainfall. Depressed loading docks or other sub-grade facilities must be designed to ensure that hazardous materials are properly collected and disposed of, using appropriate technology such as oil-water separators, subsurface tight tanks, or equivalent. Such tanks must have a 1,000-gallon minimum capacity and be installed in accordance with RCSA §22a-449(d)-1.
- (4) Security: Hazardous materials must be stored in an area that is secured against unauthorized entry by the public.
- (5) Odor: No such use shall cause or permit the emission of any substance or combination of substances which creates or contributes to an odor, in the ambient air, that constitutes a nuisance, so as to significantly impair the reasonable use of any other property.
- (6) Air Emissions: Air emissions shall be treated in a manner that prevents any nuisance or hazard to neighboring uses. Nuisance from emissions may include, but is not limited to, soiling of the ground or building surfaces, or damage or death of vegetation. Hazards from emissions may include, but are not limited to, particulates inhaled by people that may be harmful to their health.
- (7) Flammable and Explosive Materials: All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment, as approved by the local fire marshal.
- (8) Vibration. No vibration that is detectable without instruments at a lot line should be transmitted outside of the lot where it originates, except vibration necessarily involved in the construction or demolition of buildings and structures.

(9) Heat: Heat, defined as thermal energy of a radiative, conductive or convective nature, emitted at the lot line by any use or facility shall not exceed the temperatures tolerable to plant or animal life.

(10) Other Requirements: Requirements for hazardous materials are intended to supplement and not to supersede any other applicable requirements of federal, state or local law.

(ee) Mining, quarrying, gravel pits and loam stripping

(1) Drilling: All drilling must be done by the wet drilling method or by any other method of equivalent effectiveness for dust control.

(2) Road Maintenance: All roads accessing and within the site shall be treated to minimize dust conditions.

(3) Grade: Mining and quarrying which will reduce the area below the grade of the lowest adjoining property or road is prohibited, except along the boundary line with a licensed adjoining mine or quarry, in which case, the grade of the area cannot be below the grade of the adjoining mine or quarry at the boundary line. No mining or quarrying shall be permitted which will endanger the lateral support of abutting properties or roads. A minimum leveled (or natural) buffer area of 50 feet shall be provided between any mine or quarry boundary line (except boundary lines between adjacent licensed mines or quarries) and the commencement of the slope.

(4) Setbacks: No buildings, equipment, mining or quarry products or other materials shall be erected or stored within a distance of 50 feet of any mine or quarry boundary line.

(5) Signs: Signs shall be maintained at all entrances or exits of the mined or quarried premises, indicating the name and address of the licensee and that the business being conducted is a licensed mine or quarry operation.

(6) Dust Control: Where conveyors discharge materials of less than one inch in diameter onto stockpiles of such material, and where the free and uncontained fall of the material being stockpiled from the conveyor to the highest point of the stockpile shall exceed a distance of six feet, a high-pressure water mist spray must be directed on the material as it falls from the conveyor to the stockpile in such manner as to reduce the accumulation and dissemination of dust. All crushing and processing of mine and quarry materials shall be conducted by use of wet method of dust control or by local exhaust systems of equivalent effectiveness.

(7) Landscape Buffer: Whenever the licensed premises abuts a public street or road, a solid and continuous landscape buffer shall be planted and maintained.

(8) Maintenance: The licensee shall be responsible for the prompt removal of any trash, unused machinery or vehicles or graffiti placed in the mine or quarry, and shall maintain the licensed premises at all times in a reasonably neat and orderly condition.

(ff) Boat storage or repair

(1) Location of Storage: Outdoor storage areas must be set back 100 feet from the front lot line, and fifty feet from all other property lines.

(2) Screening: Outdoor storage areas shall be screened from any public roadway or any abutting residential use with a solid fence or wall that is six (6) feet tall.

(3) Repairs and Maintenance: Any repair or routine maintenance must be conducted inside a building or under a structure.

(gg) Compassion center; Non-residential cooperative cultivation; Primary caregiver cultivation

(1) See section 30-162 for criteria related to Medical Marijuana uses.

(hh) Cannabis retailer, hybrid cannabis retailer, cannabis cultivator, cannabis product manufacturer, and cannabis testing laboratory.

(1) See section 30-165 for criteria related to Cannabis establishments.

Sec. 32-215. – 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:

a. Where the project is limited to the existing footprint, except that the footprint is allowed to be expanded to accommodate upgrades related to the building fire code and utility requirements; and

b. The development includes at least twenty percent (20%) low- and moderate-income housing; and

c. The development has access to public sewer and water service or has access to adequate private water, such as 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.

a. 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. However, the applicant may propose additional parking in excess of one space per dwelling unit.

(2) All non-residential uses shall comply with the parking requirements of section 30-156.

(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 section 30-71. Zoning district uses, for the zoning district in which the structure is located.

(g) Procedural requirements.

(1) Adaptive reuse projects shall be subject to the procedural requirements for major land development, according to the standards of the Town of Burrillville Subdivision and Land Development Regulations, as amended.

(2) In addition to the checklist requirements for the applicable review process, the applicant shall provide the following information:

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

Sec. 32-216. - Unified development review.

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

(b) 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 §45-23-42(b).

(c) In granting requests for dimensional and use variances, the planning board shall be bound to the requirements of section 30-34(d)(5) relative to entering evidence into the record in satisfaction of the applicable standards.

(d) In reviewing requests for special use permits the planning board shall be bound to the conditions and procedures under which a special use permit may be issued and the criteria for the issuance of such permits, as found within the zoning ordinance section 30-34(e)(4), and shall be required to provide for the

recording of findings of fact and written decisions as described in the zoning ordinance pursuant to section 30-34(e)(3).

(e) *Appeals.* An appeal from any decision made pursuant to this section may be taken pursuant to § 45-23-71.

Secs. 30-~~214~~217—30-240. Reserved.

ARTICLE VII. ENACTMENT AND SEPARABILITY

Sec. 30-241. Enactment and separability.

- (a) This chapter shall become effective January 1, 1995. The previous zoning ordinance, adopted March 31, 1982, and all amendments thereto, are hereby repealed. Any application or appeal filed with the zoning board of review prior to January 1, 1995, shall be governed by the zoning ordinance in effect prior to that date. The town planner with the approval of the town solicitor may make stylistic changes in the text, and numbering sequences.
- (b) If any article, section, clause, phrase or provision of this chapter shall be ruled invalid or unconstitutional by a court of competent jurisdiction, such decision or ruling shall not affect the validity of any other article, section, paragraph, clause, phrase or provision of this chapter.