

ZONING ORDINANCE



TOWN OF SCITUATE RHODE ISLAND

This pamphlet is a reprint of Appendix A, Zoning, of the Code of Ordinances of the Town of Scituate, Rhode Island, published by order of the Scituate Town Council

APPENDIX A ZONING*

***Editor's note:** The zoning ordinance amendments for the Town of Scituate, Rhode Island, adopted June 8, 1989 and amended February 10, 1994 was deleted as being superceded by an ordinance adopted December 12, 1994. The absence of a history note indicates that the provision derives unchanged from the ordinance adopted December 12, 1994. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citation to state statutes, and expression of numbers in text has been used to conform to the Code of Ordinances. Obvious misspellings have been corrected without notation and material in brackets [] has been added for clarity.

Cross references: Buildings and building regulations, Ch. 4; kennels, § 6-131 et seq.; restaurants, cafes and victualing houses, § 6-181 et seq.; vehicle tracks and amusement parks, § 6-231 et seq.; parks and recreation, Ch. 9; planning, Ch. 10; soil erosion and sedimentation control, Ch. 12; streets and sidewalks, Ch. 13; subdivisions, Ch. 14; trailers and trailer parks, Ch. 16; utilities, Ch. 17.

State law references: Zoning, G.L. 1956, § 45-24-1 et seq.

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**TOWN OF
SCITUATE, RHODE ISLAND
ZONING ORDINANCE**

ARTICLE I. ADMINISTRATION AND PROCEDURES

It is ordained by the Town Council of the Town of Scituate as follows:

Section 1. Statement of consistency with the comprehensive plan.

The zoning regulations and districts herein set forth have been made in accordance with the goals and policies articulated in the Scituate, Rhode Island Comprehensive Plan (as amended) adopted pursuant to Chapter 22.2 of Title 45 of the General Laws and in the instance of uncertainty in the construction or application of any section of this ordinance, the ordinance shall be construed in a manner that will further the implementation of, and not be contrary to, the goals and policies and applicable elements of the comprehensive plan. At all times there shall be coordination between contiguous communities, the state and other agencies as set forth in the plan.

Section 2. Statement of purpose.

The regulations set forth in this ordinance have been made in accordance with a comprehensive plan for the purpose of:

- (1) Promoting the public health, safety, morals 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 chapter 22.2 of title 45 of the General Laws;
 - (b) The natural characteristics of the land, including its suitability for use based on soil characteristics, topography, and susceptibility to surface or groundwater pollution;
 - (c) The values and dynamic nature of coastal and freshwater ponds, the shoreline and freshwater and coastal wetlands;
 - (d) The values of unique or valuable natural resources and features;
 - (e) The availability and capacity of existing and planned public and/or private services and facilities;
 - (f) The need to shape and balance urban and rural development; and
 - (g) The use of innovative development regulations and techniques.
- (4) 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, storm water 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.
- (9) Providing opportunities for the establishment of low and moderate income housing.
- (10) Promoting safety from fire, flood and other natural or manmade disasters.
- (11) Promoting a high level of quality in design in the development of private and public facilities.
- (12) Promoting implementation of the comprehensive plan of the town adopted pursuant to chapter 22.2 of title 45 of the General Laws.
- (13) 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.
- (14) Providing for efficient review of development proposals, to clarify and expedite the zoning approval process.
- (15) Providing for procedures for the administration of the zoning ordinance, including, but not limited to, variances, special use permits and, where adopted, procedures for modifications.

Section 3. Regulations.

After the effective date of this ordinance (December 30, 1965), no land shall be used and no building, structure or sign shall be used or erected unless it conforms to the provisions of this ordinance. Uses and structure, existing on the effective date of this ordinance (December 30, 1965), and used in a manner not conforming to this ordinance, shall be permitted to continue under the provisions of article IV of this ordinance. Structures which have not been built or completed on the effective date of this ordinance (December 30, 1965), but for which a building permit has been issued by the Town of Scituate prior to the effective date of this ordinance (December 30, 1965), for use in a manner not conforming to this ordinance, shall be permitted to continue under the provisions of article IV of this ordinance.

(Ord. of 1-8-04)

Section 4. Zoning districts and zoning map.

For the purpose of this ordinance, the Town of Scituate is hereby divided into

eight (8) zoning districts as follows:

RR-120 Rural Residential. This district covers a large portion of the town into which urban type development should logically expand as the need occurs. The district is characterized by a commingling of open land interspersed with residential and agricultural uses. The district generally is not furnished with a public water supply and is generally in an area where intensive building and development could adversely affect the water supply of the City of Providence. The furnishing of a public water supply does not constitute the sole criteria for reduction in minimum lot area nor shall said reduction be deemed inherently approved or established. Any proposal to modify the minimum lot size must be accompanied by comprehensive data such as any negative impacts on the watershed/water supply of the City of Providence/Providence Water Supply Board and effects on the town's rural character and any such data or information as may be required by the governing boards, commissions and officials of the town.

RS-120 Single-Family Residence. This district is composed of certain quiet, low density residential areas of the town plus certain open areas where similar residential development appears likely to occur. The district generally is not furnished with a public water supply and is generally in an area where intensive building and development could adversely affect the water supply of the City of Providence. The furnishing of a public water supply does not constitute the sole criteria for reduction in minimum lot area nor shall said reduction be deemed inherently approved or established. Any proposal to modify the minimum lot size must be accompanied by comprehensive data such as any negative impacts on the watershed/water supply of the City of Providence/Providence Water Supply Board and effects on the town's rural character and any such data or information as may be required by the governing boards, commissions and officials of the town.

RRW-60/80 Rural Residential/Water. This district covers a portion of town into which urban-type development should logically expand as the need occurs. The district is characterized by a commingling of open land interspersed with residential and agricultural uses. The features which distinguish the district from RR-120 are general availability of a public water supply and that the areas are not such that intensive building and development could adversely affect the water supply of the City of Providence. Lots within the district which are served by a public water supply shall have a minimum area of sixty thousand (60,000) square feet, and lots which are not served by a public water shall have a minimum area of eighty thousand (80,000) square feet.

RSW-60/80 Single-Family Residence/Water. This district is composed of certain quiet, low density residential areas of the town plus certain open areas where similar residential development appears likely to occur. The features which distinguish the district from RS-120 are general availability of a public water supply and that the areas are not such that intensive building and development could adversely affect the water supply of the City of Providence. Lots within the district which are served by a public water supply shall have a minimum area of sixty thousand (60,000) square feet, and lots which are not served by a public water supply shall have a minimum area of eighty thousand (80,000) square feet.

BL Limited Business. This district is composed of certain land and structures used primarily to provide for the retailing of commodities classed by merchants as "convenience goods" such as groceries and drugs, and the furnishing of certain personal services. The furnishing of a public water supply does not constitute the sole criteria for reduction in minimum lot area nor shall said reduction be deemed inherently approved or

established. Any proposal to modify the minimum lot size must be accompanied by comprehensive data such as any negative impacts on the watershed/water supply of the City of Providence/Providence Water Supply Board and effects on the town's rural character and any such data or information as may be required by the governing boards, commissions and officials of the town.

BG General Business. This district is composed of certain land and structures to provide for the retailing of commodities and the furnishing of services which depend upon a great volume of vehicular and pedestrian traffic, such as gasoline stations, supermarkets and drive-in theaters. The furnishing of a public water supply does not constitute the sole criteria for reduction in minimum lot area nor shall said reduction be deemed inherently approved or established. Any proposal to modify the minimum lot size must be accompanied by comprehensive data such as any negative impacts on the watershed/water supply of the City of Providence/Providence Water Supply Board and effects on the town's rural character and any such data or information as may be required by the governing boards, commissions and officials of the town.

M General Manufacturing. This district is composed of certain land and structures for light, clean industrial uses. The land included in this district are those suited for use by most industries, subject only to those regulations needed to control congestion and to protect nearby residential and business districts, and protect the waters and watershed of the water supply of the City of Providence. The furnishing of a public water supply does not constitute the sole criteria for reduction in minimum lot area nor shall said reduction be deemed inherently approved or established. Any proposal to modify the minimum lot size must be accompanied by comprehensive data such as any negative impacts on the watershed/water supply of the City of Providence/Providence Water Supply Board and effects on the town's rural character and any such data or information as may be required by the governing boards, commissions and officials of the town.

W Watershed. This district is composed of all the property owned by the City of Providence under the jurisdiction of the Providence Water Supply Board. The property in this district is used for the collection, storage, processing and distribution of water and, as an incident thereto, the planting and harvesting of forest products and the production of electricity.

The boundaries of such districts are hereby established as shown on a map entitled "Scituate Zoning Map" filed at the office of the Town Clerk of the Town of Scituate. Such map is hereby adopted and made part of this ordinance.

(Ord. of 1-8-04)

Section 5. Enforcement.

- A. *Zoning inspector.* A zoning inspector who shall be a resident of the town shall be appointed by the town council. It shall be the duty of the zoning inspector to enforce the provisions of this ordinance and to record all amendments to this ordinance on the record copy of the zoning ordinance and map.
- B. *Zoning certificate.* No building, structure or sign shall hereafter be erected, enlarged, or relocated and no nonstructural use shall be initiated until the zoning inspector has certified, in writing, that the proposed use, structure or sign conforms to the provisions of this ordinance. The zoning inspector may require that copies of plans, specifications and such other information as he may deem

in section 45-24-27 of the General Laws as follows:

- (1) Pursuant to section 45-24-16 of the General Laws to hear and decide appeals where it is alleged there is error in any order, requirement, decision, determination made by the zoning inspector or building inspector in the enforcement of this ordinance. Appeals must be taken within thirty (30) days by filing with the officer from whom the appeal is taken and with the zoning board of review a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. In using this power the board may reverse or affirm wholly or partly or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the zoning inspector from whom the appeal was taken.
- (2) To hear and decide appeals from a party aggrieved by a decision of an historic district commission, pursuant to sections 45-24.1-7.1 and 45-24.1-7.2 of the General Laws.
- (3) To hear and decide appeals where the zoning board of review is appointed as the board of appeals for airport zoning regulations pursuant to section 1-3-19 of the General Laws.
- (4) To authorize, upon application, in specific cases of hardship, variances in the application of the terms of the zoning ordinance, pursuant to section 45-24-41 of the General Laws.
- (5) To authorize, upon application, in specific cases, special use permits, pursuant to section 45-24-42(A) of the General Laws.
- (6) 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.
- (7) To provide for issuance of conditional zoning approvals where a proposed application would otherwise be approved, except that one (1) 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.
- (8) To hear and decide other matters, according to the terms of the ordinance or other statutes, and upon which the board may be authorized to pass under the ordinance or other statutes; and
- (9) An appeal from a decision of the zoning board may be taken by an aggrieved party to the Superior Court for Providence County.
- (10) To hear and decide special use permits to the terms of this ordinance, according to the provisions set forth as follows:

A use designated as special use in article II or elsewhere in this ordinance shall be permitted by the board following a public hearing if

such use meets the following requirements:

- A. It will be compatible with the neighboring land uses.
- B. It will not create a nuisance in the neighborhood.
- C. It will not hinder the future development of the town.
- D. It will be in conformance with the purposes and intent of the comprehensive plan and the zoning ordinance.

In granting a special use permit, the board may impose such additional safeguards and conditions on the proposed use as are deemed necessary in order to conform to these requirements. The disregarding of any such condition or safeguard shall be considered as a violation. Following its establishment, any use which is listed as a "Special Use" in the district in which it is located, shall be considered as a permitted use.

- (11) To authorize upon application in specific cases such variance to the application of the terms of this ordinance according to the provisions set forth as follows:

The applicant for a variance from the provisions of this ordinance shall show to the satisfaction of the board that such relief will not be contrary to the public interest and that owing to special or peculiar conditions[,] enforcement of the provisions of this ordinance would result in unnecessary hardship to the applicant.

The unnecessary hardship which an applicant seeks to avoid shall not have been imposed by any prior action of the applicant or his predecessors in title. Such hardships shall arise only from special or peculiar site conditions or features of the land or structure in question rather than from physical infirmities of the applicant or merely from the desire to realize greater monetary gain.

In granting relief from the provisions of this ordinance, the zoning board of review shall grant the least variance from the provisions needed to remove the unnecessary hardship and may impose any condition or safeguard as may be deemed in the public interest.

- (12) To authorize upon application in specific cases deviations (dimensional variances) from district dimensional regulations where a literal enforcement of the provisions of article III would result in an unnecessarily harsh restriction. The applicant must show that there would be adverse effect from literal enforcement amounting to more than mere inconvenience. The applicant for a deviation shall show to the satisfaction of the board that such relief will not be contrary to the public interest.
- (13) In granting a variance, the zoning board of review shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

- (a) That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant;
 - (b) That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;
 - (c) That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based; and
 - (d) That the relief to be granted is the least relief necessary.
- (14) The zoning board of review shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:
- (a) In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the zoning ordinance. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance; and
 - (b) In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience, which shall mean that there is not other reasonable alternative to enjoy a legally permitted beneficial use of one's property. 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.
- (15) In granting a variance 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 may apply such special conditions that may, in the opinion of the board, be required to promote the intent and purposes of the comprehensive plan and the zoning ordinance 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.
- (16) Expiration of a special exception or variance. Any authorized special exception or variance which is not implemented within a period of one (1) year from the date of action by the board shall be void unless, upon written request of the applicant or appellant, the board grants an extension, provided that not more than one (1) such extension for a period of six (6) months may be granted.

D. *Procedure for appeals, special use permits, variances or deviations.* Appeals to the board may be taken by any party aggrieved or by an officer, board or bureau affected by any order or decision of the zoning inspector or building inspector concerning the provisions of this ordinance. Such appeal shall be taken within thirty (30) days of such order or decision by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds for the appeal. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings pursuant to section 45-24-70 of the General Laws.

An application for a special use permit, variance or deviation shall be filed directly with the board specifying the grounds for the application.

In filing for an appeal, variance, deviation or special use permit, the applicant, in addition to filing plans and specifications supporting the request, shall accompany the request with a list of property owners within three hundred (300) feet of the perimeter of the property in question and a[n] application filing fee of one hundred fifty dollars (\$150.00) payable to the Town of Scituate.

The board shall fix a reasonable time for the hearing of an appeal or an application for a special use permit, deviation or variance. It shall publish notice of the hearing at least fourteen (14) days prior to the date of such hearing in a newspaper of general circulation in the town; shall give notice (which such notice shall include the street address of the property) by regular mail at least fourteen (14) days prior to the date of such hearing to the applicant, owners of property within three hundred (300) feet of the perimeter of the property in question, and other parties in interest; and shall hear and decide the appeal within a reasonable time. Any party may appear at the hearing in person, by agent or by attorney.

Appeals from decisions of the zoning board of review shall be in the manner provided by statute.

E. *[Requirements of the board to vote].* The board shall be required to vote as follows:

- (1) Five (5) active members shall be necessary to conduct a hearing. As soon as a conflict occurs for a member, that member shall recuse himself or herself, shall not sit as an active member, and take no part in the conduct of the hearing. Only five (5) active members shall be entitled to

vote on any issue;

- (2) The concurring vote of three (3) of the five (5) members of the zoning board of review sitting at a hearing shall be necessary to reverse any order, requirement, decision or determination of any zoning administrative officer from whom an appeal was taken; and
- (3) The concurring vote of four (4) of the five (5) members of the zoning board of review sitting at a hearing shall be required to decide in favor of an applicant on any matter within the discretion of the board upon which it is required to pass under the ordinance, including variances and special use permits.

(Ord. of 4-10-97; Ord. of 4-9-98; Ord. of 1-8-04)

Section 7. Amendments.

Any person may apply for an amendment making a specific change in the zoning map by filing an application with the town clerk directed to the town council accompanied by a filing fee of one hundred fifty dollars (\$150.00) together with such fee as the town clerk may require to reimburse the town for the estimated expenses of advertising and registered or certified mail.

Immediately upon receipt of the proposal the town clerk shall refer it to the town council and to the plan commission for study and recommendation. The plan commission shall report to the town council within forty-five (45) days after receipt of the proposal, giving its findings and recommendations; including, as required by section 45-24-52 of the General Laws,

- (a) A statement of the general consistency of the proposal with the comprehensive plan, including the goals and policies statement, the implementation program and all other applicable elements of the comprehensive plan; and
- (b) A demonstration of recognition and consideration of each of the applicable purposes of zoning as presented in section 45-24-30 of the General Laws.

The town council shall hold a public hearing within sixty-five (65) days of receipt of a proposal after notice as required by section 45-24-53. The town council shall render a decision within forty-five (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.

- (A) No proposed amendment making a specific change in the zoning map shall be enacted until after a public hearing, at which, opportunity shall be given for all persons interested to be heard, has been held upon the question of the enactment, amendment or repeal of such ordinance, before the town council, who shall first give written notice of the time and place of such public hearing, and the nature and purpose thereof, to all owners of any real property within three hundred (300) feet of the perimeter of the real property which is the subject matter of the proposed amendments, enactment or repeal by registered or certified mail at least fourteen (14) days before the date of such hearing and by publication of

such notice in a newspaper of general circulation within such town at least once each week for three (3) successive weeks prior to the date of such hearing. Notice shall also be mailed to Associate Director of R.I. Division of Planning, Department of Administration at least fourteen (14) days prior to the hearing. The town council may in approving a zone change limit such change to one (1) of the permitted uses in the zone to which the subject land is rezoned, and impose such limitations and conditions upon the use of the land as it deems necessary. The town clerk shall cause the limitations and conditions so imposed to be clearly noted on the zoning map. If the permitted use for which the land has been rezoned is abandoned or if the land is not used for that purpose for a period of two (2) years, the town council may after a public hearing as hereinbefore set forth, change the land to its original zoning use before such petition was filed.

Such newspaper notices containing a statement of the proposed amendments to the ordinance shall be inserted once in its entirety and thereafter a weekly formal legal notice shall be inserted stating that a public hearing will be held specifying the time and place of such hearing. Such subsequent formal notices shall include reference to such original advertisement which gave full description. 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 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 three hundred (300) feet of the perimeter of the area proposed for change, whether within the town or within an adjacent city or town. The notice shall be sent by registered or certified 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.
- (D) Notice of a public hearing shall be sent by first class mail to the town council of any city or town to which one (1) or more of the following pertain:
- (1) Which is located in or within not less than three hundred (300) 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 two thousand (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 two thousand (2,000) feet of any real property which is the subject of a proposed zoning change, provided, however, that the governing body of any state or municipal water department or agency, special water district or private water company has filed with the building inspector in the town a map survey, which shall be kept as a public record, showing areas of surface water resources and/or watersheds and parcels of land within two thousand (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.
- (G) Costs of any notice required under this section shall be borne by the applicant.
- (H) In granting a zoning ordinance amendment, notwithstanding the provisions of section 45-24-37 of the General Laws, 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:
- (1) Requiring the petitioner to obtain a permit or approval from any and all state or local governmental agencies or instrumentalities having jurisdiction over the land and use which are the subject of

the zoning change;

- (2) Those relating to the effectiveness or continued effectiveness of the zoning change; and/or
- (3) Those relating to the use of the land; as it deems necessary.

The town clerk shall cause the limitations and conditions so imposed to be clearly noted on the zoning map and recorded in the land evidence records, provided, however, in the case of a conditional zone change, the limitations, restrictions and conditions shall not be noted on the zoning map until the zone change has become effective. If the permitted use for which the land has been rezoned is abandoned or if the land is not used for the requested purpose for a period of two (2) 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. 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.

ARTICLE II. DISTRICT USE REGULATIONS

The following uses are permitted only in the districts marked with an "X". Uses permitted in the districts as special use permits under the provisions of article I, section 6C, of this ordinance are marked with an "S". The top horizontal row in each use is the town-wide zoning; the bottom row in each use is for village overlay districts only.

ARTICLE II
DISTRICT USE REGULATIONS

The following uses are permitted only in the districts marked with an "X." Uses permitted in the districts as special use permits under the provisions of Article 1 section 6C of this ordinance are marked with an "S." The top horizontal row in each use is the Town-wide Zoning; the bottom shaded row in each use is for Village Overlay Districts only.

| Section 1. Agricultural Uses. | DISTRICT | | | | |
|--|-------------------------|-------------------------|----|----|---|
| | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Keeping of animals and fowl for home Uses. | X | S | | X | X |
| | X | S | S | S | S |
| 2. Keeping of animals for sale. | X | | | | X |
| | X | | | | X |
| 3. Raising of crops and forest products | X | X | X | X | X |
| | X | X | X | X | X |
| 4. Commercial nursery | S | S | X | X | X |
| | S | S | X | X | X |
| 5. Sale of produce raised on the premises | X | S | X | X | X |
| | X | S | X | X | X |
| 6. Keeping of horses, ponies, donkeys & mules | X | S | | | |
| | X | S | S | S | S |
| 7. Kennel (includes kennel as defined in Section 4-13-10 of the General Laws; boarding kennel; or the keeping of more than three (3) dogs over the age of six (6) months. Note: to keep three (3) or more adult dogs town council approval is also required) | S | S | S | S | S |
| | S | S | S | S | S |
| 8. Poultry Farm | S | | | | |
| | S | | | | |

Minimum of sixty thousand (60,000) sq. ft. required for one (1) horse, pony, donkey or mule.
Minimum of one hundred twenty thousand (120,000) sq. ft. required for two (2) horses,
etc. More than five (5) acres required for more than two (2) horses, etc., but not more
than four (4) horses. More than ten (10) acres required for more than five (5) horses,
etc., but not more than ten (10) horses without a special use permit.

| Section 2. Residential Uses. | DISTRICT | | | | |
|---|-------------------------|-------------------------|----|----|---|
| | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Single-Family detached dwelling | X | X | X | | |
| | X | X | X | S | S |
| 2. Two-Family dwelling structures | S | S | X | | |
| | S | S | X | S | S |
| 3. Multifamily dwelling structures | | | S | | |
| | S | S | S | S | S |
| 4. Lodging or guest house, bed or breakfast (not to exceed three (3) units) | S | S | S | S | |
| | S | S | S | S | S |
| 5. Dormitory for a permitted use. | S | S | X | X | |
| | S | S | S | S | S |
| 6. Hotel | | | S | S | |
| | | S | S | S | S |
| 7. Motel | | | S | S | |
| | | | S | S | S |
| 8. Customary home occupation (performed by the occupant and using no more than six hundred (600) sq. ft. of the area of one (1) floor, provided such activity shall not be visible from a lot line and that there shall be no exterior advertising, except as permitted by article VII) | X | S | X | X | X |
| | X | X | X | X | X |
| 9. Rest home or convalescent home | | | X | X | |
| | S | S | S | S | S |
| (8.) 10. Accessory Family Dwelling Units | S | S | | | |
| | S | S | | | |

(Ord. Of 4-23-98 (1))

| | DISTRICT | | | | |
|---------------------------------------|-------------------------|-------------------------|----|----|---|
| Section 3 Open Recreation Uses. | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Public Playground | S | S | | | |
| | S | S | S | S | S |
| 2. Bathing Beach | S | S | X | X | X |
| | | S | S | S | S |
| 3. Golf Course | S | S | S | S | S |
| | S | S | S | S | S |
| 4. Other Commercial Recreation | | | S | S | |
| | | S | S | S | S |

| | DISTRICT | | | | |
|--|-------------------------|-------------------------|----|----|---|
| Section 4 Public & Semi-Public Buildings | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. School or College | S | | X | X | |
| | S | S | X | X | S |
| 2. Religious Institution | S | | X | X | |
| | S | S | X | X | S |
| 3. Charitable institution (No commercial activity) | | | X | X | |
| | | S | X | X | S |
| 4. Library, Museum, etc. | X | X | X | X | |
| | X | X | X | X | X |
| 5. Hospital or clinic (not for mental or alcoholic treatment) | | | X | X | |
| | | | S | S | S |
| 6. Hospital (for mental or alcoholic treatment) | | | | S | |
| | | | S | | S |
| 7. Government building (except penal, garage or utility) | | | X | X | X |
| | X | X | X | X | X |
| 8. Penal, garage or utility government buildings | | | S | S | X |
| | S | S | S | S | S |
| 9. Fire or Police Station | X | X | X | X | X |
| | X | X | X | X | X |
| 10. Sewage plant or incinerator | | | | | S |
| | | | | | |
| 11. General purpose hall leased for recreation, social or other intermittent functions | | | S | S | S |
| | S | S | S | S | S |
| 12. Half-way houses | | | S | | |
| | S | S | | S | S |

| | DISTRICT | | | | |
|---|-------------------------|-------------------------|----|----|---|
| Section 5 Office Uses | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Professional office in the home (for use by a resident of the premises, no outside employee) | X | X | X | X | X |
| | X | X | X | X | X |
| 2. Professional office, real estate, insurance agency, etc. | S | | X | X | |
| | S | S | X | X | S |
| 3. Temporary real estate office (one (1) year only) | S | S | X | X | X |
| | S | S | X | X | X |
| 4. Bank or office building | S | | X | X | X |
| | S | S | X | X | X |
| 5. Office for wholesale or manufacturing USE | | | S | X | X |
| | | | S | X | X |

| | DISTRICT | | | | |
|---|-------------------------|-------------------------|----|----|---|
| Section 6 Restaurants & Entertainment | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Lunch room or restaurant (not including entertainment and liquor) | | | X | X | X |
| | | S | X | X | X |
| 2. Tavern or night club | | | S | S | |
| | | | S | S | S |
| 3. Theatre or night club | | | S | S | |
| | | | S | S | S |
| 4. Indoor commercial recreation | | | S | S | S |
| | | | S | S | S |
| 5. Lunch room or cafeteria (accessory to a permitted use and designed to serve the students, employees and patrons of the main use, located entirely within the main building and with no exterior advertising) | X | X | X | X | X |
| | X | X | X | X | X |

| | DISTRICT | | | | |
|--|-------------------------|-------------------------|----|----|---|
| Section 7 Business | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Barber, beautician, shoe repair, laundry pickup and similar service shops | S | | X | X | X |
| | S | X | X | X | X |
| 2. Print shop, photo studio, taxidermist and similar specialty shops | | | X | X | |
| | S | S | X | X | S |
| 3. Mortuary or funeral home | S | | X | X | |
| | S | S | X | X | S |
| 4. Radio or television studio (or) transmission towers (broadcast) | S | | S | S | S |
| | | | | | |
| 5. Veterinary or pet shop | S | | S | X | |
| | | S | S | X | X |
| 6. Caterer | | | X | X | X |
| | S | S | X | X | X |
| 7. Gasoline filling station (no major repairing) | | | S | X | S |
| | | | S | S | S |
| 8. General automotive repair | | | | S | S |
| | | | | S | S |
| 9. Vehicle rental agency (no repairs) | | | S | X | S |
| | | | S | S | S |

| | | | | | |
|--|---|---|---|---|---|
| 10. Grocery, bakery, drug, hardware, variety and similar neighborhood stores | | | X | X | |
| | S | S | X | X | X |

| | | | | | |
|---|---|---|---|---|---|
| 11. Fruit or vegetable stand | S | | X | X | |
| | S | S | X | X | X |
| 12. Package store (alcoholic beverages) | | | S | X | |
| | | | S | X | X |
| 13. General merchandise, department store, supermarket, furniture and household goods (including storage up to thirty (30) percent of the gross floor area) | | | S | X | |
| | | | S | S | S |
| 14. Auto and truck sales in a building (including repairs) | | | | S | S |
| | | | | | S |
| 15. Auto and truck sales in an open lot | | | | S | S |
| | | | | | |
| 16. Retail sales in an open lot | | | S | S | S |
| | | | | | |

| | | | | | |
|--|---|---|---|---|--|
| 17. Booth or stand for sale of goods, merchandise, food, refreshments, (non-alcoholic), arts and crafts during an arts and crafts festival of no more than three (3) days duration once per year, when such booth or stand has been licensed pursuant to the provisions of the Ord. of 8-14-00(2) (chapter 6, article IX of this Code) which provides for such licenses and defines the areas within the town within which such licenses may be granted. | X | X | X | X | |
| | X | X | X | X | |
| | | | | | |

(Amd. Of 7-13-00)

| | DISTRICT | | | | |
|--|-------------------------|-------------------------|--------|--------|--------|
| Section 8. Transportation Uses | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Airport | S | | | S | S |
| 2. Heliport | S | | | S | S |
| 3. Offstreet parking facility (accessory to a use permitted in the district) | S S | S S | X X | X X | X X |
| 4. Commercial offstreet parking facility | | | X X | X X | X X |
| 5. Rail or motor freight terminal | | | | S | X |
| 6. Rail or bus passenger station | | S | X | X | X |

| | DISTRICT | | | | |
|--|-------------------------|-------------------------|----|----|----------|
| Section 9 Wholesale Business & Storage | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Wholesale business and storage of nonflammable and nonexplosive material in a building | | | | S | X |
| 2. Open lot storage of building materials and machinery, motor vehicles, trailers, campers, truck trailers, motor vehicle parts | | | | | S* S* |
| 3. Open storage of solid fuel, sand and gravel | | | | | S* S* |

| | | | | | |
|--|--|--|---|---|---|
| 4. Storage of flammable or explosive materials above ground | | | | | S |
| 5. Storage of flammable or explosive materials under ground | | | S | S | S |
| *Must be screened by an opaque fence or hedge no less than seven (7) feet in height. | | | | | |

| | DISTRICT | | | | |
|---|-------------------------|-------------------------|----|----|---|
| Section 10 Service Industries | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Dry cleaning plant | | | | S | S |
| 2. Auto body or paint shop | | | | | S |
| 3. Blacksmith or welding shop | | | | | X |
| 4. Power generating station | | | S | S | X |
| 5. Electric substation | | | X | X | X |
| 6. Office or office building, service building storage or materials, uses incidental or related to operation of maintenance of all or any part of a public service system, or any structure or uses substantially similar to any of the structures or uses included in this subsection or otherwise permitted under other provisions of this ordinance. | S | | X | X | X |
| 7. Any other structure which is part of a public service system | S | S | S | S | S |
| 8. Telecommunications Towers and Antennas* | | | S | S | S |

*Telecommunications towers are prohibited in village overlay districts. An additional setback of 10 feet for each foot of tower height between a proposed tower or antenna and village overlay district limit shall be applied.

(Ord. Of 4-23-98 (1))

| | DISTRICT | | | | |
|---|-------------------------|-------------------------|----|----|---|
| Section 11 Industrial Uses Uses. | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. The manufacture, compounding processing or packaging of bakery goods, candy, cosmetics, drugs, food products (excluding meat, fish, yeast, vinegar and the rendering of fats and oils) and other similar operations | | | S | S | X |
| 2. The manufacture, compounding or assembly of articles using shell, cellophane, plastic, fur, glass, leather, precious metals or stones, wood, textiles or tobacco and other previously prepared products | | | | | X |
| 3. The manufacture and assembly from prepared materials of: musical instruments, clocks, toys, novelties, appliances, electronic devices, metal products, machine tools and machinery (not requiring the use of drop hammers and punch presses of over one hundred (100) tons) and other similar products | | | S | S | X |
| 4. Atomic energy processes | | | | | S |
| 5. Auto manufacture or assembly | | | | | S |
| 6. Boat manufacturing | | | | | X |
| 7. Boat storage and repair | | | | | X |
| 8. Boiler, locomotive or railcar manufacture | | | | | S |
| 9. Machinery or machine tool manufacture (requiring drop hammers or punch presses of over one hundred (100) tons). | | | | | S |
| 10. Mining, quarrying or loam stripping | | | | S | S |
| 11. Paint Manufacture | | | | | S |
| 12. Plastic and pyroxylin manufacture | | | | | S |

| | | | | | |
|--|--|--|---|---|---|
| 13. Retail outlet for industrial operation | | | S | X | X |
| | | | S | X | X |
| 14. Rubber manufacture or treatment | | | | | S |
| | | | | | S |

| | | | | | |
|----------------------------------|--|--|---|---|---|
| 15. Soap manufacture | | | | | S |
| | | | | | S |
| 16. Sodium compounds manufacture | | | | | S |
| | | | | | |
| 17. Stone cutting | | | | | X |
| | | | S | S | X |
| 18. Textile dyeing or finishing | | | | | S |
| | | | | | S |
| 19. Tile or brick manufacturing | | | | | S |
| | | | | | S |

All uses not specifically listed in this section or article X will require a ruling in writing as to general classification by the zoning inspector. If such a classification is listed as a special use permit, the provisions of article I, section 6C will apply.

| | DISTRICT | | | | |
|---|---------------------|---------------------|----|----|---|
| Section 12 Accessory uses | RR-120 RRW-60/80 | RS-120 RSW-60/80 | BL | BG | M |
| 1. Any accessory use customarily incident to a use permitted in the district and located on the same site | X | X | X | X | X |
| | X | X | X | X | X |
| 2. Any accessory uses customarily incident 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 |

(Ord. of 1-8-04)

Section 13. Mandatory permitted uses.

As required by section 45-24-37 of the General Laws, the following uses shall be permitted uses within all residential districts and all industrial and commercial districts, except where the zoning inspector determines that residential use would present a public health or safety hazard:

- (a) Households.
- (b) Community residences.
- (c) Family day-care homes.
- (d) Any time a building or other structure used for residential purposes, or a portion of a building containing residential units, is rendered uninhabitable by virtue of a casualty such as fire or flood, the owner of the property is

allowed to park, temporarily, mobile and manufactured home or homes, as the need may be, elsewhere upon the land, for use and occupancy of the former occupants for a period of up to twelve (12) months, or until the building or structure is rehabilitated and otherwise made fit for occupancy. The property owner, or a properly designated agent of the owner, is only allowed to cause the mobile and manufactured home or homes to remain temporarily upon the land by making timely application to the local building official for the purposes of obtaining the necessary permits to repair or rebuild the structure.

- (e) Notwithstanding any other provision of this chapter (ordinance), appropriate access for people with disabilities to residential structures is allowed as a reasonable accommodation for any person(s) residing, or intending to reside, in the residential structure.

(Ord. of 1-8-04)

Section 14. Town of Scituate exempt.

Any building or use employed by the Town of Scituate in the performance of its governmental functions shall be exempt from the operation of this ordinance.

Section 15. City of Providence.

Property owned by the City of Providence under the jurisdiction of the Providence Water Supply Board may be used for the collection, storage, processing and distribution of water and, as an incident thereto, the planting and harvesting of forest products and the production of electricity. Such property may also be used according to the district use regulations and district dimensional regulations for RR-120 district property.

ARTICLE III. DISTRICT DIMENSIONAL REGULATIONS
Section 1. Residential districts

| | Single Family Residence Structure | Other Permitted Use |
|---------------------------|-----------------------------------|--------------------------|
| 1. RR-120 District | | |
| Minimum Lot Size RR-120 | 120,000 sq. ft. | 120,000 sq. ft. |
| Minimum Lot Width | 300 ft. | 300 ft. |
| Minimum Front Yard Depth | 50 ft. | 50 ft. |
| Minimum Side Yard Depth | 35 ft. | 15 ft. |
| Minimum Rear Yard Depth | 60 ft. | 60 ft. |
| Maximum Building Coverage | 15% | 15% |
| Maximum Building Height | 36 ft. | 30 ft. see note 4 |

| | | |
|--------------------------|-----------------|-----------------|
| 2. RS-120 District | | |
| Minimum Lot Size RS-120 | 120,000 sq. ft. | 120,000 sq. ft. |
| Minimum Lot Width | 300 ft. | 300 ft. |
| Minimum Front Yard Depth | 50 ft. | 50 ft. |

| | | |
|---------------------------|---------------|--------------------------|
| Minimum Side Yard Depth | 35 ft. | 15 ft. |
| Minimum Rear Yard Depth | 60 ft. | 60 ft. |
| Maximum Building Coverage | 15% | 15% |
| Maximum Building Height | 36 ft. | 30 ft. see note 4 |

| | | |
|---|----------------|--------------------------|
| 3. RRW-60/80 District | | |
| Minimum Lot Size RRW-60/80 (no public water) | 80,000 sq. ft. | 80,000 sq. ft. |
| Minimum Lot Size RRW-60/80 (public water) | 60,000 sq. ft. | 60,000 sq. ft. |
| Minimum Lot Width | 200 ft | 200 ft |
| Minimum Front Yard Depth | 50 ft. | 50 ft. |
| Minimum Side Yard Depth | 35 ft. | 15 ft. |
| Minimum Rear Yard Depth | 60 ft. | 60 ft. |
| Maximum Building Coverage | 15% | 15% |
| Maximum Building Height | 36 ft. | 30 ft. see note 4 |

| | | |
|---|----------------|--------------------------|
| 4. RSW-60/80 District | | |
| Minimum Lot Size RSW-60/80 (no public water) | 80,000 sq. ft. | 80,000 sq. ft. |
| Minimum Lot Size RSW-60/80 (public water) | 60,000 sq. ft. | 60,000 sq. ft. |
| Minimum Lot Width | 200 ft | 200 ft |
| Minimum Front Yard Depth | 50 ft. | 50 ft. |
| Minimum Side Yard Depth | 35 ft. | 15 ft. |
| Minimum Rear Yard Depth | 60 ft. | 60 ft. |
| Maximum Building Coverage | 15% | 15% |
| Maximum Building Height | 36 ft. | 30 ft. see note 4 |

NOTES:

1. Minimum lot width in RR-120, RS-120, RRW-60/80 and RSW-60/80 districts is the distance between the side lines of a lot, measured at the required front yard depth which is fifty (50) feet and which distance shall be maintained for at least one hundred (100) feet back from the point of required minimum lot width.

2. The maximum height dimension shall be measured from average ground level to the highest point on the roof of the structure. The maximum height limit shall not affect spires, water towers, chimneys, transmission towers or other similar structures.

3. Any use listed in article II, sections 1 and 2 which may be located in a BL, BG or M District shall conform to the dimensional regulations of the RS-120 district.

4. Accessory structure height may be increased to 36 feet if conforming to principal use structure setbacks.

Section 2 Business and manufacturing districts.

| | Any Permitted Use |
|--|-------------------|
| 1. BL District and BG District | |
| Minimum Front Yard Depth (unobstructed) | 25 ft. |
| Minimum Side Yard Depth | -- |
| Minimum Rear Yard Depth | 40 ft. |
| Minimum Distance of Structure from Residence District Boundary | 30 ft. |
| Maximum Building Coverage | 25% |
| Maximum Building Height | 36 ft. |

| | |
|---|---------|
| 2. M District--General Manufacturing | |
| Minimum Front Yard Depth | 40 ft. |
| Minimum Side Yard Depth | 40 ft. |
| Minimum Rear Yard Depth | 40 ft. |
| Minimum Distance of Structure from Residential District | 100 ft. |
| Maximum Building Coverage | 25% |
| Maximum Building Height | ---- |

Section 3. Multifamily dwelling structures.

1. A multifamily dwelling structure means a residential building designed for three (3) or more separate dwelling units enclosed within a single structure. Each dwelling or living unit shall be designed and constructed with a maximum of two (2) bedrooms.
2. A dwelling unit means a portion of a structure designed for the use of (or occupied by) one (1) family for living, cooking and sleeping purposes.
3. Each multifamily structure shall be provided with the necessary water supply and separate sewerage for sanitary and laundry facilities, all contained on the lot. All such systems shall be in conformance with the Rhode Island Department of Environmental Management Regulations currently in effect and all town regulations and standards. Where town, state and/or other standards are in conflict, the more restrictive standards shall prevail.
4. A site plan for a multifamily dwelling or dwellings of three (3) or more units shall be prepared by a registered architect or engineer and shall show the following, together with appropriate dimensions:
 - a. Proposed name of the development, name of developer and owner;
 - b. Lot layout by legal descriptions;
 - c. Names and addresses of applicant and designer of the plan;
 - d. Scale of plan; overall site: 1" = 100'
Detailed plan of immediate area of development: 1" = 20';

- e. The topographic map shall show existing ground contours over the area proposed for development as follows: Minimum of 5' contour intervals and spot elevations at appropriate locations to substantiate design features;
 - f. Boundary line of development indicated by a solid line, and the total acreage encompassed thereby; names of abutting property owners indicated;
 - g. Existing sewers, wells, water mains, drainage culverts and other underground facilities within the tract, indicating pipe sizes, grades, manholes and location;
 - h. Location, arrangement and dimensions of automobile parking spaces, width of aisles, width of bays, angle of parking;
 - i. Location and dimensions of vehicular drives, entrances, exits, acceleration and deceleration lanes; location and dimensions of pedestrian entrances, exits, walks and walkways;
 - j. Storm drainage system and sanitary sewage disposal systems as approved;
 - k. Location, height and materials of walls, fences and screen planting;
 - l. Lighting (exterior);
 - m. Ground cover, finished grades, slopes, banks and ditches;
 - n. Location and general exterior dimensions of principal and accessory buildings and signs;
 - o. The stages, if any, to be followed in the construction of the development;
 - p. The developer shall submit architectural floor plans and elevations of the principal building(s) for review of their general design and selection of exterior materials for the intended use and compatibility with the site and surrounding established uses.
5. The following minimum lot sizes shall be required for multifamily dwelling structures, whether contained in one (1) building or more than one (1) building on a single parcel:

| | |
|------------------------|-----------------------|
| 3 dwelling units | 200,000 square feet |
| 4 -10 dwelling units | 400,000 square feet |
| 11 – 15 dwelling units | 600,000 square feet |
| 16 – 20 dwelling units | 800,000 square feet |
| 21-25 dwelling units | 1,000,000 square feet |
| 26-30 dwelling units | 1,200,000 square feet |
| 31-35 dwelling units | 1,400,000 square feet |

More than thirty-five (35) dwellings units, one million four hundred thousand (1,400,000) square feet plus forty thousand (40,000) square feet for each dwelling unit.

Minimum lot width shall be three hundred (300) feet plus an additional ten (10) feet for each dwelling unit in excess of three (3).

In all other respects the district dimensional requirements for RR-120 districts as set forth in article III, section 1 shall apply, except where stricter requirements are imposed by subsection 6 of this section.

6. In areas where there is no public water and/or no public sewage system or where the water supply of the City of Providence might be adversely affected, the zoning board of review may require larger lot sizes or fewer dwelling units.
7. The zoning board of review may in any development of more than twenty (20) dwelling units require dedication of a portion of the premises as a park for residents of the dwelling units, such area to be not less than one (1) acre nor more than five (5) acres.
8. Buffer strip. A strip 100 feet in width or depth along side and rear lot lines shall be maintained as a landscape buffer strip.
9. 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. No trash shall be disposed of on the premises.
10. Offstreet parking facilities. Minimum offstreet parking shall be provided and maintained as follows:
 - a. Two (2) car spaces per dwelling unit (three hundred (300) sq. ft. per space, including access, egress and general circulation).
 - b. No parking shall be permitted within one hundred (100) feet of any boundary line or within the required minimum front yard.
11. Prohibition for certain groundwater table areas. Multi-dwelling structures are prohibited in any area where the groundwater table is within four (4) feet of the original ground surface or where an impervious layer is within six (6) feet of the original ground surface.

ARTICLE IV. SPECIAL REGULATIONS

Section 1. Preexisting uses. (Nonconforming uses)

- A. *Definition.* A preexisting use is any use of land or of any structure which was in lawful use at the time of passage of this ordinance, but which is not in conformity with the provisions of this ordinance.
- B. *Continuance.* Any preexisting use shall be permitted to continue until such time as such use is discontinued, destroyed, demolished or changed to another use.
- C. *Discontinuance.* A preexisting use which has been abandoned shall not be allowed to be resumed and any future use of such building or land must conform to the provisions of this ordinance. If any nonconforming use is halted for a period of one (1) year, the owner of the property will be presumed to have abandoned the nonconforming use, unless that presumption is rebated by presentation of sufficient evidence of intent not to abandon the use.
- D. *Destruction.* If a preexisting use is destroyed by accident or by act of God or if it

is demolished at the direction of the owner, such use may be reestablished, provided the total floor space and location are not altered or increased. Nothing shall prevent the performance of normal maintenance work or work necessary to comply with safety codes on a legal preexisting use.

- E. *Change of use.* A preexisting use may be changed only to a conforming use. A change to a use not conforming to the requirements of the district may be granted only as a variance.
- F. *Enlargement.* A preexisting use may be enlarged only as a special use permit under article I, section 6C.
- G. *Exemption.* Any use which does not conform in dimension, but conforms in use shall be exempt from the provisions of this section, provided the dimensional nonconformity is not increased in any way.
- H. *Two (2) houses, on one (1) lot.* Where two (2) or more dwelling houses, which were in existence at the time of enactment of this ordinance, are located on one (1) lot, the zoning board of review may, by special use permit, permit the division of the lot into separate lots for each house even though the separate lots do not conform in size and/or dimensions to the minimum sizes and/or dimensions for residential use.

Section 2. Yard exceptions.

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

- A. An unenclosed porch may extend up to ten (10) feet into a side or rear yard.
- B. Ordinary projections of window sills, cornices and other ornamental features may extend up to one (1) foot into a yard.
- C. Landscape features such as trees, fences, shrubs and terraces may be placed in any yard area.
- D. In BL, BG and M districts an outdoor telephone booth may be located in a front yard area, provided it is adjacent to a permitted curb parking area or an offstreet parking facility, and one (1) permitted sign may be located in the front yard so long as it complies with the requirements of article VII (sign regulations).
- E. In RR and RS districts where property is used for single-family residential purposes, permitted detached structures, other than dwelling houses, may be located in the rear yard so long as they are at least fifteen (15) feet from the rear lot line and fifteen (15) feet from the side lot line and provided that such structures shall be limited to a maximum height or [of] 30 feet and a maximum floor space of eight hundred seventy-five (875) square feet.
- F. Barns for keeping livestock and/or farm machinery and other agricultural uses in RR districts may have a maximum floor space of three thousand (3,000) square feet and a greater area may be permitted by the zoning board of review as a special use permit.

- G. In BL, BG, and M zones (and for uses permitted in those zones which are located in RR and RS zones) propane tanks shall be placed in accordance with applicable federal, state and town fire safety regulations.

Section 3. Substandard lots of record.

Except for lots on recorded plats which have received final approval from the plan commission pursuant to the ordinance and rules and regulations governing and restricting the platting and other subdivision of land, no lot area shall be reduced below the dimensional requirements prescribed for the district in which the lot is located. No yard or open space provided around any building for the purpose of complying with the provisions of this ordinance shall again be used as a yard or open space for any other building.

Where no adjacent land is in the same ownership so as to form at least a lot of the minimum lot size and dimensions for the district which was of record on the effective date of this ordinance [December 30, 1965] may be used for a permitted use, or use permitted by special use permit if a special use permit is granted, provided that such lot shall have a minimum area of ten thousand (10,000) square feet and a minimum width of one hundred (100) feet. All yard dimensions of such lot shall conform to the provisions of the district, except that the side yard depth may be reduced to ten (10) feet for any lot less than twelve thousand five hundred (12,500) square feet in area.

In residence districts where a lot has a width of less than one hundred fifty (150) feet, the minimum side yard depth is fifteen (15) feet for a single-family residence and ten (10) feet for other permitted uses.

(Ord. of 1-8-04)

Section 4. Corner lots.

For the purpose of complying with the provisions of article III of this ordinance, the shorter of the two (2) street lot lines shall be interpreted as the front lot line of any corner lot. All dimensional regulations of article III shall apply, except that the side yard which is adjacent to a street shall have a depth equal to one-half (1/2) the sum of the required side yard and front yard depths for the district.

On any corner lot, no driveway or accessway shall be constructed within seventy-five (75) feet of the intersection of two (2) street lines.

Section 5. Vision clearance at corners.

At street line intersections, in all districts, no building or structure shall be erected between a height of three (3) feet and ten (10) feet above street level and no vegetation shall be planted or allowed to grow above a height of three (3) feet above the street level within the triangle formed by the two (2) intersecting street lines and a third line joining points on these street lines fifteen (15) feet from the intersection. Poles not exceeding six (6) inches in diameter are exempted from this regulation.

Section 6. Lots divided by a zoning district boundary.

Where a lot is divided by a zoning district boundary, the regulations for either zoning district shall apply, except that no district shall, in effect, be extended more than

thirty (30) feet into an adjoining district.

Section 7. Setback from water bodies.

Sewage disposal facilities designed to leach wastes into the soil shall be located no closer than one hundred fifty (150) feet from the edge of any pond or stream. No building or structure, except a dock shall be placed or erected within seventy-five (75) feet from the edge of any pond or stream, except as may be granted by the board as a special use permit.

Section 8. Number of residential structures per lot.

Not more than one (1) main residential structure shall be permitted on a lot, except that this regulation shall not be construed to limit the number of institutional dormitories permitted on one (1) lot.

Section 9. Floodplain district regulations.

- A. *Floodplain district.* The floodplain district is herein established as an overlay district. The underlying permitted uses are allowed, provided that they meet the following additional requirements as well as those of the Rhode Island State Building Code dealing with construction in floodplain. The floodplain district includes all special flood hazard areas designated as Zone A, A1-30 on the Town of Scituate Flood Insurance Rate Maps (FIRM), and the Flood Boundary and Floodway Maps, dated January 2, 1981 on file with the town clerk, planning board and building inspector. These maps as well as the accompanying Rhode Island Flood Insurance Study are incorporated herein by reference.
- B. *Development regulations.* The following requirements apply in the floodplain district:
 - 1. In the floodway, designated on the Flood Boundary and Floodway Map, the following provisions shall apply:
 - a. All encroachments, including fill, new construction, substantial improvements to existing structures and other development are prohibited, unless certification by a registered professional engineer is provided by the applicant, demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood.
 - b. Any encroachment meeting the above standard shall comply with the floodplain requirements of the state building code.
 - c. The placement of mobile homes, except in an existing mobile home park or mobile home subdivision, is prohibited.
 - 2. In A1-30 zones on the Flood Insurance Rate Map for new or substantially improved mobile home parks or subdivisions require:
 - a. That stands are elevated to or above base flood elevation;
 - b. That adequate access and drainage is provided;

- c. That, if pilings are issued for elevation, lots are large enough to permit steps, piling foundations are placed in stable soil no more than ten (10) feet apart, and reinforcement is provided for piers more than six (6) feet above ground level.

Section 10. Telecommunications towers and antennas.

1. *Purpose.*
 - A. The purpose of the ordinance is to establish general guidelines for the siting of towers and antennas. The goals of this ordinance are to:
 1. Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the community;
 2. Encourage the joint use of tower sites;
 3. Encourage the users of towers and antennas to locate them, to the maximum 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 encourage creative design measures to camouflage facilities;
 5. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
 6. Protect historical and residential areas from potential adverse impacts.
2. *Definitions.* As used in this ordinance, the following terms shall have the meanings indicated:
 - A. "Alternative tower structure" shall mean clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.
 - B. "Antenna" shall mean any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves.
 - C. "FAA" shall mean the Federal Aviation Administration.
 - D. "FCC" shall mean the Federal Communications Commission.
 - E. "Pre-existing towers and antennas shall have the meaning set forth in section 1(A) of this ordinance.
 - F. "Height" shall mean, when referring to a tower or other structure, the distance measured from the ground level to the highest point on the tower or other structure, even if the said highest point is an antenna.
 - G. "Tower" shall mean any structure that is designed and constructed primarily for the purpose of supporting one (1) 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.

3. *Development standards for telecommunications towers and antennas.*
 1. Town owned sites or facilities that are located in the prospective development area which could potentially accommodate the proposed antennae and communications tower shall be given priority consideration.
 2. In the event that no town facility is available, a reasonable effort shall be made to utilize existing structures for telecommunications antennae. Should an existing structure not be utilized, evidence as to why shall be submitted.
 3. A bond shall be posted in perpetuity to cover the cost of removal of the tower. The bond shall be reviewed by the director of public works every five (5) years and adjusted accordingly. The bond amount set shall be sufficient to cover the cost of the tower or antenna removal.
 4. Setback requirements for towers from all property lines shall be one and one-half (1.5) feet for each foot of tower height. Guy wires shall be adequately protected and shall be setback from all property lines the minimum of the zoning district in which they are proposed, but no less than [than] twenty-five (25) feet.
 5. Communication equipment buildings are considered as accessory buildings and shall comply with the applicable setbacks of underlying zoning district.
 6. Communications towers shall be constructed and situated in such a manner as to fit in with the topography and features of the surrounding environment. Tower buildings, ground structures and appurtenances shall be completely screened from all adjacent properties and streets. Plantings shall be of such a height and density to ensure complete screening. Screening may be waived by the board on those sides or sections that are adjacent to undevelopable lands not in public view. Existing vegetation shall be preserved to the maximum extent possible and may be used as a supplement for or a supplement towards meeting the screening goal.
 7. Communications towers shall be enclosed by a maintenance free fence no less than six (6) feet in height or more than eight (8) feet in height from finished grade. Access shall be through a locked gate.
 8. Communications towers shall no [not] be artificially lighted except as required for public safety reasons, by the Federal Aviation Administration (FAA), or by the town.
 9. No signs shall be allowed on any communications tower except as required for public safety reasons, by the Federal Aviation Administration (FAA), or by the town.
 10. Communications antennae not attached to a communication tower shall

be permitted as an accessory use to any commercial, industrial, office, institutional, multifamily or public utility structure provided that:

- A. The antennae are not higher than twenty (20) feet above the highest point of the structure.
 - B. The antennae comply with applicable FCC and FAA regulations; and
 - C. The antennae comply with all applicable zoning requirements and building codes.
11. Communications towers shall comply with the following standards for the minimum separation distance from existing communication towers and/or communication towers that have received a valid special use permit, use permit or building permit.

MINIMUM SEPARATION BETWEEN TOWERS (BY TYPE)

| Proposed tower types | Self supporting | Guyed | Monopole – 75 feet in Height or Greater | Monopole – less than 75 feet in Height |
|---|-----------------|------------|---|--|
| Self supporting | 5,000 feet | 5,000 feet | 1,500 feet | 750 feet |
| Guyed | 5,000 feet | 5,000 feet | 1,500 feet | 750 feet |
| Monopole – 75 feet in height or greater | 1,500 feet | 1,500 feet | 1,500 feet | 750 feet |
| Monopole – less than 75 feet in height | 750 feet | 750 feet | 750 feet | 750 feet |

- a. Separation distances shall be calculated and applied irrespective of jurisdictional boundaries.
12. No proposed telecommunications site, structure or appurtenance shall be designed, located or operated so as to interfere with existing or proposed public safety communications.
13. The following standards shall be used in the approval of the siting of new towers.

Evidence that the applicant has investigated the possibility for locating the proposed facilities on an existing tower, the use of stealth technology or an alternative location where the tower would provide less of an impact on the surrounding area;

Such evidence shall consist of:

1. Copies of letters sent to owners of all existing towers within a one (1) mile radius of the proposed site, requesting the following information:
 - A. Tower height;
 - B. Existing and planned tower users;
 - C. Whether the existing tower could accommodate the proposed antenna without causing instability or radio frequency interference; and
 - D. If the proposed antenna cannot be accommodated on the existing tower, an assessment of whether the existing tower could be structurally strengthened or whether the antenna's transmitters and related equipment could be protected from electromagnetic interference, and a general description of the means and projected cost of shared use of the existing tower.
2. A copy of all responses within thirty (30) days from the mailing date of the letter required by subsection (1); and
3. A summary explanation of why the applicant believes the proposed facility cannot be located on an existing tower.
4. A summary explanation of why the applicant believes that the use of an alternative tower structure is not possible.
5. Provision of sound engineering evidence demonstrating the location of the tower as proposed is necessary in the interest of public safety or is a practical necessity.

(Ord. of 4-23-98(2))

Section 11. Setback from cemeteries.

No building or other structure shall be located closer than thirty-five (35) feet from any cemetery (including historical cemeteries) or gravesite, and except for the access road or way to the cemetery or gravesite, no road, street or driveway shall be located within fifteen (15) feet of any cemetery (including historical cemetery) or gravesite.

Section 12. Land Development--Preservation and protection of cultural environmental and scenic resources.

In an effort to preserve and protect unique features within proposed land development projects the plan commission may authorize lot width and yard dimensions other than those listed in article III of this ordinance. Lots may contain less than minimum frontage and setbacks than otherwise required under article III for the purposes of preserving and protecting documented features considered to be unique, historic, scenic or environmentally sensitive. Areas within the town requiring such design flexibility include but are not limited to the following: areas listed by the state

historical preservation and heritage commission: areas listed as unique natural areas by the state department of environmental management: areas of prime agricultural soils and viable farmland as listed and mapped by the USDA Soil Conservation Service: the Scituate Reservoir: scenic areas as listed and mapped by the town and the state. In addition land developments of a scale and complexity which due to their size have the potential to have a negative impact upon the rural character of the town and the implementation of the town comprehensive plan may be considered under this section.

- A. In no case shall the density of any proposed development project be greater than the density which a conventional subdivision would yield. The density of a proposal shall be

established by the number of units that a prudent and responsible configuration, conforming to the standard dimensional criteria, would yield.

- B. Proposals that entail random or extensive alteration of wetlands for building envelopments or roads and access will not be considered.
- C. The plan commission may recommend building envelopes for the location of new residential constructions and to protect the aforementioned cultural, environmental and scenic resources through the use of conservation easements, where appropriate.
- D. It shall be the responsibility of the applicant/owner to provide the plan commission with surveyed plans and engineering data which adequately depict and define any and all features that may be considered unique or sensitive in accordance with the standards and application procedures promulgated by the plan commission.
- E. All proposals which are intended to utilize the provisions of this section shall be in accordance with the Rural Design Manual, as adopted by the plan commission.
- F. Any land within a land development project undertaken under this section not designated a building lot shall be designated as permanent open space. Such land shall either be conveyed to the town and be accepted by the town for park land open space agricultural or other specified 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 or to be owned by owners of a lot or units within the development or owners of shares of a cooperation development. If such a corporation or trust is used ownership shall pass with conveyances of the lots or units. 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 a roadway.

(Ord. of 8-8-96(3))

Section 13. Multifamily/commercial site plan review and approval.

- A. *Applicability.* No application for permit to build, alter or expand any multifamily/commercial building, structure or use of land where such construction shall exceed a total gross floor area of five hundred (500) square feet or require

changes or alterations to a parking area, shall be submitted to the building inspector, until he or she shall have received from the plan commission a written statement of site plan approval by the plan commission in accordance with provisions of this section. The building inspector shall enforce the fulfillment of any conditions which the plan commission may impose.

- B. *Town council or zoning board of review referrals.* When in accordance with article II, the zoning board of review shall refer an application for a special use permit to the plan commission for review and comment, the plan commission's written report to the zoning board shall include, but not be limited to, all of the findings and determinations the plan commission would make in reviewing a site plan under this section the extent they are applicable to the information contained in the application for special use permit. The site plan review undertaken as an advisory opinion on referral from the town council or zoning board of review shall constitute the site plan review for such project under this section.
- C. *Grounds for site plan application approval or denial.* The plan commission may reject an application for site plan approval for the following reasons:
 - 1. Noncompliance with zoning ordinance.
 - 2. Incomplete application, including the application form, the accompanying site plan maps and supporting documentation, or the application fee as requested by the plan commission.
 - 3. Inability to impose reasonable conditions to mitigate adverse impacts in those areas in which standards for review have been established.
 - 4. Inability to meet the standards of review.
- D. *Standards for review.* Site plan approval is designed to provide a balance between landowner's rights to use his land with the corresponding rights of abutters and neighboring landowners to live or operate businesses without undue disturbance (e.g. noise, congestion, smoke, dust, odor, glare, storm water runoff, etc.).

Additional objectives include the preservation of the natural resources of the town; the creation of a better and safer living environment; and the enhancement of man-made resources including the town's architectural and historic heritage; protection of the Scituate Watershed and Reservoir.

The plan commission shall review site plans and shall issue site plan approval, including appropriate revisions and mitigating conditions, if the plan commission determines, and makes a written finding, that the following standards can be achieved:

- 1. The town's natural resources shall be preserved to the maximum extent possible.
- 2. Erosion and sedimentation shall be controlled during and after construction and shall not adversely effect adjacent or neighboring property or public facilities or services. All erosion control shall meet the standards of the town's erosion and sedimentation ordinance and the Rhode Island Erosion and Sedimentation Control Manual.
- 3. Increased runoff due to the development on the site shall not be injurious to any downstream property owner or cause hazardous conditions on

adjoining streets.

4. Direct discharge of untreated storm water run-off to a wetland or watercourse from impervious surfaces, including, but not limited to, roadways, parking lots, driveways, basements, and roofs shall not be allowed.
5. The proposed development shall not result in pollution of ground or surface waters, other than that anticipated under normal development practices with adequate mitigating measures to prevent significant impacts. All development storm water control shall meet the standards of the Rhode Island Storm water Management Manual and be of nonstructural character to the extent possible.
6. The movement of vehicular and pedestrian traffic within the site in relation to access streets shall be safe and convenient and adequate provision shall be made for snow removal.
7. Vehicular entrances and exits shall not be located within seventy-five (75) feet of any street intersection, where possible.
8. Traffic generated by the development shall not create significant congestion on the adjoining and nearby street system.
9. Adequate off-street parking and loading shall be provided to prevent on-street traffic congestion; all parking spaces, maneuvering areas, entrances and exits shall be suitably identified; the interior circulation system shall be designed to provide safe and convenient access to all structures, uses and/or parking spaces; parking areas shall be protected with suitable bumper guards, guard rails, islands, crosswalks, speed bumps, guard rails and similar devices when deemed necessary by the plan commission to protect life and property; and provisions shall be made for safe pedestrian movement within and adjacent to the property.
10. Parking lots containing twenty (20) or more spaces shall be planted with at least one tree per eight (8) spaces, no smaller than two-inch caliper, each tree being surrounded by no less than forty (40) square feet of permeable unpaved area. Trees required by the provisions of this section shall be at least five (5) feet in height at the time of planting and shall be of a species characterized by rapid growth and by suitability and hardiness for location in a parking lot. To the extent practicable, existing trees shall be retained and used to satisfy the provisions of this section.
11. Within village areas parking areas shall be located only at the side or rear of buildings unless sufficient evidence is presented to justify parking within the front yard setback area.
12. No development shall be allowed where there is unrestricted access to the public streets or where the public street must be utilized to maneuver in and out of a parking space.
13. Buildings and the grounds adjoining them shall permit easy access and operation of fire, police, and other emergency vehicles.
14. Sensitive environmental land features such as steep slopes, wetlands

and large outcroppings shall be preserved and protected.

15. Existing trees and vegetation shall be preserved to the maximum extent possible.
 16. Buffering elements in the form of architectural design and landscape design that provide a logical transition to adjoining existing or permitted uses shall be provided.
 17. Scenic views and historically significant features shall be preserved.
 18. Glare from the installation of outdoor lights and signs and from the movement of vehicles on the site shall be shielded from the view of adjacent properties in a residential zone.
 19. Abutting properties and town amenities shall not be degraded by undue disturbances caused by excess or unreasonable noise, smoke, vapors, fumes, dust, and odors.
 20. The design of the project, including buildings and landscape shall be visually compatible with the character of the surrounding area, including building materials, massing, scale, and building roof form.
 21. The design of the project and the site plan shall conform to the town's comprehensive plan.
- E. *Environmental assessment.* The plan commission may require an applicant for commercial site plan review for a project of significant size or impact to submit an environmental assessment discussing the impacts of the project to the community and alternative actions which may be taken and their affect. The need for such environmental assessment shall be determined by the plan commission in consultation with any agencies or commissions of the town it deems appropriate.
- F. *Site plan approval application filing.* An applicant for commercial site plan approval shall file with the plan commission copies of an application and a site plan (four (4) sets), a filing fee as required by the plan commission. Concurrently, the applicant shall file a copy of the application and site plan with the town clerk. Such application and site plan shall include the elements on which the plan commission is to make findings and determinations as provided in this section, and shall also include information as to the nature and extent of the proposed use of buildings, and such further information as the plan commission shall reasonably require by rule or regulation. Applications for a building permit shall not be filed prior to having received site plan approval under the provisions of this by-law. In subsequent applications concerning the same subject matter, the plan commission may waive the filing of plans and documents to the extent they duplicate those previously filed.
- G. *Relationship to subdivision regulations.* Site plan approval issued hereunder by the plan commission shall not be a substitute for compliance with the subdivision and land development of the town as they may apply to an application submitted hereunder. The plan commission, by granting site plan approval, is not obligated to approve any plan nor reduce any time periods for the plan commission's consideration under the Land Development and Subdivision Review Enabling Act. In order to facilitate processing the plan commission may accept a combined

plan and application which shall satisfy this section, the subdivision land development regulations and the Land Development and Subdivision Review Enabling Act.

- H. *Referrals to town boards/commissions.* The plan commission shall, within a reasonable time of receipt of the site plan application, transmit copies of the application and site plan to the following town committees, departments, commissions, and boards for review and comment: conservation commissions; public works department; fire chiefs and police chiefs. Other committees, department and commissions may be requested to review site plan applications and site plans if the plan commission feels such review will help in their deliberations.

If the plan commission determines that the site plan application is not complete, it may so advise the applicant to avoid delays to the applicant due to the anticipated disapproval of an incomplete submission.

The conservation commission and other agencies designated by the plan commission shall consider the same and submit a final report thereon with recommendations to the plan commission. The conservation commission shall review the application with particular reference to the Scituate Reservoir Watershed and shall recommend as to the advisability of granting the site plan approval and as to the restrictions which should be imposed upon the development as a condition of such permit.

The plan commission shall not make a finding and determination upon an application until it has received the final report of the conservation commission and/or other agencies designated by the plan commission thereon, or until forty-five (45) days shall have elapsed since the transmittal of said copies of the application and site plan to the conservation commission and other agencies designated by the plan commission without such report being submitted. Failure of a commission or agency to report within the allotted time shall be interpreted as a recommendation for approval of the submitted site plan.

- I. *Public hearing/final action/appeals.* The plan commission may hold a public hearing within a reasonable time after the filing of an application and site plan and, except as hereinafter provided, shall take final action within forty (40) days from the date of the public hearing. If the plan commission determines that the project is of a minor nature that a public hearings is not necessary to be held on the project, the plan commission shall take final action on the application within forty (40) days from the date of the filing of a complete site plan review application. Such final action shall consist of either:
1. A finding that the development will be consistent with the standards for review established in this section.
 2. A written denial of the application stating the reasons for such denial, and which shall include a statement of the respect in which any elements in the particular features of the proposal are deemed to be inconsistent with the standards for review established in this section.
 3. A finding and determination, subject to such reasonable mitigating conditions, modifications and restrictions set forth therein as the plan commission may deem necessary to ensure that the proposed development achieves consistency with the standards for review

established in this section.

In the event the plan commission approves a site plan application under these provisions, any construction, reconstruction, substantial exterior alteration, or addition shall be carried out in conformity with any mitigating conditions, modifications and restrictions, subject to which the board shall have made its findings and determination and only in conformity with the application and site plan on the basis of which the findings and determinations are made.

Minor changes to the approved site plan may be submitted to the building inspector for approval, and if deemed insignificant or minor in nature or effect, may be approved by him.

Any changes deemed to be significant or major by the building inspector shall be resubmitted to the plan commission in the form of a new site plan. Any building, reconstruction or expansion not approved by the building inspector or the plan commission shall be ordered halted and fully removed.

The approval of a site plan application, or a modification or amendment thereof, shall remain effective for a period of one (1) year only from the date of such approval (either directly or by inaction) unless prior to the expiration of such one-year period, the applicant makes substantial efforts to build in accordance with the approved site plan, or unless, upon a written request from the applicant, the plan commission votes to extend the time period for a period not to exceed one (1) additional year.

No permit, or any extension, modification, or renewal thereof issued pursuant to this sections shall take effect until the town clerk certifies that twenty (20) days have elapsed and no appeal has been filed, or that such appeal has been dismissed or denied.

J. *Site plan.* Each application for site plan approval shall be accompanied by a site plan in ten (10) copies, or such number as the plan commission may specify, of the entire tract under consideration for development. The following information shall be submitted on one (1) or more site maps and in writing where appropriate.

K. *General requirements.* Date of site plan. All revisions shall be noted and dated.

Title of development, north arrow, scale, plat and lot number, name and address of record owner, and name and address, license number and seal of person preparing the site plan. If the owner of record is a corporation, the name and address of the president and secretary shall be submitted with the application.

A scale of one" = 20', 1" = 40', or 1" = 80', whichever is appropriate to the size of the proposal. All distances shall be in feet and decimals of a foot and all bearings shall be given to nearest ten (10) seconds. The error of closure shall not exceed one (1) in ten thousand (10,000).

The names of all owners of record of all abutting property and those within two hundred (200) feet of the property line.

Zone boundaries shall be shown on the site plan as they affect the parcel. Adjacent zone districts within three hundred (300) feet also shall be indicated. Such features shall be shown on a separate map or as a keep map on the detail map itself.

Boundaries of the property lines and lines of streets, lot reservation, easement and areas dedicated to public use, including grants, restrictions and rights-of-way.

Key map showing the location of the tract with reference to surrounding areas and existing street intersections.

All distances as measured along the right-of-way lines of existing streets abutting the property to the nearest intersection with any other public street.

Existing contours with interval of two (2) feet where slopes are more than (3).

Where any changes in the contours are proposed, finished grades should be shown as solid lines.

If any areas fall within the 100 year flood plain or a velocity (VE or V) zone as delineated on the Flood Insurance Rate Maps, the area will be shown and base elevations shown.

Location of existing rock outcrops, general soil types, high points, vistas, watercourses, depressions, ponds, marshes, wetlands, wooded areas and stands of major trees (twelve-inch caliper or over), flood plain designations as shown on the Flood Insurance Rate Maps for the town, and other significant existing features including previous flood elevations of watercourses, pond, and marsh areas as determined by survey.

Location of existing buildings which shall remain and all other existing structures such as walls, fences, culverts, bridges, roadways, etc., with spot elevations of such structures. Structures to be removed shall be indicated in dashed lines.

All structures or significant changes in topography abutting property lines.

All calculations necessary to determine conformance to zoning regulations.

Acreage of tract to nearest tenth of an acre.

Place for signature of the chairman of the plan commission on all plans and/or documents to be approved by the plan commission.

Such other information as may be required to show that the details of the site plan are in accordance with applicable standards and the zoning ordinance.

L. *Building design and locations(s)*. The proposed uses of land and buildings and proposed locations of buildings including proposed grades. Such features shall be shown on a separate drawing where deemed appropriate by the building inspector.

The location, housing type and density of land use to be allocated to parts of the site to be developed.

The design of the proposed buildings or structures, including elevations, plans and measurements as appropriate for easy interpretation.

The location, type, and screening details for all waste disposal containers shall be shown.

Sketches as appropriate to indicate the visual impact on the surrounding area and the general character of the community.

Location and design of all signs.

Height of buildings, including relationship to existing and proposed grades.

M. *Landscaping*. A landscape plan showing all existing natural features, trees, forest and water resources and proposed changes to these features, including size and

type of plant material. Water resources will include ponds, lakes, brooks, streams, wetlands, floodplains, and drainage retention areas.

- N. *Utilities and drainage.* Location of all existing storm drainage structures and utility lines, whether publicly or privately owned, with pipe sizes, grades and direction of flow, and if any existing utility lines are underground, the estimated location of any said underground utility lines shall be shown. The location of all proposed water lines, valves, or hydrants and means of water supply and wastewater disposal and treatment in conformance with the applicable standards for the appropriate utility.

The location of the ground water table in the vicinity of any proposed septic field.

Plans to prevent: the pollution of surface or groundwater, erosion of soil during and after construction; excessive runoff; excessive rising and lowering of the water table; and the flooding of other properties, as applicable.

The proposed location, height, direction of illumination, bulb type, power and time of proposed outdoor lighting and methods to eliminate sky glare and glare onto adjoining properties must be shown.

- O. *Traffic and parking.* All means of vehicular access for ingress and egress to and from the site onto the public street showing the size and locations of driveways and curb cuts, including the possible organization of traffic channels, acceleration and deceleration lanes, additional width and any other device necessary to prevent a difficult traffic situation.

The location and design of any off-street parking areas or loading areas showing the size and location of bays, aisles, barriers and proposed plantings.

The total ground coverage by structures and impervious surfaces shall be identified and measured.

All proposed streets and profiles indicating grading and cross sections showing width of roadway and location and width of sidewalk according to the standards of the town.

- P. *Preparation of site plan.* A site plan shall be prepared by a licensed engineer, landscape architect or architect for general locations except where waived by the plan commission because of unusually simple circumstances.

Boundary survey information shall be signed and sealed by a licensed land surveyor.

For all elements of design, which shall include drainage, pavements, curbing, walkways, embankments, horizontal and vertical geometrics, utilities and all pertinent structures, drawings shall be signed by a licensed professional engineer.

- Q. *Endorsement of site plan.* After approval by the plan commission and subject to the satisfaction of any conditions of approval, a mylar or line print of all approved site plan maps shall be submitted for signature and filing; all information appearing thereon shall be in black india ink.

- R. *Application fee.* As part of any application for site plan review, a fee of fifty dollars (\$50.00) each one-half (1/2) acre shall be required. This fee is structured to offset directly any expenses the town or plan commission incurs in the review of the application.

(Ord. of 8-8-96(4))

Section 14. Village overlay districts.

The two Village Overlay Districts are designated North Scituate Village Overlay District and Hope Village Overlay District.

The purpose of the village overlay district ("district") is to encourage, guide and direct development in the village to ensure that village character is maintained, that new development is compatible with the existing scale and building fabric, that historic structures are preserved, that architectural quality is maintained and that mixed village uses continue to provide for health and growth of the district. The design and renovation of buildings shall be reviewed and approved in accordance with the provisions of this section.

14.1. *Village review committee:* A village review committee (VRC) is established to carry out the purpose of each district. All development in a district shall be reviewed and approved by its VRC in conformance with this section. The VRC may provide assistance to property owners and the Town of Scituate on historic preservation issues within the village, compatible village design and site planning, and on related issues as it deems appropriate; this includes the design of public improvements such as street rehabilitation, paving, lighting, sidewalks, curbing and drainage.

A. *Powers and duties of the VRC.* The VRC shall have the following powers and duties:

1. Review development in the village overlay district. The VRC shall be authorized to review all building and appurtenant improvements on public and private land in the district including the construction, reconstruction, alteration, repair, demolition, removal, rehabilitation of the exterior of new and existing buildings and appurtenances within the District which require building permits or other approvals from the town. The plan commission shall include the VRC in the site review process of any application the commission receives under article IV, section 13 (Multifamily/commercial site plan review and approval), of this ordinance. Village overlay districts shall be mapped on the official town zoning map.
2. Grant waivers. After public hearing, the VRC may grant waivers of design regulations promulgated pursuant to this ordinance if such waivers carry out the purpose of the district. Waivers may be permitted of regulations governing design standards for projects including but not limited to signs, new construction and reconstruction. Waivers shall be recorded in the land evidence records.
3. Adoption of rules. The VRC shall adopt and publish all rules necessary to carry out its functions.
4. Advise the town council, zoning board, and plan commission. The VRC may advise the zoning board of review on all requests for variances and special exceptions, as provided in this ordinance. The VRC will

also provide comments to the plan commission and the town council on all proposed amendments to the comprehensive plan and all subdivision or land development reviews regarding each village overlay district.

5. Zoning enforcement. The VRC may assist the town in an advisory capacity on zoning enforcement including recommendations on zoning enforcement issues.

- B. *Membership.* A VRC shall consist of five (5) members and two (2) alternates. Vacancies shall be posted and advertised. Members shall be appointed by the town council as follows:

No fewer than three (3) members shall be Village residents in their respective district. The remaining members may be either town residents or property owners in the respective district.

The town council shall appoint one ex-officio nonvoting member who may be a resident of the Town of Scituate and either a registered Rhode Island architect or an individual with professional training and expertise in architectural design, historic preservation, or landscape design.

In appointing members to the committee, priority will be given to district residents. The town council shall endeavor to maintain a cross-section of the community, including homeowners, business people, renters of property and citizens interested in maintaining the character of the village and village life.

Appointees shall serve staggered two-year terms. Officers of the Committee shall be elected at the first regular meeting each year.

- C. *Conduct of business.*

1. Public hearing: The VRC shall hold a public hearing on any request for a waiver, in accordance with article I of this ordinance.
2. Record: The VRC shall keep a record of all proceedings, findings, decisions and actions and such record shall be open to the public. Applicants who receive waivers shall record them in the land evidence records.

- D. *Procedures for design approval.*

1. *Application.*

VRC application forms are submitted to the town engineer, prior to the filing of an application for a building permit, and prior to the commencement of any building improvements on public or private land, including the construction, reconstruction, alteration, repair, demolition, removal and rehabilitation of the front facade, exterior of new and existing buildings, front yard appurtenances requiring a building permit, or town engineering approvals (paving,

curb cuts, parking areas, drainage) within the district. Where appropriate, development plans shall also be submitted to the town engineer.

The town engineer shall forward applications and plans, if required, to the VRC and/or plan commission.

No building permit shall be issued before a project receives a VRC design review. For projects that do not require a building permit, such as construction of a parking area, paving, curb cuts and drainage, the town engineer shall refer the project to the plan commission if required by the rules and regulations governing subdivision, land development, and zoning.

2. *VRC approval is not required for the following:*

- a. Work to remedy damage or deterioration of a structure or its appurtenances which involves no change in the type of materials, dimensions, design, configuration, texture or visual appearance.
- b. Exterior painting or staining of previously painted or stained surfaces.
- c. The installation of public traffic signage.
- d. Public street improvements such as plant material, street paving, curbing, drainage (North Scituate Village only).
- e. Alterations to side or rear elevations of structures, and facades not visible from a public way, except commercial parking areas located in the side or rear of any lot (North Scituate Village only).
- f. Home landscaping and gardens, business enhancement plantings, production gardens and plantings, nursery plantings.

3. *Review.*

The VRC shall review all applications for new construction, major additions, moving of structures and demolition as described herein. Such review shall be held during a regular meeting of the VRC open to the public.

A determination shall be made within thirty (30) business days of receipt of a complete application. These time periods may be extended by mutual agreement between the applicant and the VRC. In the event that the VRC shall make a written determination within the thirty (30) day period that a particular application requires further time for additional study and information, then the VRC shall have a period of up to sixty (60) business days from the date of acceptance of a complete application within which to act

on such application. Nothing in this section shall be construed to prevent the applicant and the VRC from mutually agreeing on an extension beyond sixty (60) days.

4. *Failure to act.* The failure of the VRC to act within thirty (30) business days from the date of filing a complete application shall be deemed to constitute approval, unless the applicant and the VRC mutually agree to an extension.
5. *Determination.* The VRC shall be authorized to approve, approve with conditions, or reject an application. The VRC shall make a record of reasons and/or conditions for approval or rejection. All determinations shall be made in writing. A copy of a VRC determination shall be filed with the applicable building permit.
6. *Advice from other agencies.* The VRC may request the assistance of other agencies to review and comment on proposals.
7. *Appeals.*

A person or persons jointly or severally aggrieved by a VRC determination shall have the right of appeal to the Zoning Board of Review ("Board") within twenty (20) days of the filing of the determination. Aggrieved parties have a further right of appeal from the Zoning Board to the Rhode Island Superior Court.

In hearing appeals from VRC decisions, the Board shall not reverse a VRC decision except on a finding of prejudicial procedural error or a lack of support by the weight of the evidence on the record. The Board may, in its sole discretion, request that an applicant provide additional information. The Board shall file a written decision explaining the basis of its decision on appeal, with the applicant and the VRC. The filing fee and the filing procedure for an appeal of a VRC determination shall be the same as that for an appeal from the Plan Commission.

8. *Enforcement.* This section shall be enforced in accordance with article [I] of this ordinance.

14.2. *General regulations:*

- A. *Use.* Village Overlay District uses are set forth in Section II. of this ordinance. Section II is a generalized listing of use categories permitted in the Districts.
- B. *Dimensional requirements.* The dimensional requirements set forth in article III shall govern all uses within the village district, provided, however, that the minimum front yard and side yard setbacks shall be no greater than the established historic building line within the Village.

C. *Existing signs.* All signs which do not conform to this ordinance shall be brought into conformance no later than seven (7) years from date of passage of this section, not later than December 31, 2003.

14.3. *Design regulations for existing buildings.* All exterior work as described herein on existing buildings in the district is subject to approval by the VRC and shall be regulated by these standards and the guidelines of the VRC. The purpose of these regulations is to establish design standards to preserve the village character of the district.

A. These standards are intended to preserve the architectural integrity and historic character of buildings in the district. The existing scale and proportions of buildings and streetscapes shall be preserved. The VRC shall review:

1. The preservation, repair or replacement of building features using the Secretary of Interior Standards for Rehabilitation (36 CFR 671) as general guidelines.

These standards and guidelines help define the important character and features of the village and provide common sense guidance on the best means of preserving and enhancing the integrity of these features in rehabilitation and new construction projects.

These standards and guidelines are not hard and fast regulations. They are to be used as flexible criteria. Their purpose is to provide assurance to property owners and the residents and citizens of each Village District that reviews will be based upon clear design standards widely accepted by federal, state, and local planning agencies rather than the taste or preference of individual commission members.

The following standards and guidelines will be interpreted with flexibility depending upon the historical character and architectural merit and integrity of the building, structure, or appurtenances under review, or the setting within the village.

a. The distinguishing original qualities or character of a building, structure, appurtenance, or site and its environment or setting shall not be destroyed. The removal or alteration of any historic material or distinctive, character-defining, architectural features should be avoided when possible.

b. All buildings, structures, appurtenances,

and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance than that of the building, structure, appurtenance or site and setting shall be discouraged.

- c. Changes which may have taken place over the course of time are evidence of the history and development of the village, its buildings, structures, appurtenances, sites and environmental setting. These changes may have acquired significance in their own right and may be character-defining. This significance shall be recognized and respected.
- d. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, appurtenance, site, or setting shall be treated with sensitivity.
- e. Deteriorated architectural features shall be identified and repaired rather than replaced, wherever possible. In the event replacement is necessary due to deterioration which cannot be stabilized or reversed, the new replacement material should match the material being replaced in composition, design, texture, and other physical and visual qualities.
- f. Repair and replacement of missing architectural features should be based upon accurate duplications of features, substantiated by documentation or physical evidence rather than upon conjectural designs or the availability of differently designed architectural elements from other buildings or structures, architectural parts warehouses, or reproduction catalogues.
- g. The surface cleaning of the wood and brick structures within the village shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the building materials shall not be undertaken.
- h. Every reasonable effort shall be made to protect and preserve archaeological resources affected by or adjacent to any project. If a significant archaeological

resource must be disturbed, mitigation measures shall be undertaken.

- i. Contemporary design for alterations and additions to existing buildings shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material and such design is compatible with the size, scale, massing, rhythm, proportion, material, and character-defining features of the building, structure, appurtenance, site, and environmental setting of the property and the village. New additions or related new construction shall provide a subtle visual distinction between old and new so that the original historic features of the property may be distinguished from the new construction. This distinction may be the result of simplified detailing, wall set backs, roof step downs, or other subtle visual changes.
 - j. Wherever possible, additions or alterations to buildings, structures, or appurtenances shall be designed and executed in such a manner that if such additions or alterations were to be removed in the future, the essential form and the integrity of the historic features of the property, its setting, and environment would not be impaired.
2. Storefronts. Existing structures which have been designed for retail use on the first floor shall retain this design. Existing structures which have been designed for residential or institutional uses shall retain their residential or institutional character although they may be allowed under the zoning to have another use. Where such design no longer exists but would be compatible with the character of the building, rehabilitation shall be designed to permit such character to be recaptured.
3. The restoration or reconstruction of a building, which has been altered through the years. The VRC should consider pictorial, documentary or physical evidence of the original configuration when reviewing applications.
4. New additions, exterior alterations, or related new construction using the Secretary of Interior Standards as general guidelines.
5. The design of all awnings to insure that the design is in character with the building.

6. The lighting of building facades to insure that the fixtures are small, shielded, and directed toward the building. Electrical conduit and junction boxes shall be located so as to minimize, or if possible, eliminate their visibility from the public way.
 7. The installation of security devices to insure that they are designed so as not to impact the historic quality of the building.
- 14.4. *Design regulations for new construction.* All new construction requiring a building permit or any form of town approval in the district shall be reviewed by the VRC and shall be regulated by these standards and the guidelines of the VRC. The purpose of these standards is to establish design regulations to preserve the village fabric of the District and to insure that new construction complements the historic character and the architectural integrity of existing structures.
- A. *Minimum standards.* The following are minimum standards for all new construction.
 1. *Visual relationship of buildings and their design.* Proposed structures shall be related harmoniously to the streetscape, terrain and to the existing buildings in the vicinity which have a visual relationship to the proposed buildings. Special attention shall be paid to the bulk, location and height of building(s) and such natural features such as slope, soil type and drainage ways.
 - a. The design of the project, buildings, structures and site layout, shall be visually compatible with the character of each Village and the surrounding area, including building materials, massing, scale, and building roof line.
 - b. A diversity of roof heights, gable orientations and volumes in new buildings should be considered. Flat and shallow-pitched roofs are not recommended. Instead new buildings should be designed with traditional roof forms that are compatible with the character of the town, including gambrel, gable and mansard hipped roofs commonly found in established villages.
 - c. Architectural elements such as dormers should be in proportion with the overall building and should also be in keeping with the surrounding building context. Exaggerated or excessively large (or tiny) architectural elements should be avoided. If used properly, traditional and contemporary architectural detailing can create variety, interest and texture on new buildings and additions which is compatible with the character of the area.

- d. Traditional building materials such as shingles and clapboards are preferred for the exterior skin of additions and new construction. These materials can be used to sheath fireproof construction materials.
- e. Development projects should reuse existing buildings of character whenever possible. Reuse may take the form of additions to older buildings rather than demolition. Demolition of listed historic buildings (i.e., RIHPHC survey) shall be discouraged.
- f. Large scale development should take the form of village-like groupings of small scale buildings, rather than a large individual structure or box set back on a large expanse of asphalt parking. New buildings should not be large, bulky masses, but should be scaled down into groupings of smaller attached or detached structures. New buildings should not exceed 2,000 square feet in footprint between facade breaks or building lines. The use of building hyphens or other architectural features should be employed to scale-down building mass.

Adequate off-street parking and loading shall be provided to prevent on-street traffic congestion. All parking spaces, maneuvering areas, entrances and exits shall be identified on the site plan. The interior circulation system shall be designed to provide safe and convenient access to all structures, uses and/or parking spaces. Parking areas shall be protected with suitable guards, rails, islands, crosswalks, speed bumps, and similar devices as deemed necessary by the VRC.

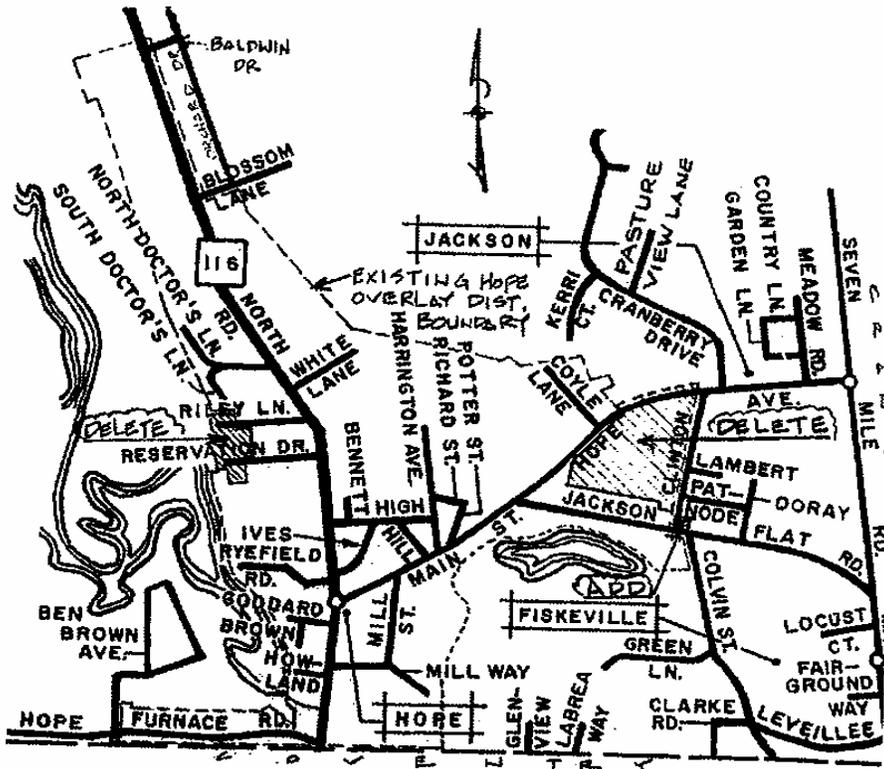
- 2. *Parking lots.* Parking lots shall be located to one side or behind commercial buildings, particularly along Main Street, North Road, Danielson Pike, Hartford Pike and Rt. 116 or other heavily traveled roads within the villages.
 - a. Whenever possible, parking lots on adjoining commercial lots shall be connected internally to each other to allow for through traffic between and reducing the need for multiple curb cuts.
 - b. Parking lots containing ten (10) or more spaces shall be planted with at least one tree per three (3) spaces, no smaller than two (2) inches caliper, each tree being surrounded by no less than forty (40) square feet of permeable unpaved area. Trees required by these provisions shall be at least five (5) feet in height at the time of planting and shall be

- of a species characterized by hardiness within the area.
- c. Small-scaled interior streets, alleyways, pedestrian paths, pocket public spaces and bikeways shall be encouraged within the village for additional circulation which is not auto-dependent. Such interior circulation shall link to an overall system envisioned in the adopted village plan.
 - d. The design of the project's circulation systems shall relate to planned improvements in the area, including future street widening, realignments, or paving programs which have been planned or scheduled for construction.
 - e. The design should be congruent with any proposed area master plan, commercial master plan, village plan or mixed-use area plan adopted by the town for the village.
3. *Landscape.* The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of the soil and retaining existing vegetation during and after construction. After construction is completed, landscaping shall be installed according to the landscaping design shown on the site plan that will define, soften or screen the appearance of the off-road parking areas from the public right-of-way and abutting properties and/or structures in order to enhance the design or building(s) or site, and to minimize the encroachment of the proposed use on neighboring land uses.
- a. Existing trees and vegetation shall be preserved to the maximum extent possible.
 - b. Buffering elements in the form of architectural design and landscape design that provide a logical transition to adjoining existing or permitted uses shall be provided.
 - c. Scenic views and historically significant landscape features, such as stone walls, picket fences and metal fences, shall be preserved whenever possible.
 - d. The planting of large deciduous "street trees" along the roadside to help shade and enclosed the highway shall be encouraged.
 - e. New landscaping shall use plant material of species hardy to the area.
4. *Special features of the development.* Exposed storage areas, exposed machinery installation, service areas, truck

loading areas, utility buildings and similar structures shall have sufficient setbacks and screening to provide an audio-visual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties.

5. *Exterior lighting.* All exterior lighting shall be designed to minimize impact on neighboring properties. Night sky pollution shall be minimized by down-shaded lighting or shielded lighting. All lighting shall be based upon a pedestrian scale appropriate for a village setting.
 6. *Unique village areas and features.* There must not be any undue adverse affect on the scenic or natural beauty of the village, inherent small-scale village aesthetics and features such as village laneways, the mill dam, historic raceway, stone walls, picket fences, historic metal fences, front yards, alleyways, historic sites, or rare and irreplaceable natural features, including significant trees, street tree canopy, pocket gardens and village cemeteries.
 7. *Capacity.* In the case of significant projects having a substantial impact upon the village, the VRC may require an improvement guarantee be provided by the applicant ensuring that the project will be completed in accordance with the approved plans and any conditions imposed by the VRC.
- 14.5. *Demolition.* In order to preserve the village fabric of the district, no building shall be demolished until the VRC has reviewed the application to demolish the building.
- A. *Review of application.* In reviewing an application for demolition, the VRC shall consider the architectural quality of the existing building, regardless of condition; the historic value of the building; the feasibility of renovating and reusing the existing building; and the quality of the demolition site re-landscaping or replacement building to be constructed if demolition is approved.
 - B. *Demolition permit.* To obtain a demolition permit, an applicant must demonstrate to the satisfaction of the VRC that the applicant has adequate financial ability to demolish the existing structure and re-landscape the demolition site or construct a new approved building on the demolition site. The Building Official shall require a performance guarantee to ensure that all work approved in the grant of demolition is satisfactorily completed. Any change in plans will require a new application to the VRC.

(Ord. of 1-8-04)



AMENDMENTS TO THE HOPE VILLAGE OVERLAY
DISTRICT BOUNDARY
NOT TO SCALE AUGUST 2002

Section 15. Accessory family dwelling units.

- A. Purpose: To provide for orderly land use and to maintain the character within the town, the zoning board of review may grant special use permits for accessory family dwelling units (so-called in-law apartments) as defined in article IX, that comply with the stipulations and requirements herein.
- B. No alteration, remodeling, construction, etc. for provisions of an accessory family dwelling unit (A.F.D.U.) shall commence and no building permit shall be applied for or issued for an A.F.D.U. prior to the zoning board of review granting a special use permit for said unit.
- C. The primary structure containing an accessory family dwelling unit shall retain the appearance of a single-family dwelling with no major structural alterations to the exterior. The A.F.D.U. shall have no additional external entrance that faces a street. For A.F.D.U.s that are granted permission in new construction, the entire structure must contain a common foundation and common roof; the apartment unit shall be connected to the principal use area by enclosed living space.
 - C.1. A "Common foundation" shall mean the walls serving as structural support for the building, extending a minimum of three (3) feet [inches]--four (4) inches below grade.
 - C.2. A "Common roof" shall mean the flat slab or sloped deck of a structure for covering the building, including the supporting members, but excluding the vertical (wall) supports, except for the following. Where adjacent roof sections do not have common peaks or ridges, the maximum vertical separation shall not exceed twelve (12) feet.
- D. The maximum total floor space of A.F.D.U. shall be six hundred (600) square feet gross floor area. The A.F.D.U. shall have no more than one (1) bedroom. There shall be no more than one (1) accessory family dwelling unit permitted in a single-family structure.
- E. Approved ISDS (septic system), common utilities, including water service, and electric service (one (1) meter) shall be provided, with the exception of telephones and television hook-ups.
- F. Applicants shall submit plans of the A.F.D.U. to the zoning board of review, which the board shall date and keep on file.
- G. The sale of the principal dwelling which contains an A.F.D.U. shall automatically cause the special use permit to become void, absent of a new special use permit from the zoning board of review. Transfer by inheritance, surviving joint tenancy or gift to a member of the immediate family (i.e., issue of the occupant of the A.F.D.U.) shall not void the special use permit unless the zoning board of review shall have so stipulated in its decision granting the permit. Nothing in this section shall limit the powers of the zoning board of review to impose additional conditions, including more restrictive conditions, concerning the effect of transfer of ownership.

(Ord. of 4-23-98(4); Ord. of 9-9-99(2))

ARTICLE V. OFFSTREET PARKING REQUIREMENTS

Any structure or use, erected or developed after the date of passage of this ordinance, must provide offstreet parking facilities in accordance with the following regulations:

Dwellings and motels--One (1) car space for each unit or suite

Hotels and lodging houses--One (1) car space for every two (2) suites or rooms

Office uses--One (1) car space for every two hundred fifty (250) square feet of floor area

Retail and service business--One (1) car space for every ninety (90) sq. ft. of floor space devoted to sales plus one (1) car space for every two (2) employees

Restaurants, theatres, churches and other places of public assembly--One (1) car space for every five (5) seats or for every five (5) persons of capacity

Industrial and wholesale uses--Two (2) car spaces for every three (3) employees

All other uses--One (1) car space for every two hundred fifty (250) sq. ft. of floor area

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 allocating space for offstreet parking facilities, each car space shall have a minimum width of eight and one-half (8 1/2) feet and minimum length of eighteen (18) feet and shall be served by suitable aisles to permit access to all car spaces. In no case shall the gross area of the facility be less than two hundred seventy (270) square feet per car space.

All parking facilities, provided under this section must be constructed on or adjacent to the side of the main use. Offstreet parking lots of more than two (2) motor vehicle capacity shall conform to the following standards of construction:

- (1) The area shall have a dust free hard surface and shall be provided with bumper guards where needed.
- (2) Where such area adjoins or lies within a residential district, an opaque fence not less than four (4) feet nor more than six (6) feet in height or a compact evergreen screen not less than four (4) feet in height shall be erected and maintained between such area and the adjoining residential district.
- (3) Lighting fixtures used to illuminate the parking area shall reflect away from adjoining property and away from adjacent traffic arteries.

In any residence district, the parking or storage of commercial vehicles of over one and five tenths (1.5) tons capacity and of 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.

ARTICLE VI. OFFSTREET LOADING REQUIREMENTS

All commercial and industrial structures erected subsequent to the adoption of this ordinance shall provide offstreet loading facilities. Plans and specifications for such loading facilities shall be submitted to the zoning inspector at the time of application for the zoning certificate for the main use. Where a loading facility is to be located in or abutting a residential district, the restrictions contained in article V concerning surfacing, screening and lighting shall apply. Such a loading facility shall be sufficient in size to eliminate the projection of vehicles into a street right-of-way.

ARTICLE VII. SIGN REGULATIONS

Before any sign is put in place a certificate must be obtained from the building inspector's office of the town under article I, section 5B. A scale drawing of a sign and its fixtures shall be submitted to the building inspector before a certificate is issued. Signs proposed within a village overlay district first must be submitted to the village overlay district review committee.

PROHIBITIONS AND RESTRICTIONS

These regulations apply to all zoning districts.

- A. No sign shall be placed or located upon any sidewalk nor shall any sign project over the sidewalk or over any right of way.
- B. No colored lighted, no neon lighted, or no flashing lighted sign shall be permitted.
- C. No animated sign illuminated by flashing or intermittent lighting shall be permitted.
- D. All signs shall be fixed. No rotating or otherwise moving signs shall be permitted.
- E. No off-site signs or directional signs shall be permitted except signs erected by the town, the state or the United States government indicating the route to major public facilities, shopping areas and the like. Off-site sign shall mean a sign located on property other than where goods and services are sold.
- F. Billboards are not permitted.
- G. Any sign is subject to review by the traffic safety commission.

Section 1. Residence districts (RR-120, RRW-60/80, RS-120, RSW-60/80).

Permitted signs:

- A. One (1) sign, no greater than five (5) square feet in area, displaying the name and address of the occupant or identifying a permitted use or accessory use.
- B. An announcement board no greater than twelve (12) square feet in area for a church, school or other public use by special use permits only.

- C. One (1) sign no greater than twenty (20) square feet in area identifying a lawfully maintained nonconforming or special use.
- D. One (1) temporary sign (six (6) months renewable) no greater than twelve (12) square feet in area advertising the sale or lease of the premises.

Location of signs: A sign shall be placed within the lot and no closer than five (5) feet to any lot line and may be subject to the approval of the traffic safety commission.

Lighting of signs: Signs may be lighted only by an external, continuous incandescent white light, downward shielded and of no more than a maximum of twenty (20) footcandles at surface.

(Ord. of 4-23-98(5))

Section 2. Business and manufacturing districts (BL, BG, M).

Permitted signs:

- A. Those permitted in residence zones.
- B. Business signs for permitted uses. In no case shall more than one (1) freestanding sign or one (1) roof sign be used, or one (1) mounted (to the building) sign for each building regardless of the number of businesses at the location and no sign shall exceed forty (40) square feet in area. In addition, each business may have a sign attached to the building, not greater than six (6) square feet, displaying the name of the business and, where there are multiple businesses, all of these signs shall be uniform in size, shape and lettering. Any change from the above may be granted as a special use permit, if such approval is secured from the zoning board of review under article I, section 6C.
- C. Where a building has multiple street frontages, they are allowed one (1) wall sign for each wall frontage on a street or a parking area. No sign shall exceed forty (40) square feet.

Location of signs:

- A. No sign shall project more than fifteen (15) feet above average grade level or no higher than the roofline (ridge) of a building whichever is less.
- B. Freestanding signs shall either provide an open and unobstructed space of at least six (6) feet from the grade to the bottom of the sign or be no greater than five (5) feet in height from grade and no larger than fifteen (15) square feet in size.
- C. No sign shall be located within five (5) feet of a residence district boundary.
- D. A sign shall be placed within the boundaries of a lot and no closer than one (1) foot to any lot line and may be subject to approval of the traffic safety commission.
- E. Any freestanding sign less than twenty (20) feet from the pavement and within fifty (50) feet of a street intersection shall be reviewed from the traffic safety commission.

Lighting of signs:

- A. Signs may be lighted by:
 - 1. External continuous incandescent or fluorescent white light downward shielded no more than twenty (20) footcandles at surface.
 - 2. Internal continuous incandescent or fluorescent white light have no more than fifteen (15) footcandles at surface.
- B. All lighting shall be oriented that the light is directed away from all adjacent properties and traffic arteries.
- C. Lighting for all signs is subject to review and revision by the traffic safety commission to prevent the lighting from causing a traffic safety hazard.

(Ord. of 4-23-98(5))

Section 3. Portable signs.

These regulations apply to all zoning districts.

- A. Portable signs are defined as signs, which are not either permanently, affixed to the roof of a building or permanently affixed to a signpost or standard, which is permanently fixed in the ground.
- B. In order to protect and preserve the aesthetic environment of the town, the only portable sign that is permitted shall be a sandwich board (two-sided, triangular shape) unlighted sign that stands no more than twenty-four (24) inches wide and forty-eight (48) inches maximum height, and no more than sixteen (16) square feet total (both sides).
- C. Sandwich board signs shall be displayed only during the hours of business operation.

(Ord. of 4-23-98(5))

Section 4. Changeable copy signs limited.

These regulations apply to all zoning districts.

Changeable copy signs may only be permitted as a special use permit by the zoning board of review.

(Ord. of 4-23-98(5))

Section 5. Traffic control signs permitted.

These regulations apply to all zoning districts.

All signs specified in the "Manual on Uniform Traffic Control Devices for Streets and Highways" by the U.S. Department of Transportation, Federal Highway Administration, as amended are permitted.

(Ord. of 4-23-98(5))

Section 6. Village overlay districts (RR-120, RRW-60/80, RS-120, RSW-60/80,BL,BG,M).

Sign regulations:

Purpose: Sign regulations are to preserve and enhance the visual, traditional and historic character of the village overlay districts.

Since the village overlay districts are of mixed use, signs of similar design are appropriate to maintain harmony and aesthetic character in the district.

Excessive signage is discouraged on all properties.

General provisions: Application and plans for any sign proposed for the village overlay districts shall be first submitted to the town engineer and then forwarded to the village review committee for processing.

Any sign erected without a certificate will be ordered to be removed at the owner's expense within seventy-two (72) hours of written notification by the zoning inspector.

Permitted sign: Only the following signs will be permitted within the district:

1. For cottage industry or residential use, one (1) sign no greater than (5) five square feet in area.
2. For church, school or other public use, an announcement board no greater than twelve (12) square feet by special use permit only.
3. For advertising the sale or lease of premise one (1) temporary sign (six (6) months renewable) no greater than six (6) square feet.
4. For business, limited business, manufacturing, lawfully maintained nonconforming use and special use will be limited:
 - A. Thirty-two (32) square feet aggregate per property, regardless of the number of business. This includes one (1) freestanding sign, not to exceed (6) six square feet, which identifies a village business property.
 - B. Where there are multiple businesses on one (1) location, all of these signs shall be uniform in size, shape and lettering.

Guidelines are available for design suggestions.

Location of signs:

- A. A sign shall be placed within the lot and no closer than (5) five feet to any side lot line.
- B. Any freestanding sign less than (5) five feet from the pavement and within (50) fifty feet of a street intersection shall be subject to approval of the traffic safety commission.
- C. No sign shall project more than fifteen (15) feet above average grade level or no higher than the roofline (ridge) of a building whichever is less.
- D. For all freestanding signs there shall be an open and unobstructed space of at least six (6) feet from the grade to the bottom of the sign, or no

higher than five (5) feet from the grade to the top of sign and no larger than six (6) square feet in size.

Lighting of signs:

- A. Signs shall be lighted only by an external, continuous white light, downward shielded and of no more than a maximum of (5) five footcandles at the surface.
- B. All lighting shall be oriented that the light is directed away from all adjacent properties and traffic arteries.
- C. Lighting for all signs may be subject to review and revision by the traffic safety commission to prevent the lighting from causing a traffic safety hazard.

(Ord. of 4-23-98(5))

ARTICLE VIII. RESIDENTIAL COMPOUND DEVELOPMENT

Section 1. Purpose.

In order to provide for the private conservation of underdeveloped or fragile natural resource areas and to provide open space preservation by permitting limited residential building on such tracts of land, the zoning board of review may grant a special exception for a residential compound development.

Section 2. Eligibility.

Only property which has been continuously in the same ownership for a period of at least five (5) years shall be eligible for residential compound development. For purposes of this article, continuous ownership shall include the period during which parties own property as joint tenants or as tenants-by-the-entirety and the period during which the surviving joint tenant or tenant-by-the-entirety continues to own the property either in his or her own name as a joint tenant or tenant-by-the-entirety with another; the period during which a decedent has owned the property together with the time when his or her devisees or heirs-at-law shall own the property after the death of the decedent.

Also, only property which is an existing, conforming lot or a preexisting, nonconforming lot of record shall be eligible for development under the section.

(Ord. of 8-8-96(5))

Section 3. General.

- A. Residential compound development shall be a two-step process:

Step 1 shall be to obtain a special exception from the zoning board of review. The decision of the zoning board of review shall specify the number of houses to be permitted in the development.

Step 2 shall be, if a special exception has been granted, to obtain approval by the plan commission, in accordance with its rules and regulations, of the plan, including location of house lots; location of open space areas;

location and standards for the common right-of-way; ownership and use limitations on open space areas; protection of natural resources and natural features.

Section 4. Use limitations and dimensional requirements.

- A. A compound shall include not more than three (3) single-family dwelling units having frontage in common on a public road and sharing a private access road held in common.
- B. Restrictive covenants shall prohibit further division of land within the compound.
- C. The only permitted use shall be single-family residential and uses customarily accessory to residences, except that no apartments or so-called in-law apartments shall be permitted.
- D. The number of dwelling houses (not to exceed three (3) in any event) which can be placed on a tract in a compound development shall be determined by taking the total area of the tract, subtracting the area of any wetlands and/or water bodies and dividing the result by two hundred fifty thousand (250,000) and rounding off to the lowest whole number.

| | | | |
|----------|--------------------|----------------|----|
| Example: | area | 900,000 sq.ft. | |
| | LESS wetlands | <u>100,000</u> | |
| | | 800,000 | |
| | DIVIDED BY 250,000 | | =3 |

| | | | |
|----------|-----------------------------------|-----------------|----|
| Example: | area | 600,000 sq. ft. | |
| Example: | area | 900,000 sq. ft. | |
| | LESS pond | <u>20,000</u> | |
| | | 580,000 | |
| | DIVIDED BY 250,000 (rounded down) | | =2 |

| | | | |
|----------|-----------------------------------|-------------------|----|
| Example: | area | 1,200,000 sq. ft. | |
| | LESS wetlands | <u>40,000</u> | |
| | | 1,160,000 | |
| | DIVIDED BY 250,000 (rounded down) | | =4 |
| | Maxiumum | | =3 |

- E. The minimum dimensions for lots within the compound shall be:

| | |
|---|----------------------------|
| <i>Minimum lot size</i> | <i>120,000 sq. ft. (1)</i> |
| Minimum lot width (on right of way) (2) | 300 ft. |
| Minimum front yard depth | 50 ft. |
| Minimum side yard depth | 35 ft. |
| Minimum rear yard depth | 60 ft. |
| Maximum building coverage | 15% |
| Maximum building height | 30 ft. |

- (1) Note: The difference between the square feet (two hundred fifty thousand (250,000)) used in the formula for figuring maximum number of dwellings, as set forth in section D, and the minimum lot size (one hundred twenty thousand (120,000) sq. ft.) set forth in this article is intentional.
 - (2) The minimum frontage of the entire compound on a public highway shall be at least fifty (50) feet in order to allow a common right-of-way. The plan commission shall specify the construction requirements for the common right-of-way and they shall be such as to permit access by public safety vehicles and equipment (police, fire, rescue, ambulance, etc.).
- F. Land in excess of that required to meet minimum lot size requirements and for the common right-of-way shall subject to the approval of the plan commission and the rules and regulations of the plan commission, either:
- (1) Be allocated to the lots within the compound, in which case there shall be no commonly owned land other than the common right-of-way, [or]
 - (2) Be devoted to common open space, or
 - (3) Be allocated in part to lots within the compound and in part to common open space, or
 - (4) Be allocated in whole or in part to public use.
- G. In allocating excess land to specific lots, lot sizes need not be equal so long as each lot complies with the minimum dimensions set forth in section E.
- H. No town services shall be provided in maintenance or plowing of the common right-of-way; nor shall any school buses be required or permitted to travel on the common right-of-way; nor shall rubbish or garbage pick up be made on the common right-of-way; nor shall any street lighting be provided on the common right-of-way.
- I. Driveways for access to the proposed houses shall conform to the following:
1. A minimum length of fifty (50) feet, from the existing town road, shall be constructed with bituminous pavement, in accordance with the rules and regulations adopted by the plan commission.

(Ord. of 8-8-96(5); Ord. of 4-23-98(5))

Section 5. Lapse of special exception for non-use.

Within six (6) months after the granting of a special exception for a residential compound development the applicant shall file an application for approval with the plan commission in accordance with its rules and regulations.

ARTICLE IX. DEFINITIONS

Where words or terms used in this ordinance are defined in section 45-22.2-4 [of the General Laws], (the definitions sections of the "Rhode Island Comprehensive Planning and Land Use Regulation Act") they shall have the meanings stated therein. In addition, the following words shall have the following meanings:

- (1) *Abutter*. One whose property abuts, that is, adjoins at a border, boundary or point with no intervening land.
- (2) *Accessory family dwelling unit*. An accessory dwelling unit for the sole use of one (1) or more members of the family of the occupant or occupants of the principal residence, but not needing to have a separate means of ingress and egress.
- (3) *Accessory use*. A use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building. An accessory use may be restricted to the same lot as the principal use. An accessory use shall not be permitted without the principal use to which it is related.
- (4) *Aggrieved party*. An aggrieved party, for purposes of this chapter, shall be:
 - (a) Any person or persons or entity or entities who can demonstrate that their property will be injured by a decision of any officer or agency responsible for administering the zoning ordinance of the town; or
 - (b) Anyone requiring notice pursuant to this chapter.
- (5) *Agricultural land*. "Agricultural land," as defined in section 45-22.2-4 of the General Laws.
- (6) *Airport hazard area*. "Airport hazard area," as defined in section 1-3-2 of the General Laws.
- (7) *Applicant*. An owner or authorized agent of the owner submitting an application or appealing an action of any official, board or agency.
- (8) *Application*. The completed form or forms and all accompanying documents, exhibits and fees required of an applicant by an approving authority for development review, approval or permitting purposes.
- (9) *Buffer*. 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.
- (10) *Building*. Any structure used or intended for supporting or sheltering any use or occupancy.
- (11) *Building envelope*. The three-dimensional space within which a structure is permitted to be built on a lot and which is defined by regulations governing building setbacks, maximum height and bulk; by other regulations; and/or any combination thereof.
- (12) *Building height*. 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, flag poles and the like.
- (13) *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.

- (14) *Common ownership.* Either:
- (1) Ownership by one (1) or more individuals or entities in any form of ownership of two (2) or more contiguous lots; or
 - (2) Ownership by any association (such ownership may also include a municipality) of one (1) or more lots under specific development techniques.
- (15) *Community residence.* 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:
- (a) Whenever six (6) or fewer retarded children or adults reside in any type of residence in the community, as licensed by the state pursuant to chapter 24 of title 40.1 of the General Laws. All requirements pertaining to local zoning are waived for these community residences;
 - (b) A group home providing care or supervision, or both, to not more than eight (8) mentally disabled or mentally handicapped or physically handicapped person, and licensed by the state pursuant to chapter 24 of title 40.1 of the General Laws.
 - (c) A residence for children providing care or supervision, or both, to not more than eight (8) children, including those of the caregiver and licensed by the state pursuant to chapter 72.1 of title 42 of the General Laws.
 - (d) A community transitional residence providing care or assistance, or both, to no more than six (6) unrelated persons or no more than three (3) families, not to exceed a total of eight (8) persons, requiring temporary financial assistance, and/or to persons who are victims of crimes, abuse or neglect, and who are expected to reside in that residence not less than sixty (60) days nor more than two (2) 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.
- (16) *Comprehensive plan.* The comprehensive plan adopted and approved pursuant to [title 45], chapter 22.2 of the General Laws and to which any zoning adopted pursuant to such chapter shall be in compliance.

- (17) *Day care-Day care center.* Any other day care center which is not a family day care home.
- (18) *Day care-Family day care home.* 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 (6) or less individuals who are not relatives of the caregiver, but may not contain more than a total of eight (8) individuals receiving day care.
- (19) *Density, residential.* The number of dwelling units per unit of land.
- (20) *Development.* 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.
- (21) *Development plan review.* 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 the ordinance.
- (22) *District.* See "zoning use district."
- (23) *Drainage system.* A system for the removal of water from land by drains, grading or other appropriate means. These techniques may include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving surface and groundwaters, and the prevention and/or alleviation of flooding.
- (24) *Dwelling unit.* A structure or portion thereof providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, and containing a separate means of ingress and egress.
- (25) *Extractive industry.* 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.
- (26) *Family.* A person or persons related by blood, marriage or other legal means. See also "Household."
- (27) *Floating zone.* An unmapped zoning district adopted within the ordinance which is established on the zoning map only when an application for development, meeting the zone requirements, is approved.
- (28) *Floodplains, or flood hazard area.* As defined in section 45-22.2-4 of the General Laws.
- (29) *Groundwater.* "Groundwater" and associated terms, as defined in section 46-13.1-3 of the General Laws.
- (30) *halfway houses.* 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.

- (31) *Hardship*. See section 45-24-41 of the General Laws.
- (32) *Historic district, or historic site*. As defined in section 45-22.2-4 of the General Laws.
- (33) *Home occupation*. Any activity customarily carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit.
- (34) *Household*. One (1) 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:
 - (a) A family, which may also include servants and employees living with the family; or
 - (b) A person or group of unrelated persons living together. The maximum number may be set by local ordinance, but this maximum shall not be less than three (3).
- (35) *Incentive zoning*. 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.
- (36) *Infrastructure*. Facilities and services needed to sustain residential, commercial, industrial, institutional and other activities.
- (37) *Land development project*. 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.
- (38) *Lot*. 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.
- (39) *Lot area*. The total area within the boundaries of a lot, excluding any street right-of-way, usually reported in acres or square feet.
- (40) *Lot building coverage*. That portion of the lot that is or may be covered by buildings and accessory buildings.
- (41) *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.

- (42) *Lot frontage.* That portion of a lot abutting a street. Frontage must be contiguous to be considered with regard to minimum frontage requirements.
- (43) *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. A zoning ordinance shall specify the method to be used to determine the front lot line on lots fronting on more than one (1) street, for example, corner and through lots;
 - (b) *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 (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line; and
 - (c) *Side:* Any lot line other than a front or rear lot line. On a corner lot, a side lot line may be a street lot line, depending on requirements of the local zoning ordinance.
- (44) *Lot, through.* A lot which fronts upon two (2) parallel streets, or which fronts upon two (2) streets which do not intersect at the boundaries of the lot.
- (45) *Lot width.* 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.
- (46) *Mere inconvenience.* See section 45-24-41 of the General Laws.
- (47) *Mixed use.* A mixture of land uses within a single development, building or tract.
- (48) *Modification.* Permission granted and administered by the zoning enforcement officer of the town, and pursuant to the provisions of the General Laws contained herein to grant a dimensional variance other than lot area requirements from the zoning ordinance to a limited degree as determined by the zoning ordinance of the town, but not to exceed twenty-five (25) percent of each of the applicable dimensional requirements.
- (49) *Nonconformance.* 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 (2) types:
 - (a) *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; or

- (b) *Nonconforming by dimension:* A building, structure or parcel of land not in compliance with the dimensional regulations of the zoning ordinance. Dimensional regulations include all regulations of the zoning ordinance, 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 ordinance, but not meeting the lot area per dwelling unit regulations, shall be nonconforming by dimension.
- (50) *Overlay district.* A district established in the 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.
- (51) *Performance standards.* A set of criteria or limits relating to elements which a particular use or process either must meet or may not exceed.
- (52) *Permitted use.* A use by right which is specifically authorized in a particular zoning district.
- (53) *Planned development.* A "land development project," as defined herein, and developed according to plan as a single entity and containing one (1) or more structures and/or uses with appurtenant common areas.
- (54) *Preapplication conference.* 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.
- (55) *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.
- (55A) *Sign.* Any display of letters, numbers and/or visual display which directs attention to a residence, permitted business, commodity or service which is conducted, sold or offered.
- (56) *Site plan.* The development plan for one (1) or more lots on which is shown the existing and/or the proposed conditions of the lot.
- (57) *Special use.* A regulated use which is permitted pursuant to the special use permit issued by the authorized governmental entity, pursuant to section 45-24-42 of the General Laws. Formerly referred to as a special exception.
- (58) *Structure.* 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.
- (59) *Substandard lot of record.* 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 that ordinance.

- (60) *Use*. The purpose of activity for which land or buildings are designed, arranged or intended or for which land or buildings are occupied or maintained.
- (61) *Variance*. Permission to depart from the literal requirements of a zoning ordinance. An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land, which is prohibited by a zoning ordinance. There shall be only two (2) categories of variance, a use variance or dimensional variance.
 - (a) *Use variance*. Permission to depart from the use requirements of a zoning ordinance where the applicant for the requested variance has shown by evidence upon the record that the subject land or structure cannot yield any beneficial use if it is to conform to the provisions of the zoning ordinance.
 - (b) *Dimensional variance (also known as a deviation)*. Permission to depart from the dimensional requirements of a zoning ordinance, 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.
- (62) *Waters*. As defined in section 46-12-1(b) of the General Laws.
- (63) *Wetland, coastal*. As defined in section 2-1-14 of the General Laws.
- (64) *Wetland, freshwater*. As defined in section 2-1-20 of the General Laws.
- (65) *Zoning certificate*. A document signed by the zoning enforcement officer, as required in the zoning ordinance which acknowledges that a use, structure, building or lot either complies with or is legally nonconforming to the provisions of the municipal zoning ordinance or is an authorized variance or modification there from.
- (66) *Zoning map*. The map or maps which are a part of the zoning ordinance and which delineate the boundaries of all mapped zoning districts within the physical boundary of the town.
- (67) *Zoning ordinance*. An ordinance enacted by the town council of the town pursuant to the General Laws 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 chapter 22.2 of title 45 of the General Laws, which includes a zoning map, and which complies with the provisions of title 45 chapter 22.2.
- (68) *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. 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 4-23-98(5))

ARTICLE X. PROHIBITED USES

The following uses shall not be permitted within the Town of Scituate:

Acid manufacture

Asphalt manufacture or refining

Brewery or distillery

Chlorine manufacture

Coal distillation and derivation of coal products

Creosote manufacture or treatment

Distillation of bones, fats, chicken feathers

Fertilizer manufacture

Gas manufacture (acetylene)

Glue manufacture

House trailer park or colony

House trailers or mobile homes so-called, whether on wheels, temporary foundations or permanent foundations (but not including so-called camping trailers)

Offal or dead animal manufacture or treatment

Petroleum refining

Racetracks of any description

Rendering or refining of fats, oils and bones

Slaughterhouse

Iron or steel foundry

Smelters

Tanning of hides and curing of same

Automobile and truck junkyards

Piggeries

Laundry

Laundromats (except where public sewage facilities are available)

Vehicle washing shop (except where public sewerage facilities are available)

Ammonia or bleach manufacture

Carbon black manufacture
Cement, lime, gypsum or plaster manufacture
Chemical manufacture
Explosives manufacture
Oilcloth or linoleum manufacture
Potash manufacture
Wool pulling or scouring
Processing of vinegar or yeast

Any industry, trade or use which could cause contamination of the water, watershed or flowage rights of the water system of the City of Providence or which would otherwise adversely affect or threaten the quality of the water of said City of Providence.

Commercial camping ground
Private dumps or landfills
Underground home heating oil tanks

Any use which is obnoxious by reason of the emission of gases, odors, noise, dust or vibrations or by reason of fire or explosion.

Any hazard waste management facility located within the boundaries of, or within five (5) miles from the perimeter of, the watershed of a public water supply system.

ARTICLE XI. MISCELLANEOUS

Section 1. Recording of decisions.

As required by section 45-24-62 of the General laws, copies of decisions of the zoning board shall be mailed to the Associate Director of the Division of Planning of the Rhode Island Department of Administration and any decision evidencing the granting of a variance, modification or special use shall be recorded in the land evidence records of the town.

Section 2. Assistance of plan commission.

Upon receipt of an application for a variance the zoning board may request that the plan commission report its findings or recommendations, including a statement on the general consistency with the goals and purposes of the comprehensive plan, such report to be made in writing within thirty (30) days of receipt from the board. Where the application for a variance involves the subdivision of land, the report of the plan commission shall be mandatory.

Section 3. Successive applications.

Consistent with the doctrine of administrative finality as enunciated by the Supreme Court of Rhode Island after a final decision by the zoning board a successive similar application may not be entertained, unless the applicant can show a substantial

and material change in circumstances since the date of the next prior application.

Section 4. Maintenance of zoning ordinance.

The town clerk shall be responsible for the maintenance and update of the text and zoning map comprising the zoning ordinance. Changes which impact the zoning map shall be depicted on the map within ninety (90) days of the authorized change(s); and

The town council or a special committee appointed by the town council shall be responsible for review of the zoning ordinance at reasonable intervals; and whenever changes are made to the comprehensive plan of the town, for the identification of any changes necessary and for the forwarding of these changes to the town council.

Section 5. Publication and availability.

Printed copies of the zoning ordinance and map(s) of the town shall be available to the general public and shall be revised to include all amendments. A reasonable charge may be made for copies to reflect printing and distribution costs.

Upon publication of a zoning ordinance and map, and any amendments thereto, the town clerk shall send a copy, without charge, to the Associate Director of the Division of Planning of the Department of Administration of the State of Rhode Island, and the State Law Library.

Section 6. Designation of town clerk.

The town clerk is designated as the officer to receive a proposal for adoption, amendment or repeal of a zoning ordinance or zoning map.

Section 7. Form of newspaper notice of hearing for adoption or amendment.

As required by section 45-24-53 of the General Laws, 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.

Section 8. Nonconforming development.

A project in process at the time of enactment shall be allowed to continue according to the ordinance and regulations in effect immediately prior to the adoption of this ordinance [December 19, 1994]. A nonconforming development is defined as a project for which a building permit has been issued prior to the date of enactment of this ordinance [December 19, 1994] or for which a variance or special exception has been granted under the prior ordinance or a subdivision which has received preliminary approval from the plan commission.

ARTICLE XII. VALIDITY

If any section, paragraph, clause, phrase or provision of this ordinance shall be ruled invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof other than the part so judged to be invalid or unconstitutional.