

Zoning Ordinance

Town of Cumberland

Contents

Town of Cumberland	4
Zoning Ordinance	4
§ 1. General Provisions	4
§ 1-1. Statement of purposes	4
§ 1-2. Compliance with ordinance	5
§ 1-3. Consistency with Comprehensive Plan	6
§ 2. Definitions	6
§ 2-1. Terms defined	6
§ 3. Zoning Districts	12
§ 3-1. Establishment of zoning districts	12
§ 3-2. Zone group classification	13
§ 3-3. Zoning district boundaries	13
§ 3-4. Official Zoning Map	13
§ 4. Use Regulations	14
§ 4-1. Compliance with regulations	14
§ 4-2. Use code	14
§ 4-3. Public utilities and public services	14
§ 4-4. Use regulations	14
§ 4-5. Accessory uses	15
§ 4-6. Prohibited uses	15
§ 4-7. Permitted uses	15
§ 4-8. (Reserved)	17
§ 5. Dimensional Regulations	17
§ 5-1. General	17
§ 5-2. Agricultural and residential zones	18
§ 5-3. Commercial and industrial zones	20
§ 5-4. Minimum front yard reductions	22
§ 5-5. Dimensional requirements for multiple residential structures	22
§ 5-6. Dimensional requirements for conservation developments	23
§ 5-7. Height modifications	23
§ 5-8. Land unsuitable for development	24
§ 6. Supplementary Regulations	25
§ 6-1. Purpose	25
§ 6-2. Number of buildings on a lot	25
§ 6-3. Yard requirements	25
§ 6-4. Corner setback	26
§ 6-5. Accessory uses in A and R Zones	26

§ 6-6. Accessory living units	27
§ 6-7. Home occupations	27
§ 6-8. Animals in residential zones	28
§ 6-9. Buffer requirements when C or I Zones abut A, OS or R Zones	28
§ 6-10. Screening and fencing	28
§ 6-11. Outdoor display of merchandise (other than vehicles and boats)	29
§ 6-12. Stormwater basins	29
§ 6-13. (Reserved)	31
§ 6-14. (Reserved)	31
§ 6-15. (Reserved)	31
§ 6-16. (Reserved)	31
§ 7. Agricultural Operations	32
§ 7-1. Purpose	32
§ 7-2. Definitions	32
§ 7-3. Farm retail sales activities	33
§ 7-4. Farm retail sales buildings	33
§ 7-5. Permitted indoor uses improvements sales	34
§ 7-6. Farm stands	34
§ 7-7. Signs	35
§ 7-8. Off-street parking and loading	35
§ 8. Historic District Zoning	35
§ 8-1. Purposes and description	35
§ 8-2. Historic districts	36
§ 8-3. Historic District Commission — Membership	36
§ 8-4. Conduct of business of the HDC	37
§ 8-5. Powers and duties of the HDC	37
§ 8-6. Certificate of appropriateness	38
§ 8-7. Standards and guidelines	38
§ 8-8. Decisions of the HDC	38
§ 8-9. Failure of the HDC to act	38
§ 8-10. Special criteria for demolition	39
§ 8-11. Alternatives to demolition	39
§ 8-12. Appeals and enforcement	39
§ 9. Special Districts	40
§ 9-1. Overlay zoning districts	40
§ 9-2. Special districts	40
§ 9-3. Mixed-use special district	40
§ 9-3.1. Berkeley Mill Mixed-Use Special Overlay District	41
§ 9-3.2. Ann and Hope Mixed-Use District	43
§ 9-4. Beagle Club Overlay District	44
§ 10. Reserved	44
§ 11. Conservation Developments	44
§ 11-1. Purposes	44
§ 11-2. Applicability	45
§ 11-3. Permitted uses	46
§ 11-4. Density regulations	46
§ 11-5. Lot dimensional requirements	47
§ 11-6. Flexible lot frontage and width	47
§ 11-7. Open space in conservation developments	47

§ 12. Review of Development Applications	48
§ 12-1. Authority and purpose	48
§ 12-2. General provisions	48
§ 12-3. (Reserved)	50
§ 12-4. (Reserved)	50
§ 12-5. (Reserved)	50
§ 12-6. (Reserved)	50
§ 12-7. (Reserved)	50
§ 12-8. (Reserved)	50
§ 12-9. Fees	50
§ 12-10. Enforcement	50
 § 13. Signs	 51
§ 13-1. Purposes	51
§ 13-2. Conformance	51
§ 13-3. General sign standards	51
§ 13-4. Signs permitted in all zoning districts	51
§ 13-5. Signs prohibited in all zoning districts	53
§ 13-6. Sign types and placement	54
§ 13-7. Portable signs	54
§ 13-8. Permitted total sign area and dimensions	55
§ 13-9. Illumination	56
§ 13-10. Nonconforming signs	56
§ 13-11. Supplemental sign regulations	56
 § 14. Off-Street Parking and Loading	 57
§ 14-1. Off-street parking requirements	57
§ 14-2. Parking space dimensions and construction	57
§ 14-3. Parking requirements by use	58
§ 14-4. Off-street loading requirements	59
§ 14-5. Loading spaces required	59
§ 14-6. Relief from parking requirements	60
 § 15. Low and Moderate Income Housing	 60
§ 15-1. Statutory authority and purpose	60
§ 15-2. Affordable housing goals	60
§ 15-3. Definitions	60
§ 15-4. Comprehensive permit	62
§ 15-5. Eligible applicants and projects	62
§ 15-6. Application requirements	62
§ 15-7. Review procedures	64
§ 15-8. Decision of the Planning Board	64
§ 15-9. Appeals	65
§ 15-10. Expiration of a comprehensive permit	65
§ 15-11. Limitations on applications from private developers	65
§ 15-12. Inclusionary zoning	66
 § 16. Nonconformance	 66
§ 16-1. Nonconformance	66
§ 16-2. Lawfully existing or established	66
§ 16-3. Existence by variance or special use permit	67
§ 16-4. Building or structure nonconforming by use	67
§ 16-5. Land nonconforming by use	68
§ 16-6. Building or structure nonconforming by dimension	68
§ 16-7. Land nonconforming by area	69

§ 16-8. Buildings and structures nonconforming by parking	69
§ 17. Administration and Enforcement	70
§ 17-1. Enforcement duties	70
§ 17-2. Building permit/certificate of occupancy	71
§ 17-3. Certificate of occupancy	71
§ 17-4. Conflicts of law	71
§ 17-5. Penalties and enforcement	72
§ 17-6. Establishment of the Zoning Board of Review	72
§ 17-7. Membership and voting requirements of the Board	72
§ 17-8. Powers and duties of the Board	72
§ 17-9. Voting decisions of the Board	73
§ 17-10. Application procedures	73
§ 17-11. Appeals to the Zoning Board	74
§ 17-12. Appeals to Superior Court	74
§ 17-13. Adoption and amendment and administration of Zoning Ordinance	75
§ 17-14. Administration of Zoning Ordinance	77
§ 17-15. Vested rights	77
§ 17-16. Effective date	77
§ 17-17. Severability	77
§ 18. Variances, Special Use Permits and Modifications	78
§ 18-1. Procedures for granting of a variance or special use permit	78
§ 18-2. Granting of a variance	78
§ 18-3. Requirements for specific categories of special use	79
§ 18-4. Modifications	86
§ 18-5. Special conditions	87
§ 18-6. Expiration of variances and special use permits	87
§ 18-7. Small hydroelectric generation facilities	88
§ 18-8. Solar energy systems and facilities	90

Town of Cumberland

Zoning Ordinance

This document reflects the ordinance as adopted through September 2026.

§ 1. General Provisions

§ 1-1. Statement of purposes

[Ord. No. 08-31, 10-7-2009]

The zoning districts and regulations set forth in this zoning ordinance are made in accordance with the Town of Cumberland Comprehensive Plan, adopted or amended in accordance with Chapter 45-22.2 of the General Laws of Rhode Island, and for the following purposes:

- (a) To promote the public health, safety, and general welfare of the Town.
- (b) To provide for a range of uses and intensities of use appropriate to the character of the Town, and reflecting current and expected future needs.
- (c) To provide for orderly growth and development, which recognizes:
 - (1) The goals and patterns of land use contained in the aforesaid comprehensive community plan of the Town;

- (2) The natural characteristics of the land, including its suitability for use based on soil characteristics, topography, and susceptibility to surface or groundwater pollution;
- (3) The values and dynamic nature of the Town's water bodies including the Blackstone River, freshwater ponds, streams and freshwater wetlands;
- (4) That much of the Town land area is within the watershed of a public water supply reservoir, including the Diamond Hill, Arnold Mills, Sneece Pond, Abbott Run and Happy Hollow Reservoirs;
- (5) The values of unique or valuable natural resources and features;
- (6) The availability and capacity of existing and planned public and/or private services and facilities;
- (7) The need to shape and balance urban, suburban and rural development; and
- (8) The use of innovative development regulations and techniques.
- (d) To provide for the control, protection, and/or abatement of air, water, groundwater, and noise pollution, and soil erosion and sedimentation.
- (e) To provide for the protection of the natural, historic, cultural, and scenic character of the Town or areas therein.
- (f) To provide for the preservation and promotion of agricultural production, open space and recreation resources of the Town.
- (g) To provide for the preservation and enhancement of agricultural uses and landscapes of the Town.
- (h) To provide for the protection of public investment in transportation, water, stormwater management systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space; and other public requirements.
- (i) To promote a balance of housing choices, for all income levels and groups, to assure the health, safety, and welfare of all citizens and their rights to affordable, accessible, safe and sanitary housing, and to provide housing opportunities in particular for persons of low and moderate income, as defined by state law.
- (j) To promote safety from fire, flood, and other natural or manmade disasters.
- (k) To promote a high level of quality in design in the development of private and public facilities.
- (l) To promote implementation of the comprehensive community plan, as amended, of the Town.
- (m) To provide for coordination of land uses, resources and facilities with contiguous municipalities, other municipalities, the state and other agencies.
- (n) To provide for efficient review of development proposals, and to clarify and expedite the zoning approval process.
- (o) To provide opportunities for reasonable accommodations in order to comply with the Rhode Island Fair Housing Practices Act, the United States Fair Housing Amendments Act of 1988, the Rhode Island Civil Rights of Persons with Disabilities Act, and the Americans with Disabilities Act.
- (p) To provide for procedures for the administration of this appendix.

§ 1-2. Compliance with ordinance

[Ord. No. 08-31, 10-7-2009]

- (a) Conformance with permitted use. No building or structure shall be erected, reconstructed, or enlarged for any use other than that which is permitted in the zone in which such building, structure or land is located. No building or structure shall be moved to new site unless that site is zoned to permit the use intended for such building or structure. Nor shall any building, structure or land be used for any use other than is permitted in the zone in which it is located.
- (b) Dimensional conformance. Except as hereinafter provided, no building or structure shall be erected, enlarged, or reconstructed to exceed the dimensional limits established for the zone wherein such building or structure is located.
- (c) Lot area conformance. No new lot shall be created, nor shall an existing lot be reduced or diminished except in conformance with the dimensional requirements of this appendix, nor shall the number of dwelling units or occupancy thereon be increased in any manner except in conformance with the dimensional requirements of this appendix. The lot or yard areas of buildings existing at the time this appendix became effective shall not be diminished below the requirements herein provided. The

required yard or parking area for a building shall not be included as a part of the required yard or parking area of any other building.

§ 1-3. Consistency with Comprehensive Plan

[Ord. No. 08-31, 10-7-2009]

This appendix is consistent with the Town of Cumberland Comprehensive Plan, adopted or amended pursuant to Chapter 45-22.2 of the General Laws of Rhode Island. In the instance of uncertainty in the construction or application of any section of this appendix, this appendix shall be construed in a manner that will further the implementation of, and not be contrary to, the goals and policies and applicable elements of such Comprehensive Community Plan.

§ 2. Definitions

§ 2-1. Terms defined

[Ord. No. 08-31, 10-7-2009; Ord. No. 11-02A, § 1, 8-17-2011; Ord. No. 13-23-A, § 1, 2-19-2014; amended 4-7-2021 by Ord. No. 21-01A; 12-6-2023 by Ord. No. 23-26; 12-3-2025 by Ord. No. 25-21; Ord. No. 26-03]

For the purposes of this appendix, the following terms shall have the meanings respectively ascribed to them in this section. Where terms are not defined they shall have the meaning customarily assigned to them. The word "may" is discretionary; the word "shall" is mandatory.

ABUTTER — One whose property abuts, that is, adjoins at a border, boundary, or point with no intervening land.

ACCESSORY BUILDING — In residential zones, a subordinate building that is located on the same lot as a principal building and that is used incidentally to the principal building or that houses an accessory use. Where a substantial part of the wall of an accessory building is part of the wall of the principal building, or where an accessory building is attached to the principal building in a substantial manner as by a roof, such accessory building shall be counted as part of the principal building.

ACCESSORY DWELLING UNIT (ADU) — A residential living unit on the same lot where the principal use is a legally established single-family dwelling unit or multi-family dwelling unit. An ADU provides complete independent living facilities for one or more persons. It may take various forms including, but not limited to: a detached unit: a unit that is part of an accessory structure, such as a detached garage: or a unit that is part of an expanded or remodeled primary dwelling.

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

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

ADJACENT LOTS — Two or more lots of record, which have one common boundary or more.

AGGRIEVED PARTY — An aggrieved party, for purposes of this appendix 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 this appendix; or
- (b) Anyone requiring notice pursuant to this appendix.

APPLICANT — An owner or authorized agent of the owner submitting an application or appealing an action of any official, board or agency.

APPLICATION — The completed form or forms and all accompanying documents, exhibits and fees required of an applicant by an approving authority for development review, approval, or permitting purpose.

APPURTENANCES — Features other than primary or secondary structures which contribute to the exterior appearance of a property including, but not limited to, paving, doors, windows, signs, materials, decorative accessories, fences, and landscape features.

BASEMENT — That portion of a building included between the upper surface of its floor and the upper surface of the floor next above, having more than 1/2 of its height above the average elevation of the finished lot grade adjoining the building.

BLOCK FRONTAGE — All the property fronting on one side of a street between intersecting or intercepting streets or between a street and right-of-way, waterway, end of dead-end street or Town boundary measured along the street line.

BUFFER — An area of undeveloped land, measured from a property line, that is maintained in a natural or landscaped condition and is intended to screen, separate, and mitigate the visual, noise, and land-use impacts of development on adjacent properties, zoning districts, or rights-of-way. Buffers shall consist of vegetative plantings and may include berms, walls, or fences where expressly permitted by this chapter.

BUILDING — Any structure used or intended for supporting or sheltering any use or occupancy.

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, bulk or other regulations, and/or any combination thereof.

BUILDING FRONTAGE — The width of a building abutting or parallel to the street line.

BUILDING HEIGHT — The vertical distance measured from the grade, as defined herein, on the street frontage of the building, to the highest point of the roof structure. The distance excludes certain roof structures and is otherwise modified in § 5-7 of this appendix.

BUILDING OFFICIAL — The Building Official of the Town of Cumberland who is also the zoning enforcement officer.

CELLAR — That portion of a building included between the upper surface of its floor and the upper surface of the floor next above, having less than 1/2 its height above the average elevation of the finished lot grade adjoining the building.

COMMON OWNERSHIP — Either:

- (a) Ownership by one or more individuals or entities in any form of ownership of two or more contiguous lots; or
- (b) Ownership by an association (including a municipality) of one or more lots under specific development techniques.

COMPREHENSIVE PLAN — The Comprehensive Community Plan adopted by the Town and approved pursuant to G.L. § 45-22.2-1 et seq.

CONSERVATION DEVELOPMENT — A type of land development project which allows the Town to guide growth to the most appropriate areas within a parcel of land to avoid impacts to the environment and to protect the character-defining features of the property (see Article 11).

DEMOLITION — An act or process that destroys a structure or its appurtenances, in part or in whole.

DENSITY — The number of households or dwelling units per unit of land.

DETACHED BUILDING — A building having no party wall in common with another building.

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.

DEVELOPMENT REVIEW — The process whereby the Planning Board is authorized to review the site plans, maps and other documentation of a development to determine the compliance with the stated purposes and standards of this appendix (see Article 12).

DIRECTOR — Director of the Department of Planning and Community Development of the Town of Cumberland.

DISTRICT — See "Zoning district."

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

DRIVEWAY — That portion of a lot that consists of a travel lane used to access a parking area or garage and which is bounded on either side by an area that is not part of the parking area.

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

EXTERIOR ALTERATION — An action that changes one or more of the exterior architectural features of a structure or its appurtenances, including, but not limited to, the erection, construction, reconstruction, or removal of any structure or appurtenance.

FAMILY — A person or persons related by blood, marriage or other legal means (see also "Household").

FRONT YARD — A yard extending across the width of the lot, bounded by the required side yards, the building frontage and the street, and which is open, unoccupied and unobstructed by buildings or structures from the ground to the sky, except as otherwise provided in this appendix.

GARAGE (PRIVATE) — A detached accessory building or portion of a principal building used for storage of vehicles, and provided that, if more than two vehicles are stored therein, the capacity does not exceed one vehicle for each 2,500 square feet of lot area.

GFA (GROSS FLOOR AREA) — The sum of the gross horizontal area of the several floors of a building measured from the exterior face of exterior walls, but not including interior parking spaces, loading spaces for motor vehicles, or any space where the floor to ceiling height is less than six feet.

GRADE — A reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line, or when the lot line is more than six feet from the building, between the building and a point six feet from the building.

HISTORIC DISTRICT COMMISSION (HDC) — The Historic District Commission of the Town of Cumberland.

HOME OCCUPATION — Any activity customarily carried out for gain by a resident, which is conducted as an accessory use in the resident's dwelling unit. (See § 6-6.)

HOUSEHOLD — One or more persons living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit. The term "household unit" shall be synonymous with the term "dwelling unit" for determining the number of such units allowed within any structure on any lot in a zoning district. Any 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 not more than three unrelated persons living together.

INCENTIVE ZONING — The process whereby the Planning Board may grant additional development capacity in exchange for the developer's provision of a public benefit or amenity as specified in this appendix.

INFRASTRUCTURE — Facilities and services needed to sustain residential, commercial, industrial, institutional, and other activities.

LAND DEVELOPMENT PROJECT — A project in which one or more lots, tracts or parcels of land are to be developed or redeveloped as a coordinated site for a complex of uses, units or structures, including, but not limited to, planned development and/or cluster or conservation development for residential, commercial, institutional, recreational, open space and/or mixed-used as may be provided for in this appendix. (See Article 12.)

LAND UNSUITABLE FOR DEVELOPMENT — Land which has severe or very severe limitations for development (see § 5-8).

LESS RESTRICTIVE ZONE — The order of zoning use district from less restrictive to more restrictive is: I-2, I-1, C-2, C-1, R-3, R-2, R-1, A-2, A-1, OS.

LOT — Either:

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

LOT AREA — The total area within the boundaries of a lot, excluding any street right-of-way, usually reported in acres or square feet.

LOT BUILDING COVERAGE — That portion of the lot that is or may be covered by buildings and accessory buildings.

LOT COVERAGE — That portion of the lot that is or may be covered by impervious surfaces including all buildings, structures and paved surfaces such as driveways and parking areas, and any other surface that restricts water from infiltrating into the ground. In residential zone, paved driveways of up to 320 feet should not be included. Gravel driveways, walkways and patios constructed using permeable pavements are not included as impervious surfaces.

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

LOT FRONTAGE — That portion of a lot abutting a street. Where all lot frontage is not contiguous, then only the largest single portion of such lot frontage will be considered with regard to minimum frontage requirements.

LOT LINE — A line of record, bounding a lot, which divides one lot from another lot or from a public or private street or any other public or private space and shall include:

- (a) **FRONT**Any lot line separating a lot from a street right-of-way;
- (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 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, or irregularly shaped lot, there may be more than one front lot line, and consequently, more than one rear lot line.

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

LOT, CORNER — A lot at the junction of and fronting on two or more intersecting streets.

LOT, THROUGH — A lot which fronts upon two parallel or approximately parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

MIXED-USE — A mixture of land uses within a single development, building or lot. Under no circumstances shall a second principal use be regarded as accessory to another. Each use of the property, whether or not combined with another, must be permitted in the zoning district and must each comply with all dimensional and other zoning requirements.

MOBILE HOME — A structure designed or used for residential occupancy built upon or having a frame or chassis to which wheels may be attached by which it may be moved upon a street or highway, and whether or not such structure actually has, at any given time, such wheels attached, or is jacked up or skirted, or attached to a permanent slab foundation is located on jacks or on a permanent foundation and connected to utilities.

MODIFICATION — Permission granted and administered by the Building Official to grant a dimensional variance, other than lot area requirements, but not to exceed 10% of each of the applicable dimensional requirements (see § 18-5).

MORE RESTRICTIVE ZONE — The order of zoning use district from more restrictive to less restrictive is: OS, A-1, A-2, R-1, R-2, R-3, C-1, C-2, I-1, I-2.

NONCONFORMANCE — A building, structure or parcel of land, or use thereof, lawfully existing at the time of the adoption or amendment of this appendix and not in conformity with the provisions of the ordinance or amendment (see Article 16).

OVERLAY DISTRICT — A district that is superimposed on one or more district or parts of districts and that imposes specified requirements in addition to, but not less than, those otherwise applicable for the underlying zone and or which allows alternate uses.

OWNER — Any person, agent, firm or corporation who, alone, jointly or severally with others:

- (a) Shall have legal or record title to any property; or
- (b) Shall have charge, care or control of any property as agent, executor, administrator, trustee or guardian.

PARKING AREA AISLES — A portion of paved area consisting of lanes providing access to parking spaces.

PARKING SPACE — A portion of paved area set aside for the parking of one vehicle.

PERMITTED USE — A use by right, which is specifically authorized in a particular zoning district.

PERSON — Includes "corporation," "partnership," "association," and "individual."

PLANNING BOARD — Planning Board of the Town of Cumberland.

PRE-APPLICATION CONFERENCE — A review meeting of a proposed development held between applicants and the department of planning and development and/or the Planning Board, before formal submission of an application for a permit or for development approval.

PRINCIPAL BUILDING — In residential zones, the primary building on a lot or a building that houses the principal use.

PRINCIPAL USE — The primary or predominant use of any lot. There may be more than one principal use in commercial, industrial and mixed-use developments.

REAR YARD — A yard extending across the width of the lot, bounded by the required side yards, the rear of the building and the rear lot line.

REMOVAL — Relocation of a structure on its site or to another site.

REPAIR — A change meant only to remedy damage or deterioration of a structure or its appurtenances.

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.

SIDE YARD — A yard extending from the side of the building to the side lot line, the length of which is measured from the front lot line to the rear lot line.

SIGN — Any object, device or structure, or part thereof, which is used to advertise, identify, display, direct or attract attention to any object, person, institution, organization, business, product, service, event or

location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or images.

SITE PLAN — The development plan for one or more lots on which is shown the existing and/or the proposed conditions of the lot.

SOLID FUEL OUTDOOR FURNACE — Any mechanical system designed to be located on the exterior of a building intended to provide heat and/or hot water to the building to which the furnace is attached through the burning of a solid fuel.

SPECIAL USE — A regulated use which is permitted pursuant to a special use permit issued by the Zoning Board of Review (see Article 18). Formerly referred to as a special exception.

STORY — That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; also, any portion of a building used for human occupancy between the topmost floor and the roof. A basement may be counted as a story but a cellar shall not be so counted.

STREET — A public right-of-way established by or maintained under public authority, a private way open for public uses, and a private way plotted or laid out for ultimate public use, whether or not constructed. A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles.

STREET LINE — The line dividing a lot from any street, except a limited or controlled access highway to which the lot has no access.

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, including, but not limited to, buildings, gazebos, towers, signs, billboards, outbuildings and swimming pools.

SUBSTANDARD LOT OF RECORD — Any lot lawfully existing prior to December 13, 1962, or lawfully existing at the time of adoption or amendment of this appendix and not in conformance with the dimensional and/or area provisions of the ordinance or amendment (see Article 16).

TOWN — The Town of Cumberland.

TOWNHOUSE — Single-family dwelling units constructed in a series including two or more units sharing a common wall. A Townhouse may also be referred to as a single-family attached unit.

USE — The purpose or activity for which land or buildings are designed, arranged or intended, or for which land or buildings are occupied or maintained.

VARIANCE — Permission to depart from the literal requirements of this appendix; an authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a building or structure, or for the establishment or maintenance of a use of land, which is prohibited by this appendix (see Article 18).

ZONING CERTIFICATE — A document signed by the zoning enforcement officer, which acknowledges that a use, structure, building or lot either complies with or is legally nonconforming to the provisions of this appendix, or is a duly authorized variance or special use permit, or otherwise interprets this appendix in accordance with Article 18 of this appendix.

ZONING MAP — The Cumberland Zoning Plats which are a part of this appendix and which delineate the boundaries of all mapped zoning districts, specials districts, and overlay districts within the physical boundary of the Town as provided in § 3-4 of this appendix.

ZONING DISTRICT — The basic unit in zoning to which a uniform set of regulations applies, or a uniform set of regulations for a specified use.

§ 3. Zoning Districts

§ 3-1. Establishment of zoning districts

[Ord. No. 08-31, 10-7-2009]

For the purpose of this appendix, the Town of Cumberland is divided into zoning districts designated and described as follows:

- (a) Open space.

OS: Open Space. This zoning district is intended for land left in its natural state, maintained for non-intensive and recreational uses, or active public or institutional uses as permitted in the use table.

- (b) Agricultural.

A-1: Agricultural Low Density and One-Household District. This zoning district is intended for agricultural use and rural density single dwelling unit detached structures, located on lots with a minimum land area of five acres, which may be reduced in cluster subdivisions if agricultural uses are included in the resulting open space.

A-2: Agricultural Medium Density and One-Household District. This zoning district is intended for agricultural use and rural density single dwelling unit detached structures, located on lots with a minimum land area of 80,000 square feet.

- (c) Residential.

R-1: One-Household Low Density District. This zoning district is intended for low density residential areas comprised of single dwelling unit structures located on lots with a minimum land area of 25,000 square feet for areas served by sewer and water; 40,000 square feet for areas, served by either sewer or water but not both; and 80,000 square feet for areas not served by neither both sewer and nor water.

R-2: Two-Household Medium Density District. This zoning district is intended for medium density residential areas comprised of structures containing single dwelling unit and two dwelling unit structures located on lots with a minimum land area of 10,000 square feet per unit plus 5,000 square feet for a second unit for areas served by sewer and water; and 30,000 square feet per unit plus 10,000 square feet for a second unit for areas served by either sewer or water but not both.

R-3: Multi-Household Dwelling District. This zoning district is intended for high density residential areas comprised of structures containing single dwelling unit, two dwelling unit and multiple dwelling unit structures located on lots with a minimum land area of 10,000 square feet minimum lot size for the first unit plus 5,000 square feet for each additional unit for areas served by sewer and water; and 30,000 square feet per unit plus 10,000 square feet for each additional unit for areas served by either sewer or water but not both.

- (d) Commercial.

C-1: Limited Commercial District. This zoning district is intended for neighborhood commercial areas that primarily serve local neighborhood needs for convenience retail, services and professional office establishments.

C-2: General Commercial District. This zoning district is intended for commercial areas that serve Town-wide needs for retail, services and professional office establishments.

- (e) Industrial.

I-1: Light Industrial District. This zoning district is intended for light industrial uses that accommodate a variety of manufacturing, assembly, storage of durable goods and related activities, provided that they do not pose toxic, explosive or environmental hazard in the Town, and office uses.

I-2: General Industrial District. This zoning district is intended to provide for areas for general industrial uses, including extractive industries.

- (f) Overlay Zoning Districts. These are districts that are superimposed on existing zoning district(s) or part of a district and which impose specified requirements in addition to those otherwise applicable and/or allow alternate uses.
 - (1) Historic districts. These overlay zoning districts are designated in accordance with Title 45, Chapter 24.1, of the General Laws of Rhode Island, as amended, which declares the preservation of structures of historic or architectural value to be a public purpose and authorizes the creation of the Historic District Commission (HDC) for that purpose in the Town of Cumberland. The regulations set forth in § 601 Article 8 are intended to safeguard the heritage of the Town of Cumberland by establishing the following overlay districts:
 - * a. Ashton Historic Overlay District.
 - * b. Tower Hill Road Historic Overlay District.
 - * c. Old West Wrentham Road Historic Overlay District.
 - * d. Lonsdale Historic Overlay District.
 - * e. Upper Scott Road Historic Overlay District.
 - * f. Diamond Hill Road Historic Overlay District.
 - * g. Town Hall Historic Overlay District.
- (g) Special districts. These are districts that are established by amendment to the official zoning map in order to allow specific developments on a given parcel of land that would otherwise not be permitted in the district(s) in which the subject parcel is located. Special districts must meet the criteria and standards as required in this appendix.
 - (1) Mixed-use special district. This special district is designed to allow a mixture of residential, commercial, recreational and/or other uses as deemed appropriate by the Town Council, and developed according to a coordinated and cohesive plan. (See Article 9.)

§ 3-2. Zone group classification

[Ord. No. 08-31, 10-7-2009]

Whenever the terms O zone, R zone, C zone, or I zone are used, they shall be deemed to refer to all zones containing the same letters in their names; e.g., R zones shall include R-1, R-2 and R-3 zones.

§ 3-3. Zoning district boundaries

[Ord. No. 08-31, 10-7-2009]

- (a) Where uncertainty exists as to the boundaries of the zoning districts as shown on the official zoning map, the following rules shall apply:
 - (1) Zone boundaries are generally intended to follow lot lines.
 - (2) Zone boundaries, where indicated, are the centerlines of streets, parkways, waterways, or railroad rights-of-way.
 - (3) Where the street layout on the ground varies from the layout as shown on the zoning map, the zoning enforcement officer shall interpret said map according to the reasonable intent of this appendix.
- (b) Where the zone boundary divides a lot so that more than 50% of the lot area is in a more restrictive zone, the provisions of this appendix relating to the more restrictive zone shall be extended to the entire lot.
- (c) Where the zone boundary divides a lot so that 50% or more of the lot area is in a less restrictive zone, the provisions of this appendix relating to the less restrictive zone shall be extended to the entire lot.

§ 3-4. Official Zoning Map

[Ord. No. 08-31, 10-7-2009]

The "Cumberland Zoning Plats" shall constitute the official zoning map of the Town and is hereby adopted and made part of this appendix. The official zoning map shall consist of 68 plat maps in the office of the building inspection department dated June 29, 1994, and as amended, and shall depict all zoning districts, special districts and overlay zoning districts. The boundaries of the zoning districts described above are hereby established on a map entitled the "Town of Cumberland Zoning Map" filed at the office of the Town Clerk, with a true and accurate copy to be shown on the "Cumberland Zoning Plats" consisting of 68 plat maps maintained in the office of the Building Official, dated June 29, 1994, and as amended.

§ 4. Use Regulations

§ 4-1. Compliance with regulations

[Ord. No. 08-31, 10-7-2009]

The regulations set by this appendix within each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land. In addition, Article 5 contains dimensional regulations and Article 6 contains supplementary regulations, which apply to specific conditions, areas or uses.

§ 4-2. Use code

[Ord. No. 08-31, 10-7-2009]

The Use Regulations in Table 1 are designed to regulate land uses in the various zoning districts in the Town. Each use group is identified by a use code number and is a separate use. The use code is a classification system designed to limit and aid in the interpretation of the use regulations. The code number in the use regulations corresponds to a more detailed listing of uses in Appendix A. The uses are listed by category, with individual code numbers which also correspond to a more detailed listing in Appendix A. Where a use is not specifically listed in Table 1, such use is a prohibited use in the Town of Cumberland. When a use code is ambiguous or subject to interpretation, the zoning enforcement officer shall, (pursuant to G.L. § 45-24-54) upon written request, provide written information to the requesting party as to the determination that the use is included within the appropriate use code number in Appendix A within 15 days of the written request. In the event that no response is provided within such time, or if the requesting party believes the zoning enforcement officer has made an error of law, the requesting party shall have the right to appeal to the zoning board of appeals for such determination.

Editor's Note: Table 1 is included as an attachment to this chapter.

Editor's Note: Appendix A is included as an attachment to this chapter.

§ 4-3. Public utilities and public services

[Ord. No. 08-31, 10-7-2009]

The provisions of this appendix shall not be construed so as to limit or interfere with the construction, installation, operation and maintenance for public utility purposes of water and gas pipes, mains and conduits, electric light and electric power transmission and distribution lines, telephone lines, cable television lines, oil pipe lines, sewer mains, and incidental appurtenances and installations.

§ 4-4. Use regulations

[Ord. No. 08-31, 10-7-2009; Ord. No. 09-33, § 1, 1-6-2010; Ord. No. 13-01, § 1, 3-6-2013]

Within the Use Table, uses permitted by right are denoted with a "Y" for Yes. Uses which are not permitted are denoted with an "N" for No. Uses permitted only as a special use under the provisions of Article 18 are denoted with an "S" for special use permit. Uses permitted in special development districts shall be according to the regulations governing such districts elsewhere in this appendix. Any number of uses may

be located on a lot provided each use is permitted and all other requirements of this appendix, including limitations on the number of buildings on a lot (see § 6-2) are met.

§ 4-5. Accessory uses

[Ord. No. 08-31, 10-7-2009]

Accessory uses are uses which are clearly incidental to and customarily associated with the principal use and shall be operated and maintained under the same ownership and on the same lot as the principal use and shall include, but not necessarily be limited to, private garages, home occupations, swimming pools, and accessory parking. Accessory uses cannot exist without nor precede any principal use on a vacant lot. Accessory uses are subject to all the requirements of this appendix except as provided herein (see Article 6 for specific requirements).

§ 4-6. Prohibited uses

[Ord. No. 08-31, 10-7-2009; Ord. No. 11-02A, § 2, 8-17-2011; amended 12-6-2023 by Ord. No. 23-26]

Any use which is not specifically listed as a permitted use, by right or conditionally by special use permit, in this article, is a prohibited use. For the purposes of greater specificity, however, the following uses are prohibited in the Town of Cumberland:

- (a) Acid manufacture including hydrochloric, nitric, picric or sulfuric acid;
- (b) Aircraft transportation;
- (c) Asbestos and asbestos product manufacturing, assembly or processing;
- (d) Bulk storage, petroleum/LNG storage;
- (e) Chlorine or other similar noxious or toxic gases;
- (f) Extraction of underground water resources for wholesale or retail purposes;
- (g) Glue manufacture;
- (h) Junkyard;
- (i) Landfill and/or solid waste transfer station;
- (j) Leather and fur tanning and finishing;
- (k) Mobile home park;
- (l) Motel;
- (m) Nuclear industries and explosives;
- (n) Outdoor advertising for off-site uses, billboards;
- (o) Petroleum products and related industries;
- (p) Petroleum refining;
- (q) Power plant, incinerator and waste facility;
- (r) Prison or correctional institution;
- (s) Pulp mills and paper mills;
- (t) Rendering or refining of fats or oils;
- (u) Self-storage facility;
- (v) Slaughter of animals, not including fowl;
- (w) Solid fuel outdoor furnace;
- (x) Stockyard or feeding pen;
- (y) Storage and/or processing of medical wastes (as a principal use);
- (z) Tobacco processing;
- (aa) Wind energy system.

Editor's Note: For definitions of the prohibited uses, see Appendix A, which is included as an attachment to this chapter.

§ 4-7. Permitted uses

[Added 12-6-2023 by Ord. No. 23-26]

- (a) A proposed land use that is not specifically listed may be presented by the property owner to the Zoning Board of Review for an evaluation and determination of whether the proposed use is of a similar type, character, and intensity as a listed permitted use. Upon such determination, the proposed use may be considered to be a permitted use or a use requiring a special use permit.
- (b) Notwithstanding any other provision of this appendix, the following uses are permitted uses within all residential zoning use districts of a municipality and all industrial and commercial zoning use districts except where residential use is prohibited for public health or safety reasons:
 - (1) Households;
 - (2) Community residences; and
 - (3) Family daycare homes.
- (c) 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 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.
- (d) Notwithstanding any other provision of this appendix, 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.
- (e) Notwithstanding any other provision of this appendix, an accessory dwelling unit in an owner-occupied residence that complies with R.I.G.L. AAA 45-24-31 and 45-24-73 shall be permitted as a reasonable accommodation for family members with disabilities or who are 62 years of age or older, or to accommodate other family members.
- (f) When used in this section the terms "people with disabilities" or "member, or members, with disabilities" means a person(s) who has a physical or mental impairment that substantially limits one or more major life activities, as defined in R.I.G.L. AA 42-87-1(7).
- (g) Notwithstanding any other provisions of this appendix, plant agriculture is a permitted use within all zoning districts of a municipality, including all industrial and commercial zoning districts, except where prohibited for public health or safety reasons or the protection of wildlife habitat.
- (h) Adaptive reuse. Notwithstanding any other provisions of this appendix adaptive reuse for the conversion of any commercial building, including offices, schools, religious facilities, medical buildings, and malls into residential units or mixed-use developments is a permitted use, under the following criteria:
 - (1) Eligibility.
 - * a. Adaptive reuse development must include at least 50% of existing gross floor area developed into residential units.
 - * b. There are no environmental land use restrictions recorded on the property preventing the conversion to residential use by RIDEM or the U.S. EPA.
 - (2) Density calculations.
 - * a. For projects that meet the following criteria, the residential density shall be 15 dwelling units per acre:
 - 1. Where the project is limited to the existing footprint, except that the footprint is allowed to be expanded to accommodate upgrades related to the building fire code, and utility requirements.
 - 2. The development includes at least 20% low- and moderate-income housing.
 - 3. The development has access to public sewer and water service or has access to adequate private water, such as well and/or wastewater treatment systems approved by the relevant state agency for the entire development as applicable.
 - * b. For all other adaptive reuse projects, the residential density permitted in the converted structure shall be the maximum allowed that otherwise meets all standards of minimum housing and has access to public sewer and water services or has access to adequate private

- water, such as well and wastewater treatment systems approved by the relevant state agency for the entire development, as applicable.
 - * c. The density proposed for any adaptive reuse project shall be determined to meet all public health and safety standards.
 - (3) Dimensional requirements.
 - * a. Notwithstanding any other provisions of this appendix, existing building setbacks shall remain and are considered legal nonconforming.
 - * b. No additional encroachments shall be permitted into any nonconforming setback unless relief is granted by the permitting authority.
 - * c. Notwithstanding other provisions of this appendix, the height of the structure shall be considered legal nonconforming if it exceeds the maximum height of the zoning district in which the structure is located.
 - 1. Any rooftop construction necessary for building or fire code compliance, or utility infrastructure is included in the height exemption.
 - (4) Parking requirements.
 - * a. Adaptive reuse developments shall provide one parking space per dwelling unit. The applicant may propose additional parking in excess of one space per dwelling unit.
 - * b. The parking requirements and design standards in Article 14 shall apply to all uses proposed as part of the project unless otherwise approved by the applicable authority. The number of parking spaces required shall apply for all uses other than residential.
 - (5) Allowed uses within an adaptive reuse project.
 - * a. Residential dwelling units are a permitted use in an adaptive reuse project regardless of the zoning district in which the structure is located, in accordance with the provisions of this section.
 - * b. Any nonresidential uses proposed as part of an adaptive reuse project must comply with the provisions of these regulations.
 - (6) Development and design standards. Site design shall be in accordance with the Sections 6, 7, and 8, as applicable, of Appendix A, Land Development and Subdivision Regulations.
 - (7) Procedural requirements.
 - * a. Adaptive reuse project shall be subject to the procedural requirements of these regulations and undergo either development plan review, or minor or major land development as determined therein.
 - * b. In addition to the checklist requirements for the applicable review process, the applicant shall provide the following information:
 - 1. The proposed residential density and the square footage of nonresidential uses. Residential density under the provisions of Subsection (h)(2) shall be determined with the submission of a detailed floor plan as described in subsection (h)(7)2 of this Section to the Zoning/Building Official for their review and approval.
 - 2. A floor plan to scale for each building indicating, as applicable, the use of floor space, number of units, number of bedrooms, and the square footage of each unit.
 - (8) Specific and objective criteria. The specific and objective criteria for adaptive reuse projects are found in Sections 6, 7 and 8 of Appendix A, Land Development and Subdivision Regulations.

§ 4-8. (Reserved)

Editor's Note: Former § 4-8, Drive-through service, adopted by Ord. No. 08-31, 10-7-2009, was repealed 12-6-2023 by Ord. No. 23-26. See now § 18-3(j), Requirements for specific categories of special use.

§ 5. Dimensional Regulations

§ 5-1. General

[Ord. No. 08-31, 10-7-2009]

Dimensional regulations to be applied to development within each zoning district are contained in the following tables. Lot area and other dimensional requirements are a function of the availability of water facilities and public sewer. Front yards may also vary according to the prevalent development patterns in those areas of Town which are considered to be principally built (see § 5-4).

§ 5-2. Agricultural and residential zones

[Ord. No. 08-31, 10-7-2009]

- (a) Dimensional regulations for areas without water facilities or public sewers.¹

	A-1	A-2	R-1
Minimum lot area (square feet)	217,800	80,000	80,000
Minimum lot area per dwelling unit (square feet)	217,800	80,000	80,000
Minimum lot width (feet)	250	180	180
Minimum frontage (feet)	250	180	180
Minimum front yard ² (feet)	100	75	50
Minimum side yard (feet)	60	20	20
Minimum rear yard (feet)	80	30	30
Maximum lot coverage	5%	15%	20%
Maximum height (feet)	35	35	35

NOTES:

¹

This table does not apply to the R-2 and R-3 Zones.

²

For areas that are principally built, a reduction in the minimum front yard is allowed under the provisions of § 5-4

.

- (b) Dimensional regulations for areas with water facilities or public sewers but not both.

	A-1	A-2	R-1	R-2	R-3
Minimum lot area (square feet)	217,800	80,000	40,000	30,000	30,000

Minimum lot area per dwelling unit (square feet)	217,800	80,000	40,000	30,000 plus 10,000 for 2nd unit	30,000 plus 10,000 for each additional unit
Minimum lot width (feet)	250	180	100	90	90
Minimum frontage (feet)	250	180	100	90	90
Minimum front yard ¹ (feet)	100	75	25	25	25
Minimum side yard (feet)	60	20	10	10	10
Minimum rear yard (feet)	80	30	25	15	15
Maximum lot coverage	5%	15%	20%	20%	20%
Maximum height (feet)	35	35	35	35	35

NOTES:
1

For areas that are principally built, a reduction in the minimum front yard is allowed under the provisions of § 5-4

- (c) Dimensional regulations for areas with both water facilities and public sewers.

	A-1	A-2	R-1	R-2	R-3
Minimum lot area (square feet)	217,800	80,000	25,000	10,000	10,000
Minimum lot area per dwelling unit (square feet)	217,800	80,000	25,000	10,000 plus 5,000 for 2nd unit	10,000 plus 5,000 for each additional unit
Minimum lot width (feet)	250	180	100	40	40
Minimum frontage (feet)	250	180	100	40	40

Minimum front yard ¹	100	75	20	10	10
(feet)					
Minimum side yard	60	20	10	10	10
(feet)					
Minimum rear yard	80	30	25	15	15
(feet)					
Maximum lot coverage	5%	15%	20%	40%	40%
Maximum height (feet)	35	35	35	35	35

NOTES:
1

For areas that are principally built, a reduction in the minimum front yard is allowed under the provisions of § 5-4

§ 5-3. Commercial and industrial zones

[Ord. No. 08-31, 10-7-2009]

- (a) Dimensional regulations for areas without water facilities or public sewers.

	C-1	C-2	I-1	I-2
Minimum lot area (square feet) ¹	80,000	80,000	80,000	80,000
Minimum lot width (feet)	100	100	100	100
Minimum frontage (feet)	100	100	100	100
Minimum front yard ²	40	40	40	40
(feet)				
Minimum side yard (feet)	20	20	20	20
Minimum rear yard (feet)	20	20	20	20
Maximum lot coverage	40%	40%	40%	60%
Maximum height (feet)	45	45	75	75

	NOTES:	
	¹	The applicable residential density for mixed-use residential development shall be one unit per 10,000 square feet of land suitable for development
	²	For areas that are principally built, a reduction in the minimum front yard is allowed under the provisions of § 5-4
		.

- (b) Dimensional regulations for areas with water facilities or public sewers but not both.

	C-1	C-2	I-1	I-2
Minimum lot area (square feet)	40,000 ¹	40,000	40,000	40,000
Minimum lot width (feet)	50	50	50	50
Minimum frontage (feet)	50	50	50	50
Minimum front yard ² (feet)	20	20	20	20
Minimum side yard (feet)	10	10	10	10
Minimum rear yard (feet)	10	10	10	10
Maximum lot coverage	40%	40%	40%	60%
Maximum height (feet)	45	45	75	75

	NOTES:	
	¹	The applicable residential density for mixed-use residential development shall be one unit per 5,000 square feet for land serviced by public sewers and 1 unit per every 7,000 square feet of land suitable for development for land not serviced by public sewers.
	²	For areas that are principally built, a reduction in the minimum front yard is allowed under the provisions of § 5-4
		.

- (c) Dimensional regulations for areas with both water facilities and public sewers.

	C-1	C-2	I-1	I-2
Minimum lot area (square feet)	5,000 ¹	5,000	5,000	5,000
Minimum lot width (feet)	25	25	25	25
Minimum frontage (feet)	25	25	25	25
Minimum front yard ² (feet)	15	10	10	10
Minimum side yard (feet)	10	10	10	10
Minimum rear yard (feet)	10	10	10	10
Maximum lot coverage	40%	50%	80%	80%
Maximum height (feet)	45	45	75	75

NOTES:

¹

The applicable residential density for mixed-use residential development shall be one unit per 5,000 square feet of land area.

²

For areas that are principally built, a reduction in the minimum front yard is allowed under the provisions of § 5-4

§ 5-4. Minimum front yard reductions

[Ord. No. 08-31, 10-7-2009]

- (a) Where new development is occurring in an area which is principally built, a reduction in the minimum required front yards is allowed under the provisions of this section. A principally built area is defined as having principal buildings on 2/3 or more of all lots within 500 feet in A zones, and 300 feet in R, C and I zones, as measured along the street line, in both directions from the center of the lot in question. The Building Official shall undertake the necessary calculation to determine whether an area is principally built.
- (b) In any zoning district, regardless of the availability of water or sewer, the minimum required front yard shall be reduced to that equal to the average distance from the principal buildings to the front lot lines of all those developed lots within the defined built area. If the resulting average distance exceeds the minimum front yard as contained in the applicable section of the dimensional tables, the front yard requirement in the table shall apply.

§ 5-5. Dimensional requirements for multiple residential structures

[Ord. No. 08-31, 10-7-2009]

In cases where more than one residential structure is constructed on a lot or lots under common ownership, such as single-family attached units (townhouses) within a mixed-use special district (see Article 9) or a conservation development (see Article 11), or multifamily dwellings as permitted in the R-3 zone, the following internal dimensional regulations shall apply:

- (a) For structures containing two dwelling units (townhouse or duplex), the minimum distance between two principal buildings shall be 30 feet, except where buildings are separated by opposing walls without windows or attached garage walls, in which case the minimum separation may be 20 feet.
- (b) For structures containing more than two dwelling units (townhouse units or an apartment building), the minimum distance between two principal buildings shall be 45 feet, except where buildings are separated by opposing walls without windows or attached garage walls, in which case the minimum separation may be 35 feet.
- (c) The minimum distance between accessory structures and any other accessory or principal structure shall be 12 feet.

§ 5-6. Dimensional requirements for conservation developments

[Ord. No. 08-31, 10-7-2009]

For a proposed conservation development submitted under the provisions of Article 11 of this appendix and reviewed under the provisions of the land development and subdivision regulations, alternative lot dimensional requirements shall apply; see §§ 11-5 and 11-6.

§ 5-7. Height modifications

[Ord. No. 08-31, 10-7-2009]

- (a) Roof structures permitted above maximum height.
 - (1) The following ornamental accessory roof structures are permitted above the maximum height as specified in this appendix, provided that the total area of all such appurtenances is not more than 1/3 of the total roof area of the building:
 - * a. Fire or parapet walls;
 - * b. Skylights;
 - * c. Towers;
 - * d. Steeples; and
 - * e. Roof-mounted flag poles.
 - (2) The following roof structures are permitted above the maximum height as specified in this appendix, provided that the total area of all such appurtenances is not more than 1/3 of the total roof area of the building, and provided that such features shall be set back from the edge of the roof a minimum distance of one foot for every two feet by which they extend above the roof:
 - * a. Structures for the housing of elevators and elevator shafts;
 - * b. Stairways;
 - * c. Heating and air conditioning equipment;
 - * d. Ventilating fans;
 - * e. Solar collectors;
 - * f. Storage tanks for water;
 - * g. Television, radio or satellite dish antennae or masts;
 - * h. Chimneys or roof-mounted smokestacks; and
 - * i. Similar equipment required to operate and maintain a building.
 - (3) No such roof structure as set forth in this subsection shall exceed the maximum height for the zone in which it is located, except by the amounts allowed herein:
 - * a. Buildings from one to six stories: 10 feet.
 - * b. Buildings exceeding six stories: 10 feet plus one foot per story above the 6th story to a maximum total of 20 feet.
- (b) Height restrictions for freestanding structures.
 - (1) Freestanding flagpoles shall not exceed the following:

- * a. A and R zones — The height of any existing permitted principal building on a lot.
- * b. C and I zones — A height of 10 feet over any existing principal building on a lot.
- (2) Freestanding smokestacks shall not exceed the following:
 - * a. Vacant lots — Freestanding smokestacks shall not be permitted.
 - * b. A and R zones — Freestanding smokestacks shall not be permitted.
 - * c. C zones — Freestanding smokestacks shall not exceed a height of 40 feet over any permitted principal building on the lot.
 - * d. I zones — Freestanding smokestacks shall not exceed a height of 100 feet over any permitted principal building on the lot.
- (c) Height restrictions for silos. Silos used for agricultural purposes, whether attached or freestanding, shall not exceed 75 feet in height.
- (d) Communication towers exempt. Communication towers are exempt from the height restrictions of this article, but shall be subject to the provisions of § 6-13.

§ 5-8. Land unsuitable for development

[Ord. No. 08-31, 10-7-2009]

When determining lot coverage, or when calculating the number of residential building lots or dwelling units permitted on any parcel, or the allowable maximum number of dwelling units for a conservation development (see Article 11), land unsuitable for development shall not be included in the total parcel area from which the calculations are based.

Land unsuitable for development is land which has severe or very severe limitations for development. The following regulations shall apply:

- (a) Developments serviced by sewers. In areas serviced by sewers, land included in all of the following categories shall be considered unsuitable for development:
 - (1) Fresh water wetlands, exclusive of areas of perimeter wetland within 50 feet of the edge of any bog, marsh, swamp, or pond, or any applicable one-hundred-foot or two-hundred-foot riverbank wetlands, as defined by G.L. § 2-1-20, as amended;
 - (2) Areas within a one-hundred-year flood zone, as defined by the Federal Emergency Management Agency (FEMA);
 - (3) Land within the right-of-way of any existing or proposed public or private street;
 - (4) Land within any publicly or privately held easement on which aboveground utilities, including, but not limited to, electrical transmission lines, are constructed;
 - (5) Areas with slopes in excess of 15% that are within the limit of disturbance of the development; and
 - (6) Cemeteries.
- (b) Developments not serviced by sewers. In areas not serviced by public sewers, land included in all of the following categories shall be considered unsuitable for development:
 - (1) Fresh water wetlands, including areas of perimeter wetland within 50 feet of the edge of any bog, marsh, swamp, or pond, and any applicable one-hundred-foot or two-hundred-foot riverbank wetlands, as defined by G.L. § 2-1-20, as amended;
 - (2) Areas within a one-hundred-year flood zone, as defined by the Federal Emergency Management Agency (FEMA);
 - (3) Land within the right-of-way of any existing or proposed public or private street;
 - (4) Land within any publicly or privately held easement on which aboveground utilities, including, but not limited to, electrical transmission lines, are constructed;
 - (5) Areas with slopes in excess of 15% that are within the limit of disturbance of the development; and
 - (6) Cemeteries.
- (c) Substandard lots of record exempt. Lots of record which are substandard by area, are exempt from the provisions of this section when calculating allowable maximum lot coverage.

§ 6. Supplementary Regulations

§ 6-1. Purpose

[Ord. No. 08-31, 10-7-2009]

The purpose of supplementary regulations is to set specific conditions and dimensional criteria for various uses or areas, where the general regulations are not applicable and to set specific standards for the granting of special use permits.

§ 6-2. Number of buildings on a lot

[Ord. No. 08-31, 10-7-2009; amended 2-5-2025 by Ord. No. 24-26A]

Every building hereafter erected, and every use of land hereafter initiated, shall be located on a lot as herein defined in this appendix. There shall not be more than one main residential building and up to two accessory buildings on one lot, except in A and I zones where there may be more than two accessory buildings on a lot. Except as otherwise allowed in this appendix as part of a multifamily development, there shall not be more than one main or principal residential building on a single lot used for residential purposes, and there shall not be more than two accessory buildings, except in the A zones, where there may be more than two accessory buildings per lot. There shall be no limit on the number of buildings on a single lot used for commercial or industrial purposes, provided that the lot coverage and other dimensional requirements are met.

Notwithstanding the above paragraph, a Special Use Permit may be granted under Unified Development Review when the application meets the specific and objective criteria contained in § 18-3(w), which allows the subdivision of a single parcel of land containing multiple dwellings which are pre-existing and legally non-conforming so that each dwelling shall be contained on a single lot.

§ 6-3. Yard requirements

[Ord. No. 08-31, 10-7-2009]

- (a) Apply to only one building. No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with the provisions of this appendix shall be considered as providing a yard or open space for any other building, nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected.
- (b) Front yard requirements.
 - (1) Through lots. For all zones, at each end of a through lot there shall be a front yard of the depth required by this appendix for the zone in which each street frontage is located, as shown in the illustration:

[Figure: CU3602-B Through Lots.tif.png]

- (2) Corner lots. All yards fronting on intersecting streets shall meet the required front yard setbacks, as shown in the illustration:

[Figure: CU3602-B Corner Lots.tif.png]

- (c) Side yard requirements. For the purpose of side yard regulations, any dwellings which occupy a single lot but have a common party wall, shall be considered as one building.
- (d) Projections into yards.
 - (1) Fire escape. A fire escape may extend or project into any required side or rear yard not more than four feet.

- (2) Open stairway, balcony or porch. An open, unenclosed stairway, balcony, porch, deck, platform or landing place, which, except for the roof, does not extend above the level of the first floor of the building may extend or project into any required front yard not more than six feet, and into any required side or rear yard six feet, but in no case closer than four feet to the side or rear lot line.
- (3) Handicapped access ramps. Handicapped access ramps may be located in any required front, side or rear yard.

§ 6-4. Corner setback

[Ord. No. 08-31, 10-7-2009]

In any triangle formed by the street lines intersecting at an angle of 100° or less, there shall be a corner setback of and a third line joining points on the street lines 15 feet from the point of intersection, wherein no building or structures may be erected, no parking areas may be created and no vegetation or fencing may be maintained above the height of 3 1/2 feet above the plane of the curb grades. Notwithstanding the provisions of this section, poles not exceeding eight inches in outside diameter designed for the support of lights and signs may be erected in this triangle.

§ 6-5. Accessory uses in A and R Zones

[Ord. No. 08-31, 10-7-2009; Ord. No. 12-15-A, § 1, 8-15-2012; amended 12-3-2025 by Ord. No. 25-21]

- (a) No accessory use, other than required off-street parking and an attached private garage, shall be located on any lot having an area of less than 6,000 square feet.
- (b) Accessory uses or any combination of such uses may be included in an accessory building of one or two stories, and no more than 20 feet in height, except for a barn used for agricultural purposes, which may be 45 feet in height.
- (c) No accessory building shall be larger than 936 square feet or 60% of the principal structure, whichever is less. Accessory agricultural buildings, except farm retail sales buildings, in agricultural zones are exempt from this provision.
- (d) No accessory building or structure shall be permitted between the front of a main structure and the street, other than a barn used for agricultural purposes, which nevertheless shall not intrude on the required front yard.
- (e) Within any A or R zone, where an existing principal structure on an adjacent or contiguous lot is less than 20 feet from any lot line, a principal or accessory structure shall not be located less than 10 feet from such existing principal structure on an adjacent or contiguous lot if the proposed structure is one story, or shall not be located less than 20 feet from such existing principal structure on an adjacent or contiguous lot if the proposed structure is two stories.
- (f) Where any side or rear yard abuts upon a public right-of-way, a garage accessible from the street shall not be erected within 18 feet of such public right-of-way.
- (g) A detached garage or shed shall maintain all required setbacks except as otherwise permitted below.

A detached garage or shed may be located within the required rear yard or side yard setback, but not less than six feet from any rear or side lot line, provided such structure is no more than 14 feet in height and no greater than 120 square feet in floor area. Provided, however, that the Building Official may grant a variance to permit the roof pitch to match the principal structure, after the immediate abutting property owners have been advised in writing by certified mail, return receipt requested, cost of same borne by the applicant, and have not objected within 10 calendar days after receipt of such notice.

- (h) The Building Official, may at his/her discretion, approve the location of a shed, not-to-exceed 120 square feet of gross floor space to be placed within the required side yard provided that such shed

cannot be placed in compliance with these regulations due to dimensional or topographical conditions peculiar to the site, after the immediate abutting property owners have been advised in writing by certified mail, return receipt requested, cost of same borne by the applicant, and have not objected within 10 calendar days after receipt of such notice. Such permission shall be in writing and shall state the reasons therefore, and be signed by the Building Official.

- (i) A swimming pool may be located within the required rear yard, but not less than six feet from any rear or side lot line.
- (j) A private garage or shed may be used to store vehicles, boats, recreational vehicles or similar equipment owned by the occupant. Storage or parking of tractor-trailers is prohibited in A and R zones, except where such tractor-trailers are exclusively used for agricultural purposes in connection with such lot. Storage or parking of dump trucks, heavy construction equipment, with or without transporting vehicles, and box trucks with cargo sections 12 feet or more in length are prohibited in R zones, except on a transitory basis where such vehicles are used in conjunction with work performed on the premises.
- (k) No recreational vehicle shall be used for residential occupancy, except in cases where the residential structure has been destroyed by fire or other act of nature, and, in such case, for no more than one year or until the residential structure is rebuilt, whichever comes first. No recreational vehicle shall be stored for a period in excess of one year unless it is registered and inspected under state law and is in a condition for safe and effective performance of the function for which it is intended.

§ 6-6. Accessory living units

[Ord. No. 08-31, 10-7-2009; amended 4-7-2021 by Ord. No. 21-01A]

- (a) One ADU per lot is permitted by right under the following circumstances:
 - (1) On an owner-occupied property as a reasonable accommodation for family members with disabilities; or
 - (2) On a lot with a total lot area of 20,000 square feet or more for which the primary use is residential; or
 - (3) Where the proposed ADU is located within the existing footprint of the primary structure or existing accessory attached or detached structure and does not expand the footprint of the structure.
- (b) An ADU shall be on the same lot where the principal use is a single-family or multifamily dwelling unit;
- (c) The ADU shall provide complete independent living facilities for one or more persons;
- (d) The ADU may include up to two bedrooms;
- (e) The minimum number of off-street parking spaces required for an ADU is one per bedroom;
- (f) The ADU shall comply with all state agency regulations and building code requirements;
- (g) The size of the ADU may be no more than 60% of the floor area of the principal dwelling or 900 square feet of floor area for a studio or one-bedroom ADU and 1,200 square feet of floor area for a two-bedroom ADU, whichever is less;
- (h) The ADU shall meet all the dimensional requirements of Article 5 of this appendix;
- (i) Zoning relief shall not be required for ADU applications proposed within an existing footprint of the primary or accessory structure which is a legal nonconforming structure in order to address the existing dimensional nonconformity, however, a proposed ADU shall not be prohibited for failure to meet existing dimensional nonconformities in a legally nonconforming structure;
- (j) The ADU shall not be offered or rented for tourist or transient use or through a hosting platform, as such term is defined in R.I.G.L. § 42-63.1-2.

§ 6-7. Home occupations

[Ord. No. 08-31, 10-7-2009]

Home occupations may include, but are not necessarily limited to: professional office, such as that for an accountant, attorney, engineer or other such person licensed by law or certified by a recognized professional society; artist work studio; individual instruction or tutoring; tailoring; telephone sales work; personal service (not including hair salon) or similar activity in which goods, wares or merchandise are not commercially sold at retail. In addition, home occupations:

- (a) Shall be operated entirely within a principal dwelling unit or accessory building;
- (b) Shall be operated only by the person or persons residing within the dwelling unit, with not more than one employee or regular assistant not residing in the dwelling unit; and
- (c) Shall utilize not more than 20% of the GFA in the dwelling unit or not more than 300 square feet whichever is less;
- (d) Shall have no exterior evidence of the activity such as artificial lighting, advertisements, displays or the exterior storage of materials; and
- (e) Shall not create a nuisance to neighboring dwellings or result in a substantial increase in traffic.

§ 6-8. Animals in residential zones

[Ord. No. 08-31, 10-7-2009]

Within the R-1 and R-2 zones, animals for personal use are allowed as follows:

- (a) For each 25,000 square feet of land one horse may be kept provided that it is stabled.
- (b) A maximum of five birds, fowl or other animals may be kept for each single-family dwelling unit provided that no roosters shall be kept, and provided that such allowable livestock are housed and that any building and/or enclosures which house such livestock be located no less than 25 feet from the property line. Properties containing more than one residential unit do not qualify under this provision.

§ 6-9. Buffer requirements when C or I Zones abut A, OS or R Zones

[Ord. No. 08-31, 10-7-2009; amended 9-3-2025 by Ord. No. 25-18; 4-15-2026 by Ord. No. 26-03]

- (a) Commercial zone buffers. Any building, structure or use on a lot in a C or I zone that abuts an A, OS or R use or zone shall have a buffer extending from the property line of the abutting A, OS or R use or zone according to the following schedule. The buffer shall provide a year-round opaque screen of not less than six feet in height to minimize adverse impacts and to limit views and sounds. The buffer shall be a mixture of ground cover, understory vegetation and canopy trees, evergreens, berms, walls and/or fences to adequately screen the commercial building or use. The required width of the buffer on the lot in the C zone shall be as follows:

	R-2 and R-3	R-1, A-1 and A-2
C-1	20 feet	40 feet
C-2	40 feet	50 feet

- (b) Industrial zone buffers. Any building or structure on a lot in an I zone that abuts an A, OS or R use or zone shall have a buffer area of 75 feet from the property line of the abutting A, OS or R use or zones, and any outdoor operation, such as mining or quarry operation, shall have a buffer area of 150 feet from the property line of the abutting A, OS or R zones. The buffer shall consist of natural or planted vegetation and be enhanced with solid board fencing where required to adequately screen the industrial building or use.

§ 6-10. Screening and fencing

[Ord. No. 08-31, 10-7-2009]

- (a) Screening of trash containers. All commercial and industrial uses, and residential uses of four households or more, shall provide trash and/or garbage collection areas enclosed on at least three sides

by a solid wall, opaque fence or compact planting screen of at least five feet in height, if such area is not within an enclosed building or structure. In order to provide adequate vehicular access to and from dumpsters, there shall be a minimum clearance of nine feet between any such dumpster and any principal structure.

- (b) Screening of on ground utilities. Utility structures, substations, telephone exchange substations, dish antennae and similar uses shall be enclosed on at least three sides by a vegetative screen of hardy evergreens or shrubs at least three feet high at time of planting and which shall be sufficient to effectively provide a visual screen from adjacent A and R zones.
- (c) Fences. In A and R zones, fences shall not exceed four feet in height in any front yard nor shall they exceed six feet in height for other yards.

§ 6-11. Outdoor display of merchandise (other than vehicles and boats)

[Ord. No. 08-31, 10-7-2009]

Except in A and R zones, outdoor display of merchandise (other than vehicles and boats) is permitted up to 10% of the gross floor area of a commercial establishment. Such outdoor display shall be located on the same lot as the main use or may be located on the adjoining municipal sidewalk only with the appropriate municipal permits and/or licenses. No additional parking shall be required for such additional area, provided existing parking is not reduced. The goods displayed shall be removed at the end of each business day. Outdoor display of vehicles and boats shall be permitted where the underlying use is permitted, provided that all other dimensional requirements of this appendix are met.

Editor's Note: Former § 6-11, Requirements for automobile service stations, adopted by Ord. No. 08-31, 10-7-2009, was repealed 12-6-2023 by Ord. No. 23-26. See now § 18-3(d), Requirements for specific categories of special use.

§ 6-12. Stormwater basins

[Added 12-16-2021 by Ord. No. 21-29-A; amended 4-15-2026 by Ord. No. 26-03]

A stormwater basin shall mean any man-made aboveground area, which is typically constructed of earth, to temporarily collect and store stormwater for purposes of temporary detention and/or retention so as to control peak surface run-off and allow for the gradual absorption or release of the stored water at controlled rates. Stormwater basins are often referred to as detention or retention ponds for this reason.

- (a) Scope. When a landowner or developer has demonstrated to the Town that property cannot be developed without an aboveground stormwater basin, the basin shall be subject to the provisions of this section.
- (b) Purpose. This section is established to:
 - (1) Provide for the health, safety and welfare of the public.
 - (2) Avoid or lessen the hazards created by the construction of stormwater basins.
 - (3) Allow for the use of land which requires the creation of stormwater basins and protect the interests of neighboring landowners.
- (c) Applicability. This section shall apply to all land in the Town.
- (d) Penalty. Any person who shall violate any of the provisions of this section or fail to comply with this section or with any of the requirements of this section or who shall build or alter any stormwater basin in violation of any detailed statement or plan submitted and approved under this section, upon conviction thereof, shall be punished in accordance with § 17-5.
- (e) Specifications.
 - (1) All designs of stormwater basins shall be approved by the Department of Public Works.
 - (2) All stormwater basins shall be designed to control a 100-year storm or a different storm frequency as otherwise approved in accordance with the drainage standards of the Land Development and Subdivision Regulations.
 - (3) All stormwater basins shall not exceed a maximum wet depth of 42 inches.

- (4) Each stormwater basin shall be designed to limit unauthorized access but allow for maintenance as prescribed in the drainage standards of the Land Development and Subdivision Regulations.
 - (5) All stormwater basins shall have a 25-foot buffer area between existing property lines and the edge of the stormwater basin, which may not include buildings or structures, but may include vegetation as may be approved by the Planning Board or Director, as the case may be.
 - (6) Upon Town approval of a stormwater basin, the owners of property or, in the case of a subdivision that includes a homeowners' association, where a stormwater basin is to be constructed shall place on file with the deed to the property a copy of the stormwater basin operation and maintenance plan. The operation and maintenance plan shall address periodic inspections which are required every three years for private basins and annually for public basins along with sediment removal, vegetation maintenance, mowing requirements, and any other information required by the Planning Board or Director, as the case may be. This filing shall take place prior to the construction of the stormwater basin and prior to the transfer of title to this property.
 - (7) The design and installation of all stormwater basins shall comply with the latest version of RIDEM's Rhode Island Stormwater Design and Installation Standards Manual.
- (f) Liability.
 - (1) The legal liability for and maintenance of a stormwater basin shall be the sole responsibility of the landowner or homeowners' association.
 - (2) The landowner or homeowners' association shall have an inspection of the stormwater basin performed by a professional engineer every three years to ensure maintenance and proper function of the stormwater basin. Records of inspections shall be kept on file with the landowner with a copy provided to the department of public works.
 - (3) Stormwater basins not properly maintained shall be subject to corrective action by the Town. Failure to respond to Town inspection requests or a determination that a stormwater basin is not being properly maintained shall be subject to issuance of a notice of violation. Failure to comply within 45 days will result in the Town of Cumberland taking corrective action, the costs of which shall be imposed as a lien on the property or properties of individual owners or within the homeowners' association.
- (g) Obligation to disclose.
 - (1) The developer, subdivider, or owner of property within the Town who shall develop or subdivide property within the Town in such a manner so as to qualify under the provisions of this article and who shall transfer, lease, or otherwise convey any portion of such property upon which is constructed a stormwater basin to any person, partnership, corporation, holding company or other personal or business entity, shall be obliged to inform such person, partnership, corporation, holding company or other personal or business entity to which such property is transfer of the existence thereupon of a stormwater basin governed by the provisions of this article and the obligations and liabilities hereinunder. Similarly, any subsequent owner of the property has the same obligation to disclose under the provisions of this article to any subsequent grantee.
 - (2) Compliance with such obligation to inform shall be in the form of a written description of the legal status of the stormwater basin by assessor's plat and lot; the obligations which are being assumed by the purchaser or grantee thereof, especially § 6-16(f), liability, hereof; and shall contain the witnessed or notarized signatures of the grantor and the grantee.
 - (3) A copy of such document shall be conveyed to the Director of Public Works of the Town of Cumberland, Rhode Island by the grantor. The Director of Public Works shall file a copy of such document in the Land Evidence Records of the Town of Cumberland, Rhode Island, which filing shall constitute a lien against the property for title examination purposes.
 - (4) Failure to comply with this provision shall be punishable by a fine of up to \$100 per day for each consecutive individual day beyond the date of the transfer of a property containing a stormwater basin subject to this section, or, such other subsequent penalty, which may be imposed by the municipal court of the Town of Cumberland, Rhode Island.
- (h) Waiver or modification.
 - (1) The Town Planning Board is hereby empowered and authorized to grant a waiver or modification from the strict application of the provisions of only §§ 6-16(e)(4), (5), and (6) in accordance with the regulations.

- (2) Such waiver or modification shall only be considered at a public hearing called for such purpose. Such hearing may be included in the routine agenda of the Planning Board, however such hearing shall be separately listed on the Planning Board agenda and considered as a matter separate from any land development or subdivision hearing for the subject property, which may also be on the Planning Board agenda.
- (3) Notice of any hearing which takes place pursuant to this section shall be given by the Planning Board to the owners of real property within 200 feet of the lot on which the proposed stormwater basin shall be located. Should the proposed stormwater basin be a part of a land development project or subdivision being considered by the Planning Board the notice area shall be 200 feet of the perimeter of the entire parcel under consideration.
- (4) Notice shall be by first class mail, return receipt requested, at least 10 days in advance of the hearing, and shall contain the date, time and place of the public hearing, the name of the property owner or developer, the assessor's plat and lot and a brief description of the matter under consideration. Should the request for waiver or modification involve a land development project or subdivision also being considered by the Planning Board at such meetings, the notices may be included in the same mailing; provided, however, that separate notice shall be required in written form.
- (5) Copies of the notice of such hearing shall be delivered to the director of public works of the Town of Cumberland, Rhode Island, as well as any other municipal, state or federal official or agency deemed appropriate by the administrative officer. Such notice shall solicit written comments. All final written comments to the Planning Board from the administrative officer, the Director of Public Works, municipal departments, state and federal officials or agencies shall be a part of the permanent record of the application for relief, as well as the development application, if any.
- (6) The determination of the Planning Board shall be by the majority of the full membership of the Board. All records of the Board, together with the rational thereof shall be written and kept as a part of the permanent record of the Planning Board and shall be for available public review.

Editor's Note: Former § 6-12, Outside storage of vehicles, adopted by Ord. No. 08-31, 10-7-2009, was repealed 12-6-2023 by Ord. No. 23-26.

§ 6-13. (Reserved)

Editor's Note: Former § 6-13, Outdoor display of merchandise (other than vehicles and boats), was renumbered to § 6-11 on 12-6-2023 by Ord. No. 23-26.

§ 6-14. (Reserved)

Editor's Note: Former § 6-14, Communication towers, adopted by Ord. No. 08-31, 10-7-2009, was repealed 12-6-2023 by Ord. No. 23-26. See now § 18-3(g), Requirements for specific categories of special use.

§ 6-15. (Reserved)

Editor's Note: Former § 6-15, Pre-schools and day care facilities centers (excluding family day care), adopted by Ord. No. 08-31, 10-7-2009, was repealed 12-6-2023 by Ord. No. 23-26. See now § 18-3(s) and (i), Requirements for specific categories of special use.

§ 6-16. (Reserved)

Editor's Note: Former § 6-16, Stormwater basins, was renumbered to § 6-12 12-6-2023 by Ord. No. 23-26.

§ 7. Agricultural Operations

§ 7-1. Purpose

[Ord. No. 08-31, 10-7-2009]

The purpose of this appendix article is to encourage farming and agricultural operations within the Town of Cumberland Rhode Island by permitting, in addition to the principal agricultural activities conducted upon such site, retail sales of certain farm and farm-related products.

§ 7-2. Definitions

[Ord. No. 08-31, 10-7-2009]

Whenever used in this article, the following terms shall have the following meanings, unless an alternate meaning is obviously intended:

AGRICULTURAL OPERATIONS — Any commercial enterprise which has as its primary purpose horticulture, viticulture, viniculture, floriculture, forestry, dairy farming, or aquaculture, or the raising of livestock, fur bearing animals, poultry or bees, or as such definition may be amended from time to time in Chapter 23 § 4 of the General Laws of the State of Rhode Island entitled "The Rhode Island Right to Farm Act."

FARM — Agricultural land of at least five acres, together with principal and accessory buildings and structures upon which agricultural operations are conducted and/or land previously utilized for such purposes before the enactment of this appendix upon which a legal pre-existing nonconforming use was operated.

FARMER — For the purposes of this article, a farmer is an individual, partnership, corporation or other recognized legal entity which operates a farm and has filed a U.S. Internal Revenue Form 1040 (Schedule F) with the Internal Revenue Service, and/or has a State of Rhode Island farm tax number.

FARM STAND — A rustic freestanding structure or vehicle located upon a farm, not exceeding 200 square feet in total floor area, the principal use of which is the sale of farm products at retail to the general public. Farm stands may be structures or motor vehicles, wagons or trailers, and are permitted only upon the premises of a farm owned or leased by the licensee thereof.

FARM PRODUCTS — All agricultural, horticultural, vegetable, fruit, or other products of the soil, livestock products, poultry, eggs, dairy products, nuts, mushrooms, honey and beeswax; provided however that this definition does not include finished forest products, such as lumber or building materials.

FARM RELATED PRODUCTS — Products, other than farm products as defined above, which are capable of being built, constructed, crafted or manufactured on a farm by a farmer and/or his/her family members such as craft arts, books, clothing or quilts. This definition also includes lawn and garden supplies such as potting soil, peat moss or other soil amendments, seeds, pots, planters and the like. This definition specifically excludes products other than those described above, and which, by their very nature must be manufactured in a commercial or industrial location, including, but not limited to, automotive products, farm machinery, lawn mowers, chain saws, fabricated metal products, tools or hardware.

FARM RETAIL SALES BUILDING — A building located upon a farm, not exceeding 1,000 square feet (by right) or 1,600 square feet (by special use permit) per farm, the principal use of which is the sale of farm or farm-related products at retail to the general public. Farm retail sales buildings are permitted only upon the premises of a farm owned or leased by the licensee thereof.

VEGETATIVE PRODUCTS — As used in this article, the term vegetative products shall mean any farm product of horticultural origin, including, but not necessarily limited to fruit, vegetables, live trees, Christmas trees, shrubs, firewood, sod, hay and flowers, but excluding products of animal origin such as livestock, poultry, eggs, milk, cheese, honey, seafood, bees, or the like. Also excluded from this definition are forest products including lumber, logs or similar building materials.

§ 7-3. Farm retail sales activities

[Ord. No. 08-31, 10-7-2009]

- (a) Retail by right. Upon any farm, which is permitted by the character of the agricultural zone in which it is located, or which is a legally pre-existing nonconforming use, the retail sales activities listed herein below are permitted by right as well as educational, recreational and cultural services reasonably related thereto. These activities shall be permitted in addition to the retail sales of farm products normally associated with the operation of a farm, and raised or produced on the premises, which are presently currently permitted by this appendix.
 - (1) Sales of vegetative products, defined above, not raised on the premises.
 - (2) Sales of compost or manure produced on the premises only.
 - (3) Sales of mulch composed of vegetative origin, such as bark mulch. No more than 150 cubic yards of mulch not produced on the property itself may be stockpiled on the premises at any one time. Sale of mulch composed of earth products such as stone, sand or loam shall be prohibited.
 - (4) Retail sales of farm-related products defined in the ordinance above.

Retail sales of products on a farm as permitted by this appendix may take place (1) outdoors anywhere upon the lot constituting the premises of the farm, (2) within a farm retail sales building located on the premises of the farm, or (3) at a farm stand.

- (b) Sale of vegetative products not raised grown on the farm premises. Upon any farm as herein defined, the sale of vegetative farm products, as defined above, not raised grown on the premises shall be permitted in addition to sale of any farm products raised or produced upon the farm premises itself. The purpose of this provision is to permit vegetative farm products grown or produced or raised off premises to be sold upon any farm anywhere in the Town. Sale of such imported vegetative products, if conducted out of doors, shall not be limited in terms of area, location or extent. Such products may also be sold within a farm retail sales building or farm stand, as defined herein above.
- (c) Farm sales license required. All farm retail sales activities shall be required to obtain all necessary permits and licenses required by the regulations of the Town of Cumberland and the State of Rhode Island, which are appropriate. It shall be the responsibility of the operator of the farm retail sales building or farm stand to obtain such licenses through consultation with the Town Clerk.

No more than one license or series of licenses which constitute the requirements under law shall be issued annually for retail sales activities upon any single farm as defined herein; provided, however, that an individual farmer may be issued any number of annual permits for each separate farm he/she owns or leases.

§ 7-4. Farm retail sales buildings

[Ord. No. 08-31, 10-7-2009]

- (a) Area by right. A "farm retail sales building" is defined as a single building or group of buildings located upon a farm, the principle use of which is the sale of farm or farm-related products at retail to the general public.

Retail sales may be conducted by a farmer upon a farm (1) within a principle dwelling; (2) within a barn, garage, storage shed or similar accessory farm building; or (3) within a single building devoted solely to retail sales provided that the total cumulative floor area of any and all such building(s) does not exceed 1,000 square feet per farm by right. A barn, garage, or a greenhouse shall not be considered to be a farm retail sales building if no retail sales are conducted anywhere within the building and if such building is not open to the general public.

Within any such farm retail sales building, storage areas not open to the public shall not be counted toward the 1,000 square foot maximum floor area allowed per farm, provided that all such areas shall

be clearly identified and marked as such, and shall not be open to the general public at any time whatsoever. If any portion of a farm retail sales building shall be open to the general public, including, but not limited to, storage, growing or greenhouse areas, it shall be counted toward the 1,000 square foot maximum area.

- (b) Area by special use permit. Whenever the owner of a farm as defined herein can demonstrate to the satisfaction of the Zoning Board of Review that an additional amount of square footage may be added to the maximum allowed square footage area of a farm retail sales building without being detrimental to the public health, safety and welfare, the Zoning Board of Review board may grant an additional amount of square footage to a farm retail sales building not to exceed 1,000 square feet for up to a total maximum square footage of 1,600 square feet. Such allowance shall be in the form of a special use permit as provided for in Article 18.

In the granting of a special use permit for such additional square footage, the Zoning Board of Review shall judge the application by the provisions of § 18-3 and may impose any conditions it deems necessary and reasonable under the provision of § 18-6. Under no circumstance may the Zoning Board of Review board grant relief under this provision beyond the maximum square footage of 1,600 square feet as stated herein.

- (c) Design review standards. All building plans involving farm retail sales activities, whether in whole or in part, shall be reviewed by the Planning Board, in accordance with the provisions of Article 12, with a view to maintaining the rural characteristics of the specific area, and the community in general, prior to the issuance of any building permit by the Building Official.

§ 7-5. Permitted indoor uses improvements sales

[Ord. No. 08-31, 10-7-2009]

In addition to the sales listed in subsections 7-3(b) and 7-3(c) above, the following types of retail sales of food and farm-related products are permitted within a farm retail sales building, as indoor sales only:

- (a) Sale of food. Sale of food or food products within a farm retail sales building is permitted as follows:
 - (1) Prepared food items such as baked goods, canned goods, preserves, herbs and the like may be sold, provided all food preparation and cooking is conducted upon the farm within a kitchen licensed by the state and the Town, as may be appropriate.
 - (2) Fresh and frozen meats prepared or smoked, poultry or other perishable foods raised or produced on the farm may be sold, but the sale of freshly cooked meats or poultry is specifically prohibited. A slaughterhouse, as a principle use, is specifically prohibited under the provisions of this appendix.
 - (3) All foods shall be prepared and packaged upon the farm premises.
 - (4) No food sold to the public shall be consumed by the public on the premises.
- (b) Sale of farm-related products. All such products as defined in this appendix article may be sold indoors only within a farm retail sales building provided that the floor area devoted to such sales does not exceed 25% of the total area of the farm retail sales building(s).

§ 7-6. Farm stands

[Ord. No. 08-31, 10-7-2009]

A farm stand is a rustic, freestanding structure or vehicle used only for the seasonal sale of farm products as permitted by this appendix. Farm stands may be structures or may be motor vehicles, wagons or trailers.

Farm stand structures, other than motor vehicles, shall not exceed 200 square feet in total floor area and be no greater than 12 feet in height.

There shall be no space available to patrons inside the farm stand. Farm stands may provide, however, a front counter security shutter that lifts to form a canopy roof when open for business, to shield patrons

from the weather. Yard setbacks shall be regulated by the appropriate dimensional regulations for accessory structures as provided for in this appendix.

The floor area devoted to a farm stand shall not be considered to be in addition to any floor area permitted for a farm retail sales building as provided in § 7-4 above, but shall reduce such allowance accordingly.

No electrical service shall be provided to any farm stand structure. Motorized vehicles may be provided with batteries as required for normal operation of a motor vehicle, but such electric service shall not be used for signs, outdoor lighting or refrigeration.

Farm stands and farm retail sales buildings are permitted only upon the premises of a farm owned or leased by the licensee thereof.

§ 7-7. Signs

[Ord. No. 08-31, 10-7-2009]

Only one freestanding or wall-mounted sign shall be permitted for any farm retail sales building and/or farm stand per farm in any zoning district to identify a farm retail sales building and/or a farm stand. The maximum area of each sign shall be 12 square feet, notwithstanding other provisions of the zoning ordinance.

§ 7-8. Off-street parking and loading

[Ord. No. 08-31, 10-7-2009]

Off-street parking for farm retail sales buildings and farm stands shall be one space per 100 square feet of floor area devoted to retail sales, with a minimum of five spaces provided. All such parking areas shall be set back from the property line at least 10 feet and shall be physically restricted or channeled on the lot to define a readily recognizable driveway between the roadway and the parking to accommodate safe ingress and egress. There shall be no parking along the public right-of-way. Parking areas for farm retail sales buildings and farm stands shall not be paved, but shall be constructed of a natural material.

Adequate off-street loading areas shall be provided for retail sales in accordance with § 14-4 of this appendix. Said requirement may vary depending on the type of vehicles unloading at the site. No vehicle loading or unloading shall be permitted in a public right-of-way.

§ 8. Historic District Zoning

§ 8-1. Purposes and description

[Ord. No. 08-31, 10-7-2009]

Historic districts are overlay zoning districts which cover designated districts or structures within the Town of Cumberland. The purposes of historic districts are to:

- (a) Safeguard the heritage of the Town by preserving designated districts and structures of historic or architectural value which reflect elements of Cumberland's cultural, social, economic, political, and architectural history;
- (b) Stabilize and improve property values in such districts or designated structures;
- (c) Maintain and foster civic beauty;
- (d) Strengthen the economy; and
- (e) Promote the use of designated districts and structures for the education, pleasure and welfare of the citizens.

An historic district may include properties which are associated with broad patterns, events, and/or people significant in local history.

§ 8-2. Historic districts

[Ord. No. 08-31, 10-7-2009]

These overlay zoning districts are designated in accordance with Title 45, Chapter 24.1 of the General Laws of Rhode Island, as amended, which declares the preservation of structures of historic or architectural value to be a public purpose and authorizes the creation of the historic district commission (HDC) for that purpose in the Town of Cumberland. The regulations set forth in this article are intended to safeguard the heritage of the Town of Cumberland by establishing the following overlay districts:

- (a) Ashton Historic Overlay District.
- (b) Tower Hill Road Historic Overlay District.
- (c) Old West Wrentham Road Historic Overlay District.
- (d) Lonsdale Historic Overlay District.
- (e) Upper Scott Road Historic Overlay District.
- (f) Diamond Hill Road Historic Overlay District.
- (g) Town Hall Historic Overlay District.
- (h) Landmark Buildings Historic District.

[Added 5-20-2020 by Ord. No. 20-10-A]

- (i) Arnold Mills Historic District.

[Added 7-19-2023 by Ord. No. 23-13]

§ 8-3. Historic District Commission — Membership

[Ord. No. 08-31, 10-7-2009]

The historic district commission, hereinafter known as the HDC, shall administer the historic district and perform such duties as to promote historic preservation in Cumberland.

- (a) Qualifications. Members of the HDC shall have demonstrated a general interest in historic preservation, and may be drawn from, but not be limited to the following professions and disciplines: American history, architectural history, landscape design, architecture, archeology, preservation, law, real estate, planning or historic building contracting.
- (b) Term. The HDC shall consist of seven qualified members who shall reside in the Town. The members shall be appointed by the Town Council to serve for terms ending as follows:
 - (1) Two members shall serve an initial term of one year from the date of their first appointment.
 - (2) Two members shall serve an initial term of two years from the date of their first appointment.
 - (3) Three members shall serve a term of three years from the date of his/her first appointment.

Thereafter all members shall serve for terms of three years in accordance with state law and shall be eligible for reappoint

- (c) Auxiliary member. The Town Council shall have the right to name an auxiliary member to the HDC in addition to the regular members, which auxiliary member shall sit as an active member, upon the request of the chair when and if a regular member is unable to serve at any meeting of the HDC.
- (d) Vacancy. In the event of a vacancy on the HDC, the Town Council shall make an interim appointment to fill the unexpired term(s) of such member(s). Vacancies shall be filled within 90 days.
- (e) Organization. The HDC shall organize annually and elect its officers, which shall include a chair and a vice-chair, elected from among its membership. The department of planning and community development shall assign staff to work with the HDC.

§ 8-4. Conduct of business of the HDC

[Ord. No. 08-31, 10-7-2009]

The chair shall preside over all HDC meetings and shall have the right to vote. The vice-chair shall, in the case of absence or disability of the chair, perform the duties of the chair.

- (a) Meetings. All meetings of the HDC shall be open to the public and any person, organization or duly authorized representative shall be entitled to appear and be heard on any matter before the HDC reaches its decision. All meetings shall be posted in accordance with the open meeting laws of the State of Rhode Island.
- (b) Record. The HDC shall keep a taped or stenographic record of all meetings and a written record of all resolutions, proceedings, findings, decisions and actions, and all such records shall be open to the public.
- (c) Quorum. A quorum shall be necessary for business to be conducted before the HDC. A majority of the duly appointed members shall constitute a quorum.

§ 8-5. Powers and duties of the HDC

[Ord. No. 08-31, 10-7-2009]

The HDC shall have the following powers and duties:

- (a) Regulation of development in historic districts. The HDC shall be authorized to regulate the construction, demolition, change in any exterior structure and/or appurtenance within any historic district identified on the overlay zoning district map of the official zoning map adopted in accordance with this appendix and identified herein.
- (b) Adoption of rules. The HDC shall, within 90 days of its first meeting, adopt and publish written rules and regulations, as provided in the Rhode Island Historical Preservation Commission's report entitled Easy Guide to Rehab Standards, dated 1992, (hereinafter known to as "RIHPC Standards") necessary to carry out its functions under the provisions of this article. All such rules and regulations, and any amendments thereto, shall be available to the public.
- (c) Adoption of standards and guidelines. The HDC shall, within 90 days of its first meeting, adopt and publish standards and guidelines as necessary to inform historic district residents, property owners, and the general public of those criteria by which the HDC shall determine whether to issue a certificate of appropriateness. The standards and guidelines shall insure that consideration is given to the historic and architectural significance of the district, the structure and its appurtenances; the way in which the structure and its appurtenances contribute to the historical and architectural significance of the district; and the appropriateness of the general design, arrangement, texture, materials, and siting proposed in the plans for both new and existing structures and appurtenances. The HDC may incorporate by reference in its rules and regulations such other standards as are appropriate, including, but not limited to the Standards and Guidelines for Rehabilitation adopted by the United States Secretary of the Interior. The HDC may from time to time amend its standards as reasonably necessary, and it shall publish all such amendments to remain in compliance with the RIHPC Standards.
- (d) Issuance of certificate of appropriateness. The HDC shall be authorized to issue certificates of appropriateness for projects that conform to the requirements of this appendix and the standards and guidelines adopted by the HDC. A certificate of appropriateness may be issued by the HDC indicating approval of plans for alteration, construction, repair, removal or demolition of a structure or appurtenances of a structure within an historic district. "Appropriate" for the purposes of passing upon an application for a certificate of appropriateness means not incongruous with those aspects of the structure, appurtenances, or the district which the HDC has determined to be historically or architecturally significant.
- (e) Provision of advice to other agencies. In order to assist the Town on matters of historic preservation, the HDC may provide its expertise and advice to agencies of Town government as appropriate.
- (f) Inspection of work in progress. The HDC or its designee may inspect work in progress after a certificate of appropriateness has been issued to insure that work is proceeding in accordance with the

approval received. If the HDC finds that the work in progress does not conform to the certificate of appropriateness, the HDC shall advise the zoning enforcement officer, who shall enforce the requirements of the certificate of appropriateness in accordance with Article 17 of this appendix.

§ 8-6. Certificate of appropriateness

[Ord. No. 08-31, 10-7-2009]

Before a property owner commences construction, alteration, repair, removal or demolition of any existing structure or its appurtenances within a historic district overlay zone, the owner must first apply for and receive a certificate of appropriateness from the HDC. Upon application to the Building Official for a permit, the Building Official shall determine whether or not the property or parcel in question is within the historic district. If it is, the applicant shall be referred to the HDC for determination of jurisdiction for a certificate of appropriateness. A certificate of appropriateness is not a substitute for a building permit.

- (a) Application for certificate of appropriateness. The HDC shall require the owner to submit information which is reasonably necessary to evaluate the proposed construction, alteration, repair, removal or demolition including, but not limited to, plans and site plans, drawings and elevations, photographs, or other information.
- (b) Hearing. The HDC shall hold a public hearing on an application for a certificate of appropriateness. Notice of such hearing shall be mailed to all abutting property owners, at least 10 days prior to the public meeting, by regular mail. The applicant shall supply the HDC with a list of the names and addresses of all abutting property owners from the most current records of the Town Assessor.
- (c) Filing fee. An application for a certificate of appropriateness shall be accompanied by a filing fee as set by the Town Council which shall be deposited with the Town treasurer and no part of which shall be returned to the applicant. Such fees shall be used solely to defray administrative costs related to the HDC's activities. These include postage, printing of standards and guidelines and hiring expert consultants and witnesses.

§ 8-7. Standards and guidelines

[Ord. No. 08-31, 10-7-2009]

The HDC shall evaluate all applications in accordance with the criteria established in the standards and guidelines adopted in accordance with subsection 8-5(c) of this article. The HDC shall act only on exterior features of a structure and its appurtenances. In reviewing an application for a certificate of appropriateness, the HDC shall have the power to call in experts to aid in its deliberations, and may incorporate the conclusions of such experts in its decisions.

§ 8-8. Decisions of the HDC

[Ord. No. 08-31, 10-7-2009]

All decisions of the HDC regarding the issuance of a certificate of appropriateness shall be in writing. The HDC shall articulate and explain the reasons and basis of each decision on the record. An application for a certificate of appropriateness may be approved, denied, or approved with amendment by the HDC. When denying an application for a certificate of appropriateness, the HDC shall include the basis for its conclusion that the proposed activity would be incongruous with those aspects of the structure, appurtenances, or the district. The HDC shall send a copy of the decision to the applicant. The action taken by the HDC shall be binding on the zoning enforcement officer. No application shall be denied or granted by the HDC without a hearing. An application for the same petition shall not be heard by the HDC for the period of one year from the date the original petition was denied. The HDC shall have the right to waive this requirement for any petition if a majority of the HDC present at a meeting agrees.

§ 8-9. Failure of the HDC to act

[Ord. No. 08-31, 10-7-2009]

The failure of the HDC to act within 45 days from the date of the filing of a completed application shall be deemed to constitute approval. However, in the event that the HDC shall make a written finding of fact within this forty-five-day period that the circumstances of a particular application requires further time for additional study and information, then the HDC shall have a period of up to 90 days from the date of filing a completed application within which to act upon such application. Nothing in this section shall be construed to prevent the applicant and the HDC from mutually agreeing on an extension.

§ 8-10. Special criteria for demolition

[Ord. No. 08-31, 10-7-2009]

In order to preserve the historic fabric of the Town, demolition of historic properties shall be discouraged. When reviewing an application for a certificate of appropriateness to demolish an historic structure or appurtenance, the HDC shall consider, in addition to the provisions of the adopted standards and guidelines, the listing of a structure in the National Register of Historic Places. In the case of an application for demolition of any structure, appurtenance or a portion of a structure listed on the National Register of Historic Places, the HDC shall endeavor to work out with the owner an economically feasible plan for the preservation of such structure on its present site. The HDC shall issue a certificate of appropriateness only if the HDC finds that at least one of the following exists:

- (a) Retention of such structure constitutes a hazard to public safety which hazard cannot be eliminated by economic means available to the owner, including sale of the structure on its present site to any purchaser willing to preserve such structure; or
- (b) Preservation of such structure is a deterrent to a major improvement program which will be of substantial benefit to the community; or
- (c) Preservation of such structure would cause undue or unreasonable financial hardship to the owner, taking into account the financial resources available to the owner including sale of the structure to any purchaser willing to preserve such structure; or
- (d) Preservation of such structure would not be in the interest of the majority of the community.

§ 8-11. Alternatives to demolition

[Ord. No. 08-31, 10-7-2009]

The HDC shall assist the owner in identifying and evaluating alternatives to demolition, including sale of the structure on its present site. When considering an application to demolish a structure of historic or architectural value, in addition to any other criteria, the HDC shall consider the following:

- (a) Whether there is a reasonable likelihood that some person or group other than the current owner is willing to purchase, move and preserve such structure; and
- (b) Whether the owner has made continuing, bona fide and reasonable efforts to sell the structure to any such purchaser willing to move or preserve such structure.

§ 8-12. Appeals and enforcement

[Ord. No. 08-31, 10-7-2009]

- (a) Appeals. A person or persons jointly or severally aggrieved by a decision of the HDC shall have the right to appeal the decision to the board. When hearing appeals from HDC decisions, the board shall not substitute its own judgment for that of the HDC, but must consider the issue upon the findings and record of the HDC. The board shall not reverse an HDC decision except on a finding of prejudicial procedural error, clear error, or lack of support by the weight of the evidence in the record. The board shall file a written decision explaining the basis of each decision for the record, and the board shall send a copy of the decision to the applicant and to the HDC. The filing fee and the filing procedure for an appeal of the decision of the HDC shall be the same as that for an appeal of the decision of the zoning official.
- (b) Enforcement. This regulation shall be enforced in accordance with Article 17 of this appendix.

§ 9. Special Districts

§ 9-1. Overlay zoning districts

[Ord. No. 08-31, 10-7-2009]

Overlay zoning districts are hereby established to regulate areas and structures of historical significance, provide for development review, agricultural/residential clusters, and village overlay districts. These regulations are necessary to meet the purposes set forth in § 1-1 of this appendix. The boundaries of the overlay zoning districts are as shown on the overlay zoning district map of the Cumberland Plats, the official zoning map of the Town. These boundaries may be amended in accordance with Article 9 of this appendix.

§ 9-2. Special districts

[Ord. No. 08-31, 10-7-2009]

Special districts, as allowed in this article, are intended to allow developments which would otherwise not be permitted, in order to further the purposes of this appendix and the goals and policies of the Cumberland Comprehensive Plan. All special districts shall require an amendment to the official zoning map of the Town of Cumberland, and may require an amendment to the comprehensive plan.

§ 9-3. Mixed-use special district

[Ord. No. 08-31, 10-7-2009]

A mixed-use special district (MUSD) is a district which consists of a parcel or parcels of land developed according to a plan, and in accordance with the provisions of this section.

- (a) Purposes. The establishment of a mixed-use special district may be allowed by the Town in order to achieve the following purposes:
 - (1) Allow a mixture of uses on a single parcel of land which are coordinated harmoniously and share services and facilities;
 - (2) Promote attractive, efficient development through careful site planning which protects and enhances special features and requires a minimum amount of open space;
 - (3) Provide opportunities for economic development that are compatible in scale and character with the historic development pattern of the Town; and
 - (4) Provide opportunities for affordable housing.
- (b) Applicability. A mixed-use special district may be established within any zoning district by action of the Town Council under the procedures set forth in Article 17 for amendment of this appendix and the zoning map. Prior to the submission of an application to the Town Council to amend the zoning map, the applicant shall provide evidence that the proposed parcel to be rezoned to a mixed-use special district has:
 - (1) Single ownership or control;
 - (2) Service by both water and sewer;
 - (3) A minimum of five acres of suitable land area; and
 - (4) A minimum of 40 feet of lot frontage along a public street.
- (c) Review by Planning Board. The Planning Board shall review an application for MUSD.
- (d) Mix and design of land uses. The following standards for uses and density shall govern development within a mixed-use special district:
 - (1) At least 50% of the land area, exclusive of land unsuitable for development (see § 5-8), shall be utilized for general service uses and/or retail and restaurant uses. Any given use within these categories may be allowed by right or by special use permit as determined by the Town Council.
 - (2) Single or multiple household residential buildings are allowed by right provided there is at least 7,500 square feet of land suitable for development for each single-family detached dwelling unit, and at least 6,500 square feet of land suitable for development for each attached or multifamily dwelling unit.

At least 20% of the housing units are to be set aside as low and moderate income units as defined in Article 15.

- (3) A minimum of 20% of the land area, exclusive of land unsuitable for development, shall be set aside as protected open space. The open space may be in one or more parcels and may include outdoor recreational uses as appropriate for the intended occupancy, or public open space such as a community green or common.
- (4) Cultural, entertainment and active recreational uses may be allowed as determined appropriate by the Town Council for any given MUSD development. Such uses shall not substitute for the required open space unless expressly allowed by the Town Council.
- (5) Other uses may be allowed as determined appropriate by the Town Council for any given MUSD development.
- (e) Dimensional requirements. Dimensional requirements, such as setbacks, distance between buildings, and height shall be determined by the Town Council with recommendation from the Planning Board.
- (f) Parking requirements. Parking requirements shall be determined by the Town Council with guidance from the parking requirements contained in this appendix and with recommendation from the Planning Board.

§ 9-3.1. Berkeley Mill Mixed-Use Special Overlay District

[Added 5-16-2018 by Ord. No. 18-07A]

- (a) Applicability. The Berkeley Mill Mixed-Use Special Overlay District will encompass the property improved with the Berkeley Mill and all improvements otherwise addressed 30 Martin Street and more specifically designated Assessor's Plat 34, Lot 188. The Zoning Map shall be changed to reflect this overlay district designation.
- (b) Permitted and Prohibited Land Uses. Uses shall be permitted, prohibited and permitted by special use permit in the underlying Industrial-I (I-1) zoning district, as identified in Table 1, entitled "Use Table."
 - (1) However, notwithstanding the Use Table requirements, the following uses listed in Table 1 are also permitted as a matter of right in the Mixed-Use Special Overlay District:
 - * a. Residential.
 - 1. Number 12. Mixed-use residential, as defined in Appendix A, entitled "Use Regulations Definitions," except limiting the number of dwelling units to 75 and each dwelling unit not to exceed one bedroom.
 - 2. Number 17. Hotel, bed-and-breakfast: 10 rooms or less.
 - 3. Number 18. Hotel: 11 to 29 rooms.
 - 4. Number 19. Hotel: 30 rooms or more.
 - * b. Institutional and governmental.
 - 1. Number 26. Trade schools.
 - 2. Number 27. Religious services.
 - 3. Number 28. Medical and health services hospital/medical services/clinic.
 - 4. Number 34. Day care center.
 - 5. Number 38. Arts education.
 - * c. Cultural, Entertainment and Recreational.
 - 1. Number 41. Nonprofit library, museum or art gallery.
 - 2. Number 42. Spectator assembly.
 - 3. Number 47. Nonprofit community center.
 - * d. General Services.
 - 1. Number 54. Personal service
 - * e. Trade.
 - 1. Number 74. Retail trade, 15,000 square feet, total GFA or less.
 - 2. Number 75. Retail trade, more than 15,000 square feet, total GFA.
 - * f. The following additional use(s) are permitted as a matter of right in the Mixed-Use Special Overlay District:
 - 1. Microbrewery, which is defined as an establishment where beer, ale, etc., are brewed,

typically in conjunction with a bar, tavern or restaurant use. The maximum brewing capacity shall not exceed 20,000 barrels per year.

– (2)

Prohibited uses. Notwithstanding the Use Table requirements, the following uses are prohibited in the Mixed-Use Special Overlay District:

- * a. (1) Dairy farm;
 - * b. (2) Fruit orchard;
 - * c. (3) General crops;
 - * d. (4) Animal husbandry;
 - * e. (14) Nursing home;
 - * f. (16) Community residence;
 - * g. (55) Funeral home;
 - * h. (58) Car wash;
 - * i. (59) Repair service, automotive;
 - * j. (65) Warehousing and storage, including open lot storage;
 - * k. (68) Auto body repair;
 - * l. (77) Retail trade: automotive, marine craft, aircraft and accessories;
 - * m. (79) Fast-food restaurant;
 - * n. (87) Automobile parking (principal use);
 - * o. 91(A) Ground-mounted medium-scale solar energy system (principal use);
 - * p. 91(B) Ground-mounted major-scale solar energy system (principal use);
 - * q. 92(B) Ground-mounted minor-scale solar energy system (accessory use), minimum lot size of 30,000 square feet;
 - * r. 92(C) Ground-mounted medium-scale solar energy system (accessory use);
 - * s. (97) Lumber and wood products;
 - * t. (101) Pharmaceuticals;
 - * u. (102) Rubber and miscellaneous plastic products;
 - * v. (103) Stone, clay and glass products;
 - * w. (104) Cement, lime, gypsum or plaster of paris manufacture;
 - * x. (105) Primary metal industries;
 - * y. (106) Fabricated metal products;
 - * z. (107) Drop forge industries;
 - * aa. (108) Machinery and machine parts;
 - * bb. (110) Ship and board building and repair;
 - * cc. (112) Jewelry and silverware;
 - * dd. (114) Plating of jewelry and metal parts.
- (c) Dimensional requirements. The applicable I-1 District dimensional criteria, pursuant to Section 5-3: "Commercial and Industrial Zones," shall be required, except maximum lot coverage, which shall be 100%.
 - (d) Parking and loading requirements. Parking and loading requirements, provided Article 14 shall be reduced by 50% in the Mixed-Use Special Overlay District.
 - (e) Standard of review. The Planning Board shall review and forward an advisory recommendation to the Town Council on consistency with the Comprehensive Plan as well as land use and off-street parking/loading flexibility appropriateness. The initial adoption of the Berkeley Mill Mixed-Use Special District and the proposed physical expansion of approximately 2,500 square feet to accommodate the microbrewery as contemplated herein shall not incur any additional review or approval procedures, neither development plan review nor land development project review. Said proposed physical expansion shall also be permitted to extend into the required setbacks in the I-1 zone.
 - (f) Residential use covenant required. In the event the applicant seeks a residential use in the Mixed-Use Special Overlay District, the applicant must sign and record a covenant that acknowledges that the owner(s) of the building(s) or any residential units accept the industrial character of the neighborhood and agree that the existing or permitted industrial uses do not constitute a nuisance or other inappropriate or unlawful use of land. Such covenant shall state that it is binding on the owner(s)' successors and assigns, including any lessees of the residential use.

§ 9-3.2. Ann and Hope Mixed-Use District

[Added 9-7-2022 by Ord. No. 22-12B]

- (a) Applicability. The Ann and Hope Mixed-Use District will encompass the property improved and all improvements otherwise thereon at 100 Ann and Hope Way and more specifically designated Assessor's Plat 11, Lot 159.
- (b) Permitted and prohibited land uses.
 - (1) Permitted uses.
 - * a. Uses identified in Table 1, Use Table. The following uses shall be permitted as a matter of right (Y) in the Ann and Hope Mixed-Use Special Overlay District:

Principal Uses	Ann and Hope Mixed-Use Special Overlay District
RESIDENTIAL	
12. Mixed-use residential*	Y
INSTITUTIONAL AND GOVERNMENTAL	
30. Medical or dental office	Y
34. Day care center	Y
35. Pre-schools	Y
CULTURAL, ENTERTAINMENT AND RECREATIONAL	
41. Nonprofit library, museum or art gallery	Y
44. Indoor sports facility	Y
45. Nonprofit community park and playground	Y
48. Passive recreation	Y
49. Open space	Y
GENERAL SERVICES	
53. Finance, insurance and real estate service	Y
54. Personal service	Y
56. Limited business service	Y
60. Professional service	Y
66. Self storage facility**	Y
TRADE	
74. Retail trade, 15,000 square feet total GFA or less	Y
78. Restaurant	Y
TRANSPORTATION, COMMUNICATION AND UTILITIES	
88. Communication and utilities	Y
89. Wireless antenna/satellite dish	Y
92(A). Roof-mounted major-scale solar energy system (accessory use)	Y
92(D). Roof-mounted medium-scale solar energy system	Y
92(E). Roof-mounted minor-scale solar energy system (accessory use)	Y

NOTES:

- * Mixed-use residential, as defined in Appendix A, entitled "Land Development and Subdivision Regulations," except limited to 100 Ann and Hope Way.
- ** Self storage facility, as defined in Appendix A, entitled "Land Development and Subdivision Regulations," except not limited to 100 Ann and Hope Way.

Editor's Note: Said table is included as an attachment to this chapter.

- * b. The following additional uses are permitted as a matter of right in the Ann and Hope Mixed-Use Special Overlay District:
 - 1. Microbrewery, which is defined as an establishment where beer, ale, cider, tea, etc., are brewed, typically in conjunction with a bar, tavern or restaurant use.
- (2) Prohibited uses. Any use not listed above shall be deemed prohibited.
- (c) Mix and design of land uses. Notwithstanding any other provisions of this Zoning Ordinance, the following criteria shall apply: Multiple-unit residential buildings are allowed by right with no land area

requirement being applicable; however, the number of residential units in the Ann and Hope Mixed-Use Special Overlay District shall be limited to 241 residential units. The total number of bedrooms shall be determined by the Planning Board in the approved, recorded final plan for development. Twenty percent of the housing units, integrated throughout the development and equally distributed among number of bedroom units, measured by the Ann and Hope Mixed-Use District as a whole, shall be set aside as low- and moderate-income housing units, and shall be deed restricted for 99 years. There shall be no protected open space requirement.

- (d) Dimensional requirements. The applicable I-1 District dimensional criteria, pursuant to § 5-3, Commercial and industrial zones, shall be required, except maximum lot coverage, which shall be 90%. The buffer requirements pursuant to § 6-9, except as to parking to the extent reasonably practical as determined by the Planning Board in the approved, recorded final plan for development, shall not be applicable, and the dimensional requirements for multiple residential structures pursuant to § 5-5 shall not be applicable.
- (e) Parking and loading requirements. Notwithstanding parking and loading requirements stated in Article 14, the Ann and Hope Mixed-Use Special Overlay District shall require a minimum of 450 parking spaces.

§ 9-4. Beagle Club Overlay District

[Added 10-2-2024 by Ord. No. 24-23]

- (a) Applicability. The Beagle Club Overlay District encompasses the properties identified as Assessor's Plat 40, Lots 5, 7, 8, and 43.
- (b) Permitted uses. Uses shall be permitted, prohibited, and permitted by special use permit in the underlying A-2 zoning district as identified in Table 1 entitled "Use Table."
 - (1) Additionally, notwithstanding the Use Table requirements, the following uses are also permitted by right in the Beagle Club Overlay District:
 - * a. Number 36, Service organization;
 - * b. Number 43, Outdoor recreation facility;
 - * c. Number 44, Indoor recreation facility;
 - * d. Number 47, Nonprofit community center; and
 - * e. Number 38, Arts education.
 - (2) Other uses specifically permitted by right include:
 - * a. Fishing;
 - * b. Hunting;
 - * c. Shooting range;
 - * d. Archery;
 - * e. Education and training; and
 - * f. Banquet hall, indoor and outdoor (up to 299 guests).
- (c) Dimensional requirements. The applicable dimensional requirements for the Agricultural-2 zoning district, shall be required.
- (d) Parking. Notwithstanding the parking and loading requirements provided in Article 14, and due to the shared use of the parking among the various uses, the minimum required parking shall be 40 spaces and minimum loading shall be one space.
- (e) Review of new improvements to the property shall be in accordance with the Land Development and Subdivision Regulations.

§ 10. Reserved

§ 11. Conservation Developments

§ 11-1. Purposes

[Ord. No. 08-31, 10-7-2009]

The purposes of this article, entitled conservation developments, are to:

- (a) Protect natural resources, including, but not limited to, those areas containing woodlands, unique or specimen vegetation, vernal pools, streams, wetlands, floodplains, aquifers and their recharge areas, wellhead areas and agricultural lands, by setting them aside from development;
- (b) Preserve cultural, historical and archaeological resources;
- (c) Protect recreational resources;
- (d) Provide greater design flexibility and efficiency in the siting of services and infrastructure, including wastewater disposal systems and wells, and to reduce length of roads, utility runs and the amount of paving required for residential development;
- (e) Provide for a diversity of lot sizes, building densities and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the population diversity of the community may be maintained;
- (f) Implement adopted municipal policies to conserve a variety of irreplaceable and environmentally important resources as set forth in the comprehensive plan;
- (g) To provide reasonable incentives for the creation of a contiguous greenway system within the Town;
- (h) To implement adopted land use, transportation and community service policies, as set forth in the comprehensive plan;
- (i) Protect areas of the Town with productive agricultural soils to encourage continued or future agricultural use by conserving blocks of land large enough to allow for efficient farm operations;
- (j) Create neighborhoods with direct visual and/or physical access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity;
- (k) Provide for the maintenance of open land set aside for active or passive recreational use, stormwater drainage or conservation lands;
- (l) Conserve and create scenic views, to protect views along scenic roadways, and, where appropriate, to preserve the rural character of the Town; and
- (m) Provide a buffer between new development and existing streets, neighborhoods, active farmland and adjacent park or conservation land.

§ 11-2. Applicability

[Ord. No. 08-31, 10-7-2009]

- (a) The Planning Board may approve a conservation development only in the following agricultural and residence zoning districts: A-1, A-2, R-1, R-2 and R-3. Within the R-2 and R-3 zones, in areas served by both water and sewer, the dwelling units within conservation developments shall consist of only single-family attached units or multifamily units (see subsection 11-3 (a) below).
- (b) Conservation developments are reviewed in accordance with the procedures and standards set forth in the land development and subdivision regulations (the "regulations") as either a major or minor subdivision, or land development project, as appropriate.
- (c) All major subdivisions, or major residential land development projects whether a subdivision or not, are required to be developed as a conservation development. The Planning Board may permit a conventional subdivision under the provisions of paragraph (e) below.
- (d) An applicant for a minor subdivision or minor residential land development project may submit a plan for either a conventional development or for a conservation development.
- (e) When a development or subdivision is required or requested by the Planning Board to be developed as a conservation development, and the applicant wishes to develop a conventional subdivision, the applicant shall submit both a concept plan for a conventional subdivision, also referred to as a "conventional yield plan", and an alternate concept plan for a conservation development. In determining which plan is most appropriate, the Planning Board shall consider the following:
 - (1) Consistency of development plans with the goals and policies of the Cumberland Comprehensive Plan;
 - (2) Consistency of development plans with the general purposes of conservation developments set forth in § 11-1 herein, and with the general purposes of the regulations;
 - (3) The physical characteristics and configuration of the land proposed for development; and

- (4) Characteristics of the neighborhood and surrounding area.

Based upon evaluation of the above criteria, the Planning Board may permit the application to be reviewed in a form of

§ 11-3. Permitted uses

[Ord. No. 08-31, 10-7-2009]

- (a) Residential and related uses. The following uses are permitted uses on the developed portion of a conservation development site. Where there is a conflict between this section and that contained in the residential section of the Use Table, Article 4, this section shall apply.
 - (1) One-household detached dwelling, in all A and R zones.
 - (2) Two-household detached dwelling (duplex), in the R-2 and R-3 zones.
 - (3) Single-family attached units (townhouses), provided there is no more than two units per structure in the A-1, A-2 and R-1 zones, and no more than eight units per structure in the R-2 zone.
 - (4) Multi-household dwelling in the R-3 zone.
 - (5) Accessory dwelling units as provided in § 6-5.
 - (6) Home occupations as provided in § 6-6.
 - (7) Accessory uses customarily incidental to a use permitted in the zoning district and located on the same site are permitted by right. Any accessory use customarily incidental to a use allowed by special use permit in the district and located on the same site is permitted by special use permit.
- (b) Open space uses. The open space in a conservation development (see § 11-7) shall be devoted only to conservation purposes or for park, passive recreation, forest management and agricultural purposes as approved by the Planning Board. In all zoning districts where conservation developments are permitted, the following uses may also be allowed in open space areas if permitted by the Planning Board in accordance with the applicable provisions of the regulations:
 - (1) Stormwater drainage areas.
 - (2) Placement of privately owned and maintained water supply wells for individual uses within the conservation development. Each such well shall be designed to serve only one single-family or one two-family dwelling.
 - (3) Placement of privately owned and maintained public water supply wells or well fields serving up to 25 connections, for uses within the conservation development and which meet the following conditions:
 - * a. The development is constructed at a density of greater than two dwelling units per acre, or the development consists of multifamily dwellings; and
 - * b. The total number of bedrooms in the conservation development proposed to be serviced by the public water supply well exceeds 12, or the number of persons regularly served in the development exceeds 24.
 - (4) Placement of privately owned and maintained individual or common sewage disposal systems for uses within the conservation development, if granted as a waiver by the Planning Board.
 - (5) Buildings, structures, parking areas, active recreation areas or impervious improvements which are accessory to and subordinate to a permitted open space use, provided that, in all cases, they occupy no more than 5% of the total open space area of the conservation development.

§ 11-4. Density regulations

[Ord. No. 08-31, 10-7-2009]

Whether developed as detached buildings on separate lots, or as attached single-family units or multifamily dwellings on commonly owned land, the allowable density for a conservation development shall be equal to that which would otherwise be allowed under the provisions of § 5-2. To determine allowable density, the applicant shall submit a yield plan as provided for in the regulations that indicates the number of lots or dwelling units which could be expected to be developed on the parcel under a conventional development. In reviewing a proposed conservation development, the Planning Board may allow additional density as follows:

- (a) To allow the construction of low or moderate income housing units (see Article 15).
- (b) To allow the preservation of an existing dwelling which is currently located on the property being developed for any of the following purposes: preservation of historic structures that contribute to the character of an area; maintenance of historic or traditional development patterns; preservation of streetscape features; design of public or common open space; or other design or site planning issues identified in the Cumberland Comprehensive Plan. In such cases, the Planning Board may allow the applicant to exceed the maximum number of permitted dwelling units in the development by one additional dwelling. Any dwelling, not located within an historic district, granted a density bonus under the provisions of this subsection shall be subject to deed restrictions prohibiting the removal or alteration of the dwelling except as may be approved by the Planning Board, with advisory review by the historic district commission, as a condition of approval.

§ 11-5. Lot dimensional requirements

[Ord. No. 08-31, 10-7-2009]

Applicants are encouraged to modify lot area, shape and other dimensional characteristics within a conservation development in order to meet the purposes of this article. A conservation development may be developed with dwelling units on separate lots, a single lot or a combination thereof. Where dwellings are proposed to be located on individual lots, the dimensional regulations provided in the table below shall be applicable. Maximum lot coverage shall be applied to the total developed area. Internal dimensional regulations for Townhouses and multifamily dwellings shall be governed by § 5-5.

Editor's Note: The table entitled "Dimensional Requirements in a Conservation Development" is included as an attachment to this chapter.

§ 11-6. Flexible lot frontage and width

[Ord. No. 08-31, 10-7-2009]

- (a) For a proposed conservation development, the applicant may request a waiver for, and the Planning Board may permit, the following variations in lot frontage and lot width:
 - (1) Lot frontage and lot width of newly created lots on any public or approved private street may be reduced to a minimum of 20 feet.
 - (2) Lots set aside as open space may have zero frontage on a street, as long as the Planning Board approves access to the open space by easement.
- (b) No more buildable lots shall be allowed using flexible lot frontage and width provisions than are allowed by using conventional frontage and width provisions, as shown on the conventional yield plan. This shall not prohibit, however, additional lots or units granted as a density bonus pursuant to § 11-4.

§ 11-7. Open space in conservation developments

[Ord. No. 08-31, 10-7-2009]

The open space required to be set aside as part of a conservation development shall be established as a lot or lots separate and distinct from those lots intended for residential and accessory uses, and from land dedicated as street rights-of-way. The minimum amount of required open space area shall be based on a percentage of the land suitable for development in the entire conservation development site as provided in the table below. None of the minimum required open space area shall be devoted to land unsuitable for development as defined § 5-8 of this appendix.

Zoning District

**Minimum Percentage
of Land Suitable for
Development
Dedicated as Open
Space**

A-1		75%
A-2		60%
R-1	No water or sewer	60%
	Water/no sewer or sewer/no water	50%
	Both water and sewer	35%
R-2 and R-3	No water or sewer	N/A ¹
	Water/no sewer or sewer/no water	
	Single-family	30%
	Two-family	50%
	Both water and sewer	
	Single-family or two-family	N/A ²
	Single-family attached or multifamily	25%

NOTES:

¹ There are no areas within the R-2 and R-3 Zones without either water facilities or public sewers.

² In areas in the R-2 and R-3 Zones served by both water and sewer the dwelling units shall consist of only single-family units.

§ 12. Review of Development Applications

§ 12-1. Authority and purpose

[Ord. No. 08-31, 10-7-2009]

- (a) Authority. This article is adopted pursuant to G.L. § 45-24-47 and G.L. § 45-24-49, as amended. The Cumberland Planning Board shall have the administrative authority and duty, in accordance with the requirements of the zoning ordinance and the land development and subdivision regulations (the "regulations") to review and approve all plans subject to development review. Development review shall be required for certain types of development as described in § 12-3 below, but will not preclude the need to meet other requirements as contained in this appendix, nor be used to deny a permitted use as provided in Article 4.
- (b) Purpose. The purpose of development review is to ensure that industrial, commercial, mixed-use and planned developments are consistent with the goals and policies of the Cumberland Comprehensive Plan, and that such development has a high quality site and architectural design compatible with adjoining areas and the historic development pattern of the Town; safe and convenient traffic circulation; and appropriate signage, landscaping and lighting.

§ 12-2. General provisions

[Ord. No. 08-31, 10-7-2009; amended 12-6-2023 by Ord. No. 23-26]

The review processes for development subject to review under this article are hereby established as follows:

- (a) Development Plan Review.
 - (1) A zoning ordinance shall permit development plan review of applications pursuant to R.I.G.L. AA 45-23-50 for uses that are permitted by right.
 - (2) Permitting authority. The permitting authority for administrative projects shall be the Administrative Officer; the permitting authority for formal projects shall be the Planning Board.

- (3) Specific and objective guidelines. Design of all projects shall be consistent with the provisions of these regulations.
- (4) Zoning relief. The permitting authority may grant relief from the zoning ordinance as modifications or under unified development review, as may be appropriate.
- (5) Zoning incentives are permitted under the following circumstances:
 - * a. Reserved. (No zoning incentives are permitted at this time.)
- (6) Appeal. A rejection of the decision shall be an appealable decision pursuant to R.I.G.L. AA 45-23-71.
- (b) Land Development Project Review.
 - (1) Land development projects shall be reviewed in accordance with the procedures established by these regulations, including those for appeal and judicial review, whether or not the land development project constitutes a "subdivision," as defined in these regulations.
 - (2) No land development project shall be initiated until a plan of the project has been submitted to the authorized permitting authority. The requirements, procedures, and standards for review and approval of land development projects are provided in these regulations.
 - (3) Permitting authority. The review is conducted by the Administrative Officer, in the case of minor land development projects, and by the Planning Board, in the case of major land development projects in accordance with the provisions of R.I.G.L. AA 45-24-47 and AA 45-23-38 et seq.
 - (4) Zoning incentives are permitted under the following circumstances:
 - * a. Reserved. (No zoning incentives are permitted at this time.)
 - (5) The permitting authority may impose special conditions and stipulations to the approval that may, in the opinion of the permitting authority, be required to maintain harmony with neighboring uses and promote the objectives and purposes of the comprehensive plan and this appendix.
- (c) Unified Development Review.
 - (1) Unified development plan review established. There shall be unified development review for subdivisions and land development projects that require variance(s) and/or special use permit(s).
 - (2) Permitting authority. The permitting authority shall be the Planning Board.
 - (3) In granting requests for dimensional and use variance, the Planning Board shall be bound to the requirements of R.I.G.L. AA 45-24-41 relative to entering evidence into the record in satisfaction of the applicable standards.
 - (4) In granting for special use permits, the Planning Board shall be bound to the conditions and procedures under which a special use permit may be issued and the criteria for the issuance of such permits and shall be required to provide for the recording of findings of fact and written decisions.
 - (5) An appeal from any decision made pursuant to this section may be taken pursuant to R.I.G.L. AA 45-23-71.
- (d) Technical Review Committee.
 - (1) There is hereby established a Technical Review Committee (TRC) in accordance with R.I.G.L. AA 45-23-56, the members of which shall be:
 - * a. The Director of Planning and Development (Administrative Officer), who shall serve as chairperson;
 - * b. The Director of Public Works or his/her designee;
 - * c. The Building/Zoning Official or his/her designee;
 - * d. The Chief of the Fire Department or his/her designee;
 - * e. A member of the public who has expertise in the design and development of construction, including, but not limited to, surveyors, engineers, architects, landscape architects, and contractors. The member of the public may be appointed by the Planning Board and shall serve a two-year term and thereafter until such time as a successor is appointed.

The chairperson may request additional individual(s) to participate as members in appropriate circumstances to provide ex

- (2) The Planning Board shall adopt written procedures establishing the Committee's responsibilities.

- (3) The TRC has the authority to issue approvals, make finding and provide recommendations as provided in these regulations.
- (4) Reports of the Technical Review Committee to the Planning Board shall be in writing and kept as part of the permanent documentation on the development application. In no case shall the recommendation of the Technical Review Committee be binding on the Planning Board in its activities or decision. All reports of the Technical Review Committee shall be made available to the applicant prior to the meeting of the Planning Board at which the reports are first considered.

§ 12-3. (Reserved)

Editor's Note: Former § 12-3, Applicability, adopted by Ord. No. 08-31, 10-7-2009, was repealed 12-6-2023 by Ord. No. 23-26.

§ 12-4. (Reserved)

Editor's Note: Former § 12-4, Exemptions, adopted by Ord. No. 08-31, 10-7-2009, was repealed 12-6-2023 by Ord. No. 23-26.

§ 12-5. (Reserved)

Editor's Note: Former § 12-5, Application and review process, adopted by Ord. No. 08-31, 10-7-2009, was repealed 12-6-2023 by Ord. No. 23-26.

§ 12-6. (Reserved)

Editor's Note: Former § 12-6, Contents of applications, adopted by Ord. No. 08-31, 10-7-2009, was repealed 12-6-2023 by Ord. No. 23-26.

§ 12-7. (Reserved)

Editor's Note: Former § 12-7, Site and design standards, adopted by Ord. No. 08-31, 10-7-2009, was repealed 12-6-2023 by Ord. No. 23-26.

§ 12-8. (Reserved)

Editor's Note: Former § 12-8, Required findings and improvements, adopted by Ord. No. 08-31, 10-7-2009, was repealed 12-6-2023 by Ord. No. 23-26.

§ 12-9. Fees

[Ord. No. 08-31, 10-7-2009]

The applicant shall pay all application fees as specified in Appendix A of the regulations, as well as any costs incurred by the Planning Board associated with the use of outside professional assistance in the review of the proposed development. Such assistance may include, but not be limited to, the review of overall building and site design, site engineering including drainage and traffic impacts, environmental assessment, evaluation of landscaping and site amenities, and architectural review. The need for such review shall be at the discretion of the Planning Board. Fees obtained from the applicant shall not exceed actual costs.

§ 12-10. Enforcement

[Ord. No. 08-31, 10-7-2009]

The provisions of this article shall be enforced by the zoning enforcement officer. This appendix shall become effective immediately upon its passage by the Cumberland Town Council and any ordinances inconsistent herewith are hereby repealed.

§ 13. Signs

§ 13-1. Purposes

[Ord. No. 13-23-A, § 2, 2-19-2014]

The purpose of this article is to recognize the function of signs in the Town, to provide for their inclusion under the zoning ordinance, and this article shall serve to regulate and control all matters relating to such signs, including location, size and purpose. Signs are accessory uses and are permitted only in conjunction with permitted uses. Such signs are intended to advertise goods, services, facilities, events or attractions available on the premises where located, to identify the owner or occupant or to direct traffic on the premises. It is the further purpose of this article to:

- (a) Preserve locally recognized values of community appearance;
- (b) Safeguard and enhance property values in residential, commercial and industrial areas;
- (c) Protect public investment in and the existing character of public thoroughfares;
- (d) Reduce hazards to motorists and pedestrians traveling on the public way, and thereby to promote the public health, safety and welfare;
- (e) Promote a good business climate; and
- (f) Enhance all property values, be they business or residential properties.

These purposes will be accomplished by regulation of the construction, display and maintenance of signs. The use of signs i

§ 13-2. Conformance

[Ord. No. 13-23-A, § 2, 2-19-2014]

No sign will be permitted as a main or accessory use except in accordance with these provisions of this article.

§ 13-3. General sign standards

[Ord. No. 13-23-A, § 2, 2-19-2014]

To achieve the purposes of this article, the following general sign standards shall be applied to signs in the Town of Cumberland:

- (a) Context. A sign shall have good scale and proportion in its design, and be compatible with the surrounding built environment and streetscape. Every sign shall be designed as an integral architectural element of the building and the site to which it principally relates.
- (b) Design. Each sign's message shall be designed with easily recognized symbols and lettering, with the number of graphic elements held to a minimum. Colors and lighting of every sign shall be restrained and harmonious with the area in which it is located.
- (c) Materials. Sign materials shall be consistent with or complement the construction material and architectural style of the building.
- (d) Common signage. Signs on adjacent storefronts should be coordinated in height and proportion. Signs on a building that contains more than one business, or on a building in a multi-building commercial center under one ownership, shall be designed so as to be consistent and harmonious in size, design, materials and color, including on a building that contains more than one business, or in multi-building commercial centers under one ownership.
- (e) Sign permit required. Prior to the installation, relocation or alteration of any sign, a permit shall be obtained from the Building Official and for all signs shall be limited in area by the provisions below not included in the calculation of maximum sign area provided in §§ 13-4, 13-6 and 13-7.

§ 13-4. Signs permitted in all zoning districts

[Ord. No. 13-23-A, § 2, 2-19-2014]

The following signs are permitted in all zoning districts in the Town:

- (a) On-premises commercial signs. Signs identifying the development name, business name and/or any on-premises sales, where the sign structure is constructed of permanent materials, and where on-premises sales copy may change from time to time as permitted by this article.
- (b) Government signs. Signs of every kind and nature installed by or on behalf of any federal, state or local government agency, including official traffic control or informational signs, hazard warning signs, legal notices, railroad crossing signs or other similar signs required by law:
- (c) Nameplates. One nameplate for each dwelling unit, not internally illuminated, and not exceeding 1 1/2 square feet in area, indicating the name of the occupant or any permitted use of the premises.
- (d) Building identification signs. Wall signs, which may not be internally illuminated, and which are permanently affixed to buildings for the purpose of identifying the name of building, date of construction or other historical information, provided that such signs are composed of similar materials as the building, or bronze or brass, and are affixed flat against the building.
- (e) Hours of operation. A list of hours by days of the week limited to one square foot.
- (f) Credit card signs. Credit card signs, non-illuminated, limited to a total area of one square foot per business entrance.
- (g) Bulletin boards. Signs used as a bulletin or notice board to announce activities and events for institutional and governmental services only. Such signs shall be located upon the premises of said institutions and shall not exceed 10 square feet in area, nor be closer than four feet from the property line, except in all agricultural and residence districts, where such signs shall be set back a minimum of 10 feet from any property line abutting a residential use.
- (h) Farm retail signs. One non-illuminated sign, freestanding or affixed to any farm retail sales building and/or farm stand, according to the provisions of Article 7. One such sign is permitted per farm and shall not exceed 12 square feet in area (see § 7-7).
- (i) Temporary signs. A sign that: (a) is used in connection with a circumstance, situation, or event that is designed, intended or expected to take place or to be completed within a reasonably short or definite period after the installation of such sign; or (b) is intended to remain on the location where it is installed or placed for a period of not more than 15 days. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary. Advertisements of sales for commercial establishments are not to be considered temporary. No sign may be attached to trees within any public right-of-way or any public property, traffic signs or utility poles. Temporary signs shall not require a permit.

The following temporary signs, whether fixed or portable, are permitted in all zoning districts:

- (1) Event signs, which shall not be internally illuminated, for events by nonprofit or charitable organizations, including exterior messages for national and state holidays; provided, however, that no such temporary sign may be installed for a period of more than 15 consecutive days, nor more than 12 days prior to the event and no more than three days after the event, with a total of 30 cumulative days throughout the year. Such signs shall be limited to 12 square feet in area and set back a minimum of eight feet from the street line, in all districts, unless a greater minimum is required by the zoning official to protect the safety of pedestrians and/or drivers. Signs may be located on another's property with permission of the owner.
- (2) Rental or sale signs, freestanding or attached to the premises, pertaining to the prospective rental or sale of the property on which they are located; provided that such signs shall not be illuminated, nor extend over the sidewalk, and further provided that:
 - * a. Within all agricultural and residential districts; such signs shall not exceed a total area of six square feet and shall be removed within 14 days of the real estate closing or lease transaction.

- * b. Within all commercial districts, such signs shall not exceed a total area of 12 square feet, and shall be removed within 30 days of the real estate closing or lease transaction.
- * c. Within all industrial districts, such signs shall not exceed a total area of 32 square feet, and shall be removed within 30 days of the real estate closing or lease transaction.
- (3) Construction signs and "grand opening" signs, non-illuminated, customary and necessary in connection with the construction of buildings or other construction work or signs for business where road construction obscures the existing sign or signs for such business, limited to one sign per street frontage for each construction project. Such sign may be freestanding or attached to the premises, but shall not exceed 32 square feet in area, and shall be removed within 30 days of the completion of construction or the opening of the business. In all agricultural and residential districts, such signs shall not exceed 12 square feet in area, and shall be set back a minimum of 10 feet from any property line.
- (4) Political signs, non-illuminated, incidental to a Town, state, or federal election or referendum, or signs, which are political in nature. Such signs shall be constructed of durable material. Such signs shall be installed not more than 90 days prior to such election or referendum, and in any event, no premises shall have a sign installed for more than 120 days in any calendar year. Political signs relating to any election or referendum shall be removed within seven days after said election or referendum.
- (5) Replacement sign, which may not be internally illuminated, solely for the purpose of identification when a property owner's sign has been damaged or destroyed by circumstances beyond the owner's control, provided however, that no such temporary sign may be installed for a period of more than 60 consecutive days. Such signs shall be limited to 25 square feet in area and set back a minimum of 10 feet from any property line.
- (6) Yard sale signs, advertising a yard, garage, tag sale or the like, which may not be internally illuminated, and which may be installed on another's property with the permission of the owner, and does not exceed six square feet, and which may be installed no longer than one day prior to the yard sale and removed not more than one day after the yard sale.

§ 13-5. Signs prohibited in all zoning districts

[Ord. No. 13-23-A, § 2, 2-19-2014]

The following signs shall be prohibited in all zoning districts in the Town:

- (a) Traffic or safety hazards. Signs determined by the Chief of Police to constitute a traffic or other safety hazard by reason of size, location, or type of illumination.
- (b) Animated and moving signs. A sign which contains an intermittent or sequential flashing light source (other than that described as a static electronic message sign herein), used primarily to attract attention, or a sign depicting action, motion, light or color changes through electrical or mechanical means, which may include video, text, graphics and artistic display. A sign that moves, including commercial message flags, whirligigs, inflatable signs, spinning signs, and banner flags.
- (c) Billboards and off-premises signs. Freestanding and roof-mounted billboards, or any sign advertising or promoting products or services not on the premises displaying the sign. A sign advertising products, services, facilities, events or attractions not made, sold, used, served or available on the premises displaying such sign. A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction or other activity that is conducted, sold, or offered at a location other than the premises on which the sign is located.
- (d) Roof signs. A sign that is mounted upon, or projects above, the roof, parapet or ridgeline of a building.
- (e) Signs on utility poles, trees or fences. Signs or messages placed on utility poles owned by any governmental agency or utility company other than those specifically installed by such governmental agency or utility company. Additionally, signs may not be installed on trees or fences.
- (f) Abandoned signs. An unused sign, or a sign advertising an activity or product no longer conducted or produced on the premises upon which the sign is located, for a period of 90 days or more.

§ 13-6. Sign types and placement

[Ord. No. 13-23-A, § 2, 2-19-2014]

The following sign types, if permanently mounted (not portable), are permitted in the Town in accordance with the requirements of this article:

- (a) Directional sign. A sign identifying onpremises traffic, parking or other functional activity bearing commercial identification of on-premises establishments. Such signs are permitted in all zoning districts except in agricultural and residence districts, and shall be limited to four square feet in area per sign.
- (b) Freestanding sign. A sign that is attached to, constructed on, or supported by some permanent structure (such as a pole, mast, frame, or other structure, but not any kind of antenna) that is not itself an integral part of or attached to a building. Such sign shall not exceed eight feet in height from the ground level to the top of the sign or its supporting structure, whichever is highest, nor be located closer than four feet from any street right-of-way or property line. All installed freestanding signs shall be protected from vehicular circulation and parking areas.
- (c) Projecting sign. A sign that is perpendicular to the plane of the building to which it is affixed, or which projects more than 15 inches beyond said exterior wall, in no event shall such sign or part thereof be constructed closer than two feet to the curb line. Such sign shall not project above the cornice line of the building, more than four feet outward from the building facade. The bottom of a projecting sign shall be at least 10 feet above ground level to prevent any hazard to pedestrians. Any projecting sign that projects into the public right-of-way shall be approved by the director of the department of public works.
- (d) Awning sign. A sign painted on or attached to a hood, awning or roof-like canopy. A sign consisting of individual letters, words or symbols may be affixed or applied to the surface of an awning. Any awning sign that projects into the public right-of-way shall be approved by the director of the department of public works.
- (e) Wall sign. A sign that is affixed or painted on the face of any exterior wall or door of a building, is parallel or approximately parallel to the plane of the building to which it is affixed; and does not project more than 15 inches beyond said exterior wall, nor project more than two feet above the roof, parapet or ridge line of the building, whichever is higher. Such sign shall not extend beyond the wall upon which it is mounted nor project more than eight inches outward from the wall.
- (f) Canopy signs. A sign placed on or affixed to an open-air structure which is separate from the principal building and provides cover or protection from the elements, including, but not limited to, gasoline service station canopies.
- (g) Window sign. A sign that is attached to the inside or outside surface of any window, or situated within a building, so that the sign is visible from the public right-of-way.
- (h) Static electronic message signs. As a part of an on-premises commercial sign that includes an electronic message component, which messages do not change for at least 30 seconds, and which electronic component is not more than half of the total sign area or 24 square feet, whichever is less, and which messages may not contain graphics or images. The message shall not move, or appear to move, at any time. Time and temperature displays need not be limited to change every 30 seconds.

§ 13-7. Portable signs

[Ord. No. 13-23-A, § 2, 2-19-2014]

- (a) Defined. A portable sign is any sign or advertising device that rests on the ground and is not designed to be permanently attached to a building or permanently anchored to the ground. This includes A-frame or sandwich board signs, but does not include temporary signs prohibited in subsection 13-5(b).
- (b) Permitted use of portable sign. Any business located in a commercial or industrial zoning district is permitted to construct one portable sign within five feet of its business entrance. The business entrance means the point of entry to the business operation and not to the entire development or lot. Every such portable sign must be removed from the outdoors during non-business hours. Portable signs shall not be included in the calculation for permitted total sign area in § 13-8 herein. Portable signs are prohibited any more than five feet from a business entrance.

- (c) Portable signs are to be maintained in a neat, orderly fashion so as not to constitute an unsightly appearance or a public nuisance. Signs shall be constructed of durable, weather-resistant materials and be professional in appearance. If such signs are not maintained, the property owner or business owner shall remove them immediately upon notice by the zoning official.
- (d) Advertisement of on-site products or services only. Portable signs shall not advertise products or services not available at the location of the sign.
- (e) Maximum sign area. Portable signs may have a maximum sign area of 10 square feet.
- (f) Maximum sign height and width. The maximum height shall be five feet and the maximum width shall be two feet.
- (g) Location and accessibility. Portable signs shall not interfere with pedestrian movement or wheelchair access. A minimum access width of four feet shall be maintained along all sidewalks and building entrances accessible to the public.
- (h) Illumination prohibited. Portable signs shall not be illuminated.

§ 13-8. Permitted total sign area and dimensions

[Ord. No. 13-23-A, § 2, 2-19-2014]

All permitted signs shall be measured as follows:

- (a) Determination of sign area. The size or area of a sign face shall be measured in square feet, the entire area within a square, rectangle, circle, triangle or any other polygon enclosing the extreme limits of graphic, writing or similar representation, emblem or any fixture of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and are at no point more than two feet from one another, the area of the sign shall be taken as the area of the one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area.
- (b) Height. Measured in feet, the overall height of a sign is measured from the grade directly below the sign to the highest point of the sign or any of its supports.
- (c) Setback. Measured in feet from the outermost edge of the sign to the public right-of-way.
- (d) Projection over public right-of-way. Measurement in feet, perpendicular to the property line, from the property line to the outermost edge of the sign, over any public right-of-way. Any projection over the public right-of-way shall be reviewed by the director of the department of public works.
- (e) Maximum total sign areas. In commercial and industrial zones, the maximum permitted area for signs on a building shall be based on the building frontage. Where a building fronts on two or more streets, the total area for signs shall be based on the longer(est) building frontage.
 - (1) Agricultural and residential districts. One wall or window sign to identify each permitted home occupation use shall be allowed. Such signs may not be internally illuminated. The total area of all such signs shall not exceed four square feet on any lot.
 - (2) Commercial and industrial districts. Canopy, awning, freestanding, projecting, and wall signs that identify on-site permitted uses. The maximum total area of all signs on any premises shall not exceed 1 1/2 square feet per one foot of building frontage. Each individual business or activity shall be allowed a projecting or wall-mounted sign meeting the requirements of this article with regard to placement and size, and may be either externally illuminated, except however:
 - * a. An additional wall-mounted sign, no more than 16 square feet in area, is allowed for a second public entrance on the side or rear of the building.
 - * b. Separate freestanding signs shall not be allowed for individual businesses in a multi-tenant building or on a parcel used by more than one business or activity.
 - * c. One freestanding directory sign shall be allowed for a multitenant building or parcel used for more than one business or activity (such as a shopping plaza) in addition to individual business signs (projecting or wall-mounted).
 - * d. In addition to the principal signage, window signs, meeting the requirements of subsection

13-7(f), are allowed.

Individual businesses in a multitenant building should all have either projecting or wall signs, and shall be of uniform size.

- (f) Maximum permitted sign dimensions by sign type.
 - (1) Freestanding sign: May not be greater than eight feet in height, measure from the ground to the top of the sign or its supporting structure and not located closer than four feet from any street right-of-way or property line.
 - (2) Directional sign: Four square feet in area per sign; and a maximum of 25 square feet for all directional signs.
 - (3) Projecting sign: Twenty-four square feet.
 - (4) Awning or canopy sign: Twenty-four square feet in area, regardless of the length of the awning.
 - (5) Wall sign. Fifty square feet per building occupied by a single business or activity or 18 square feet for each entrance facade of a single business or activity in a multi-tenant building.
 - (6) Window signs may not be greater than one-third of each total window area.

In a new development requiring Planning Board review, a waiver exceeding the foregoing dimensional requirements may be granted.

§ 13-9. Illumination

[Ord. No. 13-23-A, § 2, 2-19-2014]

- (a) Externally illuminated signs are signs that are illuminated by a light that reflects off the surface of the sign from an external source. External illumination shall only be by a stationary light of white or off-white color. Such light shall be so shaded, shielded or directed, or maintained at a sufficiently low intensity and brightness, that it will not adversely affect neighboring properties, nor the safe vision of operators of motor vehicles on public streets or rights-of-way. Such light shall not reflect or shine on or into residential buildings so as to adversely affect the residents therein. Externally illuminated signs are permitted in all areas of the Town.
- (b) Internally illuminated signs are signs that include artificial illumination from a light source located behind the sign face and which transmits light through the sign face or portions of the sign face to the viewer. Exposed neon tubing and similar lighting shall be considered internal illumination. Internally illuminated signs are permitted on Diamond Hill Road, High Street, Mendon Road, Broad Street, and Dexter Street except for on Diamond Hill Road, from Industrial Road and Broadview Avenue north to Pine Swamp Road to the Woonsocket boundary.

§ 13-10. Nonconforming signs

[Ord. No. 13-23-A, § 2, 2-19-2014]

Any sign, which lawfully existed and was maintained at the time this article, as amended, became effective, may be continued. Maintenance, repairs and changing of sign faces are permitted, provided that there is no change in area, height, setback, projection or lighting of the existing sign.

§ 13-11. Supplemental sign regulations

[Ord. No. 13-23-A, § 2, 2-19-2014]

- (a) Signs in historic districts. All signs, including window signs, except political signs, in a historic district shall be subject to approval by the historic district commission and its regulations.
- (b) Signs in overlay and special districts. Signs in overlay and special districts shall conform to the corresponding requirements of such district. If there are no sign regulations for such district, then the requirements for the underlying zoning district shall be followed.

§ 14. Off-Street Parking and Loading

§ 14-1. Off-street parking requirements

[Ord. No. 08-31, 10-7-2009; amended 4-15-2026 by Ord. No. 26-03]

No land shall be used or occupied and no structure shall be erected or used unless the off-street parking spaces required herein are provided. Uses and structures, which are nonconforming by parking, are controlled by § 16-8. While it is the intent of this article to require minimum off-street parking and loading facilities, excessive paving of land that supplies significantly more than the minimum numbers of spaces is discouraged.

- (a) Location of required parking spaces. The off-street parking spaces required by this appendix shall be on the same lot as the structure or use they are intended to serve, or on an abutting lot.
- (b) Shared parking. No part of an off-street parking area required for any building or use for the purpose of complying with the provisions of this article shall be included as a part of an off-street parking area similarly required for another building or use unless allowed by a variance or through unified development review as applicable.

§ 14-2. Parking space dimensions and construction

[Ord. No. 08-31, 10-7-2009; amended 4-15-2026 by Ord. No. 26-03]

- (a) Minimum size of parking spaces. Each parking space shall be marked by painted lines and contain the following minimum dimensions affecting the width and length of individual parking stalls and the width of aisles in all districts, exclusive of necessary drives and other access ways. A driveway may be considered a required parking space only for a detached single- or two-family dwelling and need not contain painted lines.

In addition, all nonresidential land uses shall provide handicapped parking spaces which meet the design standards specified in accordance with the American Disabilities Act (ADA).

Parking Space Dimensions	
Minimum width	9 feet
Minimum length	18 feet
Minimum aisle width:	
90° angle	24 feet
60° angle	18 feet
45° angle	13 feet
30° angle	11 feet
0° (parallel parking)	12 feet

- (b) Setbacks of parking spaces. No parking space or aisle (back-up space) shall be less than 10 feet from any front or corner side yard line. No parking space or aisle shall be less than five feet from any building, except where greater setbacks are required. Parking spaces less than 10 feet from any building shall be separated from such building by raised curb, bumper or wheel guards. The requirements of this subsection shall not apply to detached single or two-family dwellings.
- (c) Entrance and exit. Each parking space shall be designed with adequate off-street area for approach, turning and exit without the need or ability to use any part of a street. In all districts except residential districts, driveways shall be a minimum of 12 feet in width for each lane of traffic using such driveway and the width of any driveway shall not exceed 30 feet.
- (d) Construction requirements. Every parcel of land which, after the effective date of this appendix or any amendment thereto, is changed which includes a parking area for more than 10 vehicles, or to a drive-in business or motor vehicle sales or service establishment, shall be developed as follows, subject to the approval of plans thereof by the Building Official.

- (1) Such parking area shall be treated with bituminous or other suitable surfacing and shall have appropriate bumper or wheel guards where needed. However, the use of pervious materials is encouraged where appropriate to limit the generation of stormwater runoff and encourage groundwater recharge. The use of "best management practices" (BMPs) to control the volume and quality of stormwater run-off shall be required.
- (2) The interior of parking areas shall be suitably landscaped with trees, shrubs, vegetation or ground cover in accordance with the Town of Cumberland's Land Development and Subdivision Regulations.
- (3) Any light used to illuminate said parking area should be so arranged as to reflect the light away from adjoining premises and streets. Lighting shall be located and designed in accordance with the Land Development and Subdivision Regulations.

§ 14-3. Parking requirements by use

[Ord. No. 08-31, 10-7-2009; amended 5-15-2024 by Ord. No. 24-07; 4-15-2026 by Ord. No. 26-03]

The minimum number of off-street parking spaces required for each use shall be as set forth in the following table. Where the resulting number of spaces includes a fraction thereof, the required number of spaces shall be rounded up to the next highest integer. Where the application of any minimum parking requirement to an individual use may be in question, the Building Official shall make the final determination as to which minimum parking requirement shall be applied to a proposed use or change of use.

- (a) Minimum parking requirements. All uses, whether considered accessory or not, must comply with the following requirements:

Parking Requirements by Use

Use

Minimum Parking Spaces Required

Residential:

Dwelling Unit

1 spaces per D.U.

Elderly housing

1 space per D.U.

Nursing home, assisted living

1 space per 4 beds, plus 1 space for every 2 employees (largest shift)

Rooming house

1 space per 2 rooms

Office:

1 space per 400 square feet GFA

Service:

Business and commercial General service

1 space per 400 square feet GFA

Hotel/Motel

1 space per bedroom

Funeral home

2.5 spaces per 300 square feet of assembly area, or 10 spaces per parlor

Theater and auditorium

1 space per 4 seats

Indoor commercial recreation

Minimum Parking Plan Required

Outdoor recreation facility

Minimum Parking Plan Required

Gas and service station

1 space per employee (largest shift), plus 4 spaces per bay

Retail:

Restaurant

1 space per 4 seats or 1 space per 300 square feet GFA, whichever is gr

Fast food

1 space per 2 seats or 1 space per 150 square feet GFA, whichever is gr

Convenience store

1 space per 300 square feet GFA

New and used vehicle sales

1 space per 500 square feet GFA

Furniture, appliance or carpet sales

1 space per 500 square feet GFA

Other retail uses

1 space per 300 square feet GFA, plus 1 space per employee (largest sh

Transportation and Utility:

Public and private utilities

Minimum Parking Plan Required

Commercial vehicle terminal

Minimum Parking Plan Required

Transportation Center

Minimum Parking Plan Required

Institutional:

Place of worship

1 space per 3 seats plus 1 per room

Pre-school or Day Care

1 space per employee (largest shift) plus 1 space per 12 children.

Primary or junior high school	3 spaces per classroom
High school	1 space per 5 students
Post secondary school or college	1 space per 3 students
Hospital	1 space per 2 beds, plus 1 space for every 2 employees (largest shift)
Nursing home	1 space per 2 beds
Convalescent home	1 space per unit
Recreation:	
Theater and auditorium	1 space per 4 seats
Indoor commercial recreation	1 space per 200 square feet GFA
Outdoor recreation facility	1 space per 5 persons at maximum capacity, plus 1 space per 500 square feet GFA
Library, museum	1 space per 500 square feet GFA
Industrial:	
Wholesale business, storage space and warehouses	1 space per employee (largest shift) plus 1 space for each company vehicle
Manufacturing, processing, assembly or packaging	1 space per employee (largest shift) plus 1 space for each company vehicle

- (b) Parking plan required. Where the table of minimum parking requirements specifies that a Minimum Parking Plan is required, such plan shall be submitted to the applicable permitting authority. The contents of the Minimum Parking Plan shall include, as applicable:
 - (1) The overall number of parking spaces proposed for each use. Where there is more than one use, the aggregate number of spaces shall also be provided.
 - (2) A description and quantification of anticipated peak parking demand based upon the anticipated employee demand, customer service demand, and any other visitation to the proposed use(s).
 - (3) A description of any other factors that may reduce or otherwise affect parking demand including, but not limited to, proximity to transit and employee incentive programs designed to reduce automobile trip generation.

§ 14-4. Off-street loading requirements

[Ord. No. 08-31, 10-7-2009; amended 4-15-2026 by Ord. No. 26-03]

No land shall be used or occupied and no structures shall be erected or used for commercial or industrial purposes unless the off-street loading spaces required herein are provided. Off-street loading spaces as specified in this article shall be provided subject to the requirements of this section for any enlargement or alteration to any such existing structure or use.

- (a) Location of required loading areas. Off-street loading areas are required by this article and shall be in all cases on the same lot or parcel of land as the use or structure they are intended to serve. In no case shall any required off-street loading space be part of an area used to satisfy the off-street parking requirements of this article. Each loading area shall be designed with adequate off-street area as required for parking spaces by this article. To the extent possible, loading areas shall be to the rear of any building, or shall be screened.

§ 14-5. Loading spaces required

[Ord. No. 08-31, 10-7-2009; amended 4-15-2026 by Ord. No. 26-03]

For each commercial and industrial enterprise of over 15,000 square feet of gross floor or ground area in which commodities are sold, displayed, serviced, repaired, altered or fabricated as the principal use of the enterprise, the first off-street loading space shall be required for the first 15,000 square feet of gross floor area. Thereafter, one off-street loading space shall be required for every additional 40,000 square feet of gross floor area. Each off-street loading space shall consist of the following dimensions:

Length	60 feet

Width	14 feet
Clearance	15 feet

Additional off-street loading spaces shall be required by the Building Official when necessary to provide adequate area for o

§ 14-6. Relief from parking requirements

[Ord. No. 08-31, 10-7-2009; amended 4-15-2026 by Ord. No. 26-03]

The expansion or change of use of a lawfully established use of a building, structure or land that does not meet the parking requirements of this article (nonconforming by parking), is governed by § 16-8. Relief from the required number of parking and/or loading spaces in all other circumstances may be provided by the Zoning Board of Review as a dimensional variance under the provisions of Article 18 or through the Planning Board under unified development review.

§ 15. Low and Moderate Income Housing

§ 15-1. Statutory authority and purpose

[Ord. No. 08-31, 10-7-2009]

In accordance with G.L. § 45-53, the Low and Moderate Income Housing Act, the purpose of this article is to provide opportunities for the establishment of low and moderate income housing for both individuals and families in the Town of Cumberland. To address the need for affordable, accessible, safe and sanitary housing for citizens of low and moderate income, this article shall serve to regulate procedures for the application of low and moderate income housing projects under the provisions of the state law, and to establish incentives for the establishment of such housing.

§ 15-2. Affordable housing goals

[Ord. No. 08-31, 10-7-2009]

In keeping with the goals and objectives of the Town of Cumberland Comprehensive Plan, low and moderate income housing shall be provided in a manner that maintains the character of the community and is commensurate with the ability of the Town to provide good quality and cost effective services to its residents. In meeting the needs for affordable housing, priority consideration shall be given to the retrofitting of existing dwellings and the assimilation of low and moderate income housing into existing developments and neighborhoods.

§ 15-3. Definitions

[Ord. No. 08-31, 10-7-2009]

For the purposes of this article, the following terms shall have the following meanings:

- (a) **AFFORDABLE HOUSING** — Housing that has a sales price or rental amount that, when adjusted for any federal, state or municipal government subsidy, is less than or equal to 30% of the gross household income of the low and moderate income occupants of the housing (Ref. G.L. § 42-128.8.1 (d)). Affordable housing shall include all types of year-round housing, including, but not limited to, manufactured housing, housing originally constructed for workers and their families, accessory dwelling units, housing accepting rental vouchers and/or tenant based certificates under § 8 of the U.S. Housing Act of 1937, as amended, and assisted living housing.

- (1) In the case of dwelling units for sale, affordable housing shall mean housing in which the principal, interest, taxes, which may be adjusted by state or local programs for property tax relief, and insurance constitute no more than 30% of the gross household income for a low or moderate income household.
- (2) In the case of dwelling units for rent, affordable housing shall mean housing in which the rent, heat and utilities other than telephone constitute no more than 30% of the gross annual income for a household with 80% or less of the area median income, adjusted for family size.
- (b) **AFFORDABLE HOUSING PLAN** — The component of the housing element of the comprehensive plan that is developed to meet housing needs in the Town, including that for low and moderate income residents, and is prepared in accordance with guidelines adopted by the state planning Council.
- (c) **COMPLETED APPLICATION** — A single application consisting of all forms, accompanying documents, exhibits and fees required pursuant to G.L. § 45-53, and § 15-6 of this article, submitted to request relief from the provisions of local ordinances in lieu of separate applications to the applicable local boards.
- (d) **COMPREHENSIVE PERMIT** — A single application to build low and moderate income housing in lieu of separate applications to applicable boards, in which at least 25% of the housing is proposed to be low or moderate income housing for a period of at least 30 years from initial occupancy.
- (e) **CONSISTENT WITH LOCAL NEEDS** —
 - (1) Local zoning and land use ordinances, requirements and regulations are considered consistent with local needs if they are reasonable in view of the state needs for low and moderate income housing; consider the number of low income persons in the Town; are needed to protect the health and safety of the occupants of the proposed housing or of the residents of the Town; promote better site and building design in relation to the surroundings or preserve open spaces; and if they are applied as equally as possible to both subsidized and unsubsidized housing.
 - (2) Local zoning or land use ordinances, requirements or regulations are deemed reasonable if:
 - * a. The number of low and moderate income housing units (defined below) are in excess of 10% of the total number of yearround housing units in Town, as calculated on an annual basis by the Rhode Island Housing and Mortgage Finance Corporation (RIHMF); or
 - * b. The housing element of the Town comprehensive plan provides for low and moderate income housing units in excess of 10% of the yearround total housing units, and the local ordinances, requirements and regulations are in place to promulgate the plan.
- (f) **DENIAL** — The Planning Board refuses to grant a comprehensive permit, or extends the public hearing without reasonable cause.
- (g) **INCLUSIONARY ZONING** — A regulatory technique applicable to residential subdivisions and/or land development projects that requires a percentage of units within the development to be affordable to households of low and moderate income. Such inclusionary units must meet the definition of low and moderate income housing as defined in this article and in G.L. § 45-53-3.
- (h) **LOCAL BOARD** — The Planning Board, Zoning Board of Review, Building Official, zoning officer or any other boards or officials having the power of enforcing land use regulations or supervising the construction of buildings.
- (i) **LOW AND MODERATE INCOME** — Income as those terms are defined by the state or federal government program providing the subsidy for the proposed low or moderate income housing.
- (j) **LOW OR MODERATE INCOME HOUSING** — Any housing or community residence (as defined in Article 2 of this appendix):
 - (1) Subsidized by the federal, state or municipal government under any program to assist the construction or rehabilitation of low or moderate income housing, as defined in the applicable federal or state statute, that will remain affordable for 99 years or such other period that is agreed to by the applicant and the Town, but shall not be less than 30 years from initial occupancy through a land lease and/or deed restriction, and built or operated by:
 - * a. Any public agency or nonprofit organization or limited equity housing cooperative; or
 - * b. A private developer of low or moderate income housing;
 - (2) In which any nonresidential component of the proposed development is secondary to the overall proposal, provided the nonresidential component does not exceed that allowed under the funding source or 25% of the gross square footage of the proposed development, whichever is lower.

- (k) MUNICIPAL GOVERNMENT SUBSIDY — Assistance that is made available through a Town program to make housing affordable, as affordable housing is defined above. Such assistance may include, but not [be] limited to: direct financial support; waiver of fees and charges; approval of density bonuses and/or internal subsidies; and any combination of forms of assistance.
- (l) STATE HOUSING APPEALS BOARD — The board which hears appeals of denials or conditioned approvals from applicants filing an applications for a comprehensive permit to construct or rehabilitate low or moderate income housing under the provisions of G.L. § 45-53.
- (m) SUBSIDIZED HOUSING — Housing which receives any direct or indirect municipal, state or federal financial assistance which reduces the cost of the development and results in the creation of affordable housing units for low and moderate income families.

§ 15-4. Comprehensive permit

[Ord. No. 08-31, 10-7-2009]

The Cumberland Planning Board shall have the power to issue a comprehensive permit for a qualifying low and moderate income housing project submitted under the provisions of G.L. § 45-53, in lieu of separate applications to local boards who would otherwise act with respect to such project.

The Planning Board shall have the right to attach to the comprehensive permit such reasonable conditions and requirements with respect to the site plan, building density, setbacks, height, size, shape, building materials, landscaping, drainage and parking consistent with the need to protect the health and safety of the occupants of the proposed housing and/or of the residents of the Town.

§ 15-5. Eligible applicants and projects

[Ord. No. 08-31, 10-7-2009]

- (a) Eligible applicants. Applicants eligible to file a comprehensive permit for approval of construction or rehabilitation of low or moderate-income housing that will remain affordable for 99 years or such other period that is agreed to by the applicant and the Town, but shall not be less than 30 years from initial occupancy through a land lease and/or deed restriction, are:
 - (1) Any public agency, nonprofit organization or limited equity housing cooperative proposing to build or rehabilitate low or moderate income housing; or
 - (2) Any private developer proposing to build low or moderate income housing. In the case of private developers, a monitoring entity shall be identified with the capacity and the procedures in place to monitor the affordability of the project for a period of not less than 30 years from the initial occupancy, pursuant to a list of responsible monitoring entities and/or criteria for monitoring published by the R.I. Housing and Mortgage Finance Corporation.
- (b) Eligible projects. Projects are eligible if sponsored by an eligible entity and meet the eligibility requirements for a subsidy from the municipal, state or federal government under any program to assist the construction or rehabilitation of low and moderate income housing, and propose to set aside at least 25% of the total number of housing units as low or moderate income housing.

§ 15-6. Application requirements

[Ord. No. 08-31, 10-7-2009]

- (a) Pre-application conference. To assist an applicant and to determine if all requirements, including eligibility, have been met prior to submission of a comprehensive permit application, pre-application conceptual review and eligibility determination meetings shall be scheduled with the planning director. The planning director shall schedule a pre-application meeting, which may include representation from the Planning Board and other local boards, or consist of a meeting with the entire Planning Board, within 30 days of the request from the applicant.
- (b) Required documents. A completed application to the Planning Board for a comprehensive permit to construct a low or moderate income housing project shall be submitted to the planning department.

The application shall include the submission of the following documents:

- (1) A completed application form as provided by the planning department which includes specific identification of all relief requested from the provisions of this appendix and the Cumberland Land Development and Subdivision Regulations (the "regulations").
- (2) A report addressing how the proposed project is consistent with local needs, including, but not limited to, needs identified in the affordable housing plan, the comprehensive plan, and with any local zoning and land use ordinances, requirements and regulations enacted to address affordable housing needs in Cumberland.
- (3) Written evidence of site control or ownership.
- (4) Written evidence of eligibility for a municipal, state or federal subsidy, including an application in such form as may be prescribed for a municipal government subsidy, or a letter of eligibility issued by the R.I. Housing Mortgage Finance Corporation, or in the case of projects primarily funded by the U.S. Department of Housing and Urban Development or other state or federal agencies, an award letter indicating the subsidy, as well as a timetable for the expected availability of the funding.
- (5) Written evidence of incorporation and/or nonprofit status of the applicant and operator of the facility, as applicable.
- (6) Written evidence of a monitoring agency with the capacity and the procedures in place to monitor the affordability of the project for a period of not less than 30 years from the initial occupancy, as applicable.
- (7) Proposed rental rates or sales prices to be charged for all housing units in the proposed development.
- (8) A sample land lease or deed restriction with affordability liens that will restrict use of the housing units as low or moderate income housing in conformance with the guidelines of the agency providing the subsidy, but for a period of not less than 30 years.
- (9) A financial pro-forma for the proposed development.
- (10) A proposed time table for the commencement of construction and completion of the project.
- (c) Required plans. A completed application for a comprehensive permit to construct a low or moderate income housing project shall also include the following plans and supporting materials:
 - (1) For a comprehensive permit involving a minor land development or minor subdivision, those plans and materials as required in the regulations for a preliminary plan, with the exception of state or federal permits. For a comprehensive permit involving a major land development or major subdivision, plans and materials as required in the regulations for a master plan submission, including landscaping/tree preservation, grading, soil erosion and sedimentation control, and drainage plans stamped by the appropriate professional. (See checklists contained in the regulations).
 - (2) Scaled architectural drawings including floor plans of typical units, typical elevations and sections, identifying construction type and exterior finish materials, signed and certified in accordance with the state building code.
 - (3) A tabulation of proposed buildings by type and size (number of bedrooms and floor area), building lot coverage (total footprint) and percentage of total parcel to be occupied by buildings and paved areas, as well as identification of permanent open space areas.
 - (4) Signage plan, including any entrance signage, street name signs and private development signs, if applicable.
 - (5) Lighting plan, including frequency, style and intensity of proposed street and parking lot lighting and exterior building lighting.
- (d) Required fees. The applicant shall also submit the filing fee as listed in the current fee schedule for the Town as adopted by the Town Council. In addition to the filing fee, the applicant shall be responsible for all administrative costs incurred by the Town, including legal advertisement and stenographic services. The applicant may also be assessed a project review fee to allow the Town to offset the costs of professional and expert review of the proposed development, provided however, such fee shall not exceed the actual costs incurred by the Town.
- (e) Completeness of application. For an application involving a minor land development or minor subdivision, the planning director shall certify it as either complete or incomplete within the time periods as contained in the regulations. For an application involving a major land development or

major subdivision, however, the planning director shall certify the master plan application within 30 days, and the preliminary plan application (see below) within 45 days of the receipt of submitted plans and materials. Incomplete applications shall be returned to the applicant or its authorized agent with instructions for completion. The time period will be deemed stopped upon the issuance of a certificate of incompleteness and will recommence upon the resubmission of a corrected application; however the planning director shall have no less than 14 days from the date of its resubmission to certify a corrected application as complete or incomplete.

- (f) Other requirements. Notwithstanding the submission requirements set forth in this section, the Planning Board may request additional reasonable documentation throughout the public hearing (see below), including opinions or statements from other local boards, or from outside experts.

§ 15-7. Review procedures

[Ord. No. 08-31, 10-7-2009]

- (a) Public hearing required. The Planning Board shall hold a public hearing on the master plan with public notice of such hearing given at least 14 days prior to the date of the hearing in a newspaper of general circulation in the Town, and notice sent by mail to all parties entitled in accordance with § 5G.2 of the regulations. The cost of public notice and mailings shall be borne by the applicant.
- (b) Timetable for decision. For a comprehensive permit involving a minor land development or minor subdivision, the Planning Board shall, within 30 days of the issuance of a certificate of completeness, hold a public hearing, and within 95 days of the issuance of a certificate of completeness, render a decision. For a comprehensive permit involving a major land development or major subdivision, the Planning Board shall, within 120 days of the issuance of the certificate of completeness, or within such further time as may be agreed to by the board and the applicant, render a decision.
- (c) Preliminary and final review. The preliminary and final review phases of a comprehensive permit application shall be conducted according to the submittal requirements and timetables contained in the appropriate sections of the regulations, except as noted above. Evidence of all necessary state and federal permits shall not be required until prior to final approval or the issuance of a building permit.

§ 15-8. Decision of the Planning Board

[Ord. No. 08-31, 10-7-2009]

- (a) Planning Board actions. In rendering a decision, the Planning Board may take the following actions:
 - (1) Approve a comprehensive permit on the terms and conditions set forth in the application.
 - (2) Approve a comprehensive permit with conditions with respect, but not limited to, the site plan, building density, setbacks, height, size, shape, building materials, landscaping, drainage and parking, in a manner that does not render the construction or operation of such housing infeasible.
 - (3) Deny a comprehensive permit only if the project is inconsistent with local needs, including, but not limited to:
 - * a. The project is not in conformance with the Town comprehensive plan;
 - * b. The project is not in conformance with the affordable housing plan in the approved comprehensive plan, or with local zoning ordinances and procedures promulgated in conformance with the comprehensive plan;
 - * c. The Town has low and moderate income housing units in excess of 10% of the total yearround housing units, or has a plan for meeting this standard and the local ordinances, requirements and regulations to implement the plan; or
 - * d. The concerns for the environment and the health and safety of the occupants of the proposed housing or of the current residents of the Town have not been adequately addressed.
- (b) Positive findings. In taking final action on an application, the Planning Board shall make positive findings, supported by legally competent evidence on the record, on each of the following:
 - (1) The proposed development is consistent with local needs as identified in the comprehensive plan, particularly the affordable housing plan;
 - (2) The proposed development is in compliance with the standards and provisions of the Town's

zoning ordinance and subdivision regulations, and/or where expressly varied or waived, local concerns that have been affected by the relief granted do not outweigh the state and local need for low and moderate income housing;

- (3) All low and moderate income housing proposed are integrated throughout the development, are similar in scale and architectural style to the market rate units within the project; and will be built and occupied prior to, or simultaneous with, the construction and occupation of the market rate units;
 - (4) There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all conditions for approval;
 - (5) There will be no significant negative impacts on the health and safety of current or future residents of the community, in areas including, but not limited to, safe circulation, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water runoff, and the preservation of natural, historical or cultural features that contribute to the attractiveness of the community; and
 - (6) The proposed development will not result in the creation of individual lots with any physical constraints to development that building on those lots would be impracticable.
- (c) Recording of decision. All decisions shall be recorded in the land evidence records of the Town of Cumberland. If the comprehensive permit is for a major or minor land development plan or a major or minor subdivision, any decision must also be signed and recorded in accordance with § 3K of the regulations.

No building permit shall be issued by the Building Official for any unit in the proposed development until written evidence

§ 15-9. Appeals

[Ord. No. 08-31, 10-7-2009]

- (a) Appeal of approval. Any person aggrieved by an approval of a comprehensive permit for the construction of a low or moderate income housing project may appeal to the superior court within 20 days of the issuance of the approval.
- (b) Appeal of denial. An appeal of a denial of a comprehensive permit, or the granting of a permit with conditions or requirements that make the building or operation of the housing project infeasible, may be filed with the state housing appeals board, pursuant to the provisions for an appeal as set forth in G.L. § 45-53.
 - (1) The state housing appeals board shall forthwith notify the Planning Board and all persons entitled to notice of the filing of the appeal, and the Planning Board shall post the notice of appeal in the Cumberland Town Hall for a period of not less than 10 days.
 - (2) The Planning Board, shall, within 10 days of the receipt of such notice, transmit to the appeals board a transcript describing its decisions, the reason for the decision, who was present and a record of their vote, and the findings of fact.

§ 15-10. Expiration of a comprehensive permit

[Ord. No. 08-31, 10-7-2009]

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

§ 15-11. Limitations on applications from private developers

[Ord. No. 08-31, 10-7-2009]

Notwithstanding the timetables set forth in other sections of this article, the Planning Board shall have the authority to consider comprehensive permit applications from private for-profit developers sequentially in

the order in which they are submitted. In addition, the Planning Board may limit the annual total number of dwelling units in comprehensive permit applications from for-profit developers to an aggregate of 1% of the total number of yearround housing units in the Town, as recognized in the approved affordable housing plan. In exercising this option, the Town must be in compliance with the implementation requirements of the affordable housing plan, according to the most recent report of the R.I. Housing Resources Commission.

§ 15-12. Inclusionary zoning

[Ord. No. 08-31, 10-7-2009]

(Reserved)

§ 16. Nonconformance

§ 16-1. Nonconformance

[Ord. No. 08-31, 10-7-2009]

A nonconformance is a building, structure (including a sign), or parcel of land, or use thereof, which was lawfully existing at the time of the adoption or amendment of this zoning ordinance, and not in conformity with the provisions of this appendix or amendment.

Such nonconformance is incompatible with and detrimental to permitted uses in the zoning district in which it is located. Nonconformance causes disruption of the comprehensive land use pattern of the Town, inhibits present and future development of nearby properties, and confers upon its owner a position of unfair advantage. It is intended that existing nonconformance shall not justify further departures from this appendix for itself, or for any other properties.

- (a) Nonconforming by use. A lawfully established use of building, structure or land, which is not a permitted use, either by right or by special use permit, in the zoning district in which it is located, as set forth in Article 4, is nonconforming by use.
- (b) Nonconforming by dimension. A lawfully established building, structure or parcel of land not in compliance with the dimensional regulations of this appendix is nonconforming by dimension. Dimensional regulations include all regulations of this appendix other than those pertaining to the permitted uses. A lawfully established building, structure, parcel of land, or use thereof, not in compliance with the parking regulations of this appendix, as set forth in Article 8 is also nonconforming by dimension. A lawfully existing or lawfully established lot that is not in compliance with the dimensional regulations of the zoning ordinance, including, but not limited to, those regulations for minimum lot size, lot width and lot frontage (also known as a substandard lot of record), is also nonconforming by dimension.
- (c) Nonconforming by dwelling units. A building or structure containing more dwelling units than are permitted by the use regulations of this appendix shall be nonconforming by use. A building or structure containing a permitted number of dwelling units by the use regulations of this appendix, but not meeting the lot area per dwelling unit regulations, shall be nonconforming by dimension.
- (d) Most restrictive regulations to apply. A building, structure or parcel of land nonconforming by more than one factor, such as by use, dimension, area or parking, shall comply with all regulations of this article. Where the regulations conflict, the most restrictive regulations shall apply.

It is also the intent of this article to address nonconforming uses in agricultural and residential zones in a stricter fashion than

§ 16-2. Lawfully existing or established

[Ord. No. 08-31, 10-7-2009]

A building, structure or the use of land is lawfully established if it was in existence prior to May 22, 1952, or was established in conformance with the zoning ordinance in effect at the time the use was first established the effective date of the adoption or amendment of this appendix which rendered such building, structure or

use of land nonconforming. A lot is lawfully established if it was of record or shown on a recorded plat prior to December 13, 1962, or the effective date of the adoption or amendment of this appendix which rendered such lot nonconforming, and was separately owned. All other lots that were not lawfully established are not protected by this section. For the purposes of this appendix, the creation and/or the use of a parcel of land for a particular use which was legal at the time the parcel of land was created and/or so used, shall not serve to create the lawful establishment or lawful existence of any use that was not legal at the time of creation and/or use of the land, regardless of subsequent changes in allowable legal uses.

§ 16-3. Existence by variance or special use permit

[Ord. No. 08-31, 10-7-2009]

A nonconforming building, structure, sign, or parcel of land or the use thereof, which exists by virtue of a variance or a special use permit (or a special exception) granted by the Zoning Board of Review, shall not be considered a nonconformance for the purposes of this article, and shall not acquire the rights of this article. Rather, such building, structure, sign, parcel of land or use thereof, shall be considered a use by variance or a use by special use permit, and any moving, addition, enlargement, expansion, intensification or change of such building, structure, sign, parcel of land or use thereof, to any use other than a permitted use or other than in complete conformance with this appendix, shall require a further variance or special use permit from the board.

§ 16-4. Building or structure nonconforming by use

[Ord. No. 08-31, 10-7-2009]

Nonconforming uses are incompatible with and detrimental to permitted uses in the zoning districts in which they are located. Nonconforming uses cause disruption of the comprehensive land use pattern of the Town, inhibit present and future development of nearby properties, and confer upon their owners a position of unfair advantage. It is intended that existing nonconforming uses shall not justify further departures from this appendix for themselves, or for any other properties.

- (a) Treatment in residential zones. Nonconforming uses in residential zones are to be treated in a stricter fashion than nonconforming uses located in nonresidential zones. Due to the disruption which nonconforming uses cause to the peace and tranquility of a residential zone, nonconforming uses therein should be eventually abolished or reduced to total conformity over time.
- (b) Continuance. Nothing in this appendix shall prevent or be construed to prevent the continuance of a nonconforming use of any building or structure for any purpose to which such building or structure was lawfully established. A building or structure containing a nonconforming use may be maintained and repaired except as otherwise provided in this section.
- (c) Moving. A building or structure containing a nonconforming use shall not be moved in whole or in part either on or off the lot on which it is located unless the use contained within such building or structure is made to conform to the use regulations of the zone in which it is relocated.
- (d) Addition, expansion and intensification. The following standards shall apply to a building or structure containing a nonconforming use:
 - (1) A building or structure containing a nonconforming use shall not be added to or enlarged in any manner, including any addition or enlargement of floor area or volume, unless the use contained within such building or structure, including such addition and enlargement, is made to conform to the use regulations of the zone in which it is located.
 - (2) A nonconforming use of a such building or structure shall not be expanded into any other portion of the building or structure which contains a conforming use, or which is unoccupied or unused.
 - (3) A nonconforming use of a such building, structure or land shall not be intensified in any manner. Intensification shall include, but not be limited to, increasing hours of operation, increasing the number of dwelling units or increasing the seating capacity of a place of assembly. However, this section shall not prohibit the reconfiguration of existing dwelling units within a building or

structure so long as such reconfiguration complies with the requirements of subsection 2-8(f) does not constitute an expansion as described in paragraph (2) above.

- (e) Change of use. Within any zone, a nonconforming use shall be changed only to a permitted use (by right or special use permit) or to a use within the same use code listed under Article 4 and described in Appendix A. A nonconforming use, if changed to a permitted use, may not be changed back to a nonconforming use.
- (f) Abandonment. If a nonconforming use is abandoned, it may not be reestablished. Abandonment of a nonconforming use shall consist of some overt act, or failure to act, which would lead one to believe that the owner of the nonconforming use neither claims nor retains any interest in continuing the nonconforming use unless the owner can demonstrate intent not to abandon the use. An involuntary interruption of nonconforming use, such as by fire and natural catastrophe, does not establish the intent to abandon the nonconforming use. However, if any nonconforming use is halted for a period of one year or more, the owner of the nonconforming use will be presumed to have abandoned the nonconforming use, unless that presumption is rebutted by the presentation of sufficient evidence of intent not to abandon the use.

§ 16-5. Land nonconforming by use

[Ord. No. 08-31, 10-7-2009]

- (a) Continuance. The lawfully established nonconforming use of land, where no building is involved, may be continued, provided that no such nonconforming use of land shall in any way be expanded or intensified either on the same or adjoining property.
- (b) Change of use. The nonconforming use of land shall not be changed to a different use, unless such use conforms to the use regulations of the zone in which it is located.

§ 16-6. Building or structure nonconforming by dimension

[Ord. No. 08-31, 10-7-2009]

- (a) Continuance. Buildings or structures that are nonconforming by dimension are likely to cause overcrowding and congestion in the neighborhoods, contribute to unhealthy conditions and are contrary to the purposes of this appendix. Buildings or structures that are nonconforming by dimension cause disruption of the comprehensive land use pattern of the Town, inhibit present and future development of nearby properties, and confer upon their owners a position of unfair advantage. It is intended that existing buildings or structures that are nonconforming by dimension shall not justify further departures from this appendix for themselves or for any other property. However, nothing in this appendix shall prevent or be construed to prevent the continuance of the use of any building or structure nonconforming by dimension for any purpose to which such building or structure was lawfully established. A building or structure nonconforming by dimension may be maintained and repaired except as otherwise provided in this section.
- (b) Moving. A building or structure which is nonconforming by dimension shall not be moved in whole or in part to any other location on the lot in which it is located unless every portion of such building or structure is made to conform to all of the dimensional requirements of the zone in which it is located.
- (c) Addition, expansion and intensification. The following standards shall apply to a building or structure nonconforming by dimension:
 - (1) Such building or structure nonconforming by dimension shall not be added to or enlarged in any manner, unless such addition or enlargement conforms to all of the dimensional regulations of the zone in which the building or structure is located.
 - (2) A conforming use within a such building or structure which is nonconforming by dimension (other than by lot area per dwelling unit) may be expanded into any other portion of the building or structure which is unoccupied or unused.
 - (3) A conforming use within a such building or structure which is nonconforming by dimension may be intensified, provided that such intensification is in conformance with the use and lot area per dwelling unit regulations, if applicable, for all other applicable requirements of the zone in

which it is located.

- (d) Change in use. A conforming use within a building or structure which is nonconforming by dimension may be changed to any other conforming use.
- (e) Demolition. A building or structure nonconforming by dimension, if voluntarily demolished, shall not be reconstructed unless it conforms to the dimensional regulations of the zone in which it is located. Such voluntary demolition shall be considered an abandonment of the use as set forth in subsection 2-8(i). If such building or structure is involuntarily demolished, destroyed or damaged, it may be repaired or rebuilt to the same size and dimension as previously existed.

§ 16-7. Land nonconforming by area

[Ord. No. 08-31, 10-7-2009]

- (a) Use of substandard lots. A lot having frontage on a street that is not in compliance with the dimensional regulations of the zoning ordinance, including, but not limited to, minimum lot size, lot width and lot frontage, otherwise known as a "substandard lot of record", may be used for any purpose that conforms to the use regulations of the zone in which it is located, provided such lot was shown on a recorded deed or plat entered into the land evidence records in the office of the Town Clerk on the effective date of this appendix, or any other ordinance or amendment rendering it substandard.
- (b) Enlargement of undersized substandard lots. Lawfully established lots which have less than the minimum area requirements, may be maintained and may be changed by adding additional land to such lots without prejudice to the rights of the owner of such lots pursuant to the provisions of this section.
- (c) Merger of substandard lots. Adjacent lawfully established individual lots in common ownership, which have less than the minimum area requirements on or after June 29, 1994, at the effective date of the adoption or amendment of this appendix, are not required to, but may be merged together by the owner. Any lawfully established lots that have been so merged or have been previously merged on the assessor's plats as one lot shall not be divided unless in conformance with the dimensional regulations of this appendix.
- (d) Undersized lots in agricultural and industrial zones. Lawfully established lots which have less than the minimum area requirements, and which are located in agricultural and industrial zones, shall not be used for residential uses, if such residential use was not permitted at the time such lot was lawfully established.
- (e) Merger of lots by use. Notwithstanding paragraph (b) above, in such cases where a substandard lot of record is contiguous to a lot under the same ownership as the substandard lot, and the lots are used in common, said lots shall be deemed merged for zoning purposes and shall not be sold separately. For the purposes of this subsection, such lots are used in common when one of the lots contains a principal structure, and one or more of the following conditions exist:
 - (1) The principal structure occupies a portion of the contiguous lot;
 - (2) The individual sewage disposal system (ISDS) serving the principal structure occupies a portion of the contiguous lot;
 - (3) An accessory structure to the principal structure occupies a portion of the contiguous lot; or
 - (4) A portion of the contiguous lot is used to fulfill the off-street parking requirements of the principal structure.If all such conditions resulting in the contiguous lots being used in common are eliminated or corrected, such lots shall no longer be considered to be merged by use.
- (f) Special use permit for land nonconforming by area. Notwithstanding the regulations for minimum lot area contained in Article 4 (dimensional regulations), the following uses may be made by special use permit, of lots in the following zones, provided that they meet all other requirements of this appendix:
 - (1) A-1 Zone — A single household dwelling may be built on a lot with up to 10% less than the minimum area required.

§ 16-8. Buildings and structures nonconforming by parking

[Ord. No. 08-31, 10-7-2009; amended 4-15-2026 by Ord. No. 26-03]

- (a) Applicability. A building, structure, or parking area is considered nonconforming by parking if any of the following conditions apply:
 - (1) The lawfully established use of the building or structure does not meet the parking requirements of Article 14.
 - (2) The design of the parking area does not meet the parking area design, landscaping, or drainage requirements of this Zoning Ordinance.
- (b) Addition, expansion, and intensification. The following standards shall apply to a building or structure nonconforming by parking:
 - (1) A nonresidential building or structure, or use of land, nonconforming by parking, may be added to, enlarged, expanded or intensified provided additional parking space is supplied to meet the requirements of Article 14 for such addition, enlargement, expansion or intensification.
 - (2) Any residential building or structure nonconforming by parking, may not be added to, enlarged, expanded or intensified, unless brought into full compliance with the parking requirements of Article 14, such that sufficient parking is provided for the entire structure including the original portion and the addition, enlargement, expansion or intensification.
- (c) Change of use. A building or structure nonconforming by parking, may be changed to a different use, pursuant to all other provisions of this appendix, provided that such new use meets the following parking requirements of Article 14. The number of additional parking spaces required shall be the difference between the numbers of spaces required for the proposed use and the number of spaces required for the previous use. In the event that the new use requires fewer parking spaces than the previous use, no additional parking spaces need be supplied. However, none of the existing parking spaces shall be eliminated unless the total numbers of spaces required by this appendix for the new use are provided. However, in those cases where an existing permitted use does not meet the parking requirements of Article 14 and is proposed to be changed to a use which requires fewer parking spaces, but which would also not meet the parking requirements on the subject parcel, no additional parking spaces need be supplied. In all other circumstances, if the parcel is unable to support the required number of parking spaces, the applicant shall seek relief from the Zoning Board of Review in the form of a special use permit under the provisions of Article 1.
- (d) A parking area subject to § 16-8(a)(2) may be expanded or altered in accordance with the requirements provided herein. For the purposes of this subsection, expansion includes any addition of impervious surface to increase parking capacity. Alteration is any structural change to the interior of the existing parking area that disturbs more than 2,000 square feet of surface area including, but not limited to, excavation of any kind or the reclamation of pavement. Top coating or overlay of new pavement on an existing paved surface shall not be considered an alteration subject to these requirements. Where alterations subject to this subsection are proposed, the property owner shall demonstrate to the Town that the work will result, to the extent practicable, in greater adherence with the Town of Cumberland's drainage and landscaping requirements as set forth in the Land Development and Subdivision Regulations, and incorporated into this Zoning Ordinance by reference. Any intentional phasing of parking area improvements, as determined by the Building Official, that would circumvent the applicability of this provision shall be considered a zoning violation.

§ 17. Administration and Enforcement

§ 17-1. Enforcement duties

[Ord. No. 08-31, 10-7-2009]

- (a) Building Official. It shall be the duty of the Building Official to interpret and enforce the provisions of this appendix in the manner and form and with the powers provided in the laws of the state and in the charter and ordinances of the Town. The Building Official shall refer all applications for variances, special use permits and other appeals to the Zoning Board of Review. The Building Official shall make a determination in writing, within 15 days, to any written complaint received, regarding a violation of this appendix. In order to provide guidance or clarification, the Building Official shall, upon written request, issue a zoning certificate or provide information to the requesting party within 15 days of the

written request. Any determination of the Building Official may be appealed to the Zoning Board of Review in accordance with § 17-11 of this article.

- (b) Minimum requirements. In interpretation and application, the provisions of this appendix shall be held to be the minimum requirements for the promotion of health, safety, morals, convenience or the general welfare.

§ 17-2. Building permit/certificate of occupancy

[Ord. No. 08-31, 10-7-2009]

Before a building permit or certificate of occupancy is issued for the construction, reconstruction, alteration, repair, demolition, removal, or enlargement or occupancy of any building or structure or use of premises, a site plan an application (three copies) shall be submitted to the Building Official indicating the intended use and its conformity in all respects to the provisions of this appendix. An application for a building permit for an addition, erection or enlargement under the provisions of the Rhode Island Building Code shall be accompanied by a site plan, drawn to scale, showing the following:

- (a) Accurate dimensions of the lot;
- (b) Building site;
- (c) Location and size of existing buildings on the lot;
- (d) All proposed construction;
- (e) All front, side and rear yard dimensions;
- (f) Proposed parking areas; and
- (g) Such other information as may be necessary to enforce the provisions of this appendix.

A site plan shall not be required with an application for a permit involving the alteration of an existing building(s), where t

§ 17-3. Certificate of occupancy

[Ord. No. 08-31, 10-7-2009]

A certificate of occupancy as required by the Rhode Island Building Code shall be required for any of the following:

- (a) Occupancy and use of a building hereafter erected or enlarged;
- (b) Change in use of an existing building to a different use;
- (c) Intensification of an existing use of either a building or land;
- (d) Occupancy and use of vacant land except for the raising of crops;
- (e) Change in the use of land to different use except for the raising of crops; or
- (f) Any change in use of a nonconforming use.

The occupancy, use or change of use shall not take place until a certificate of occupancy has been issued by the Building Official. In interpreting and applying the provisions of this appendix, they shall be held to be the minimum requirements for the pro

§ 17-4. Conflicts of law

[Ord. No. 08-31, 10-7-2009]

All departments, officials and public employees of the Town which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this appendix and shall issue no permit or license for any use, building or purpose if the same would be in conflict with the provisions of this appendix. Any permit or license, issued in conflict with the provisions of this appendix, shall be null and void.

§ 17-5. Penalties and enforcement

[Ord. No. 08-31, 10-7-2009]

Any person or corporation, whether as principal, agent, employee or otherwise, who violates or is the owner of property in violation of any of the provisions of this appendix shall be fined up to \$500 for each offense, such fine to inure to the Town. Each day of the existence of any violation shall be deemed a separate offense. The erection, construction, enlargement, intensification, conversion, moving or maintenance of any building or structure and the use of any land or building or structure which is continued, operated or maintained, contrary to any of the provisions of this appendix is hereby declared to be a violation of this appendix and unlawful. The Building Official shall be empowered to levy such fines, with appeal thereupon to the district court. The Town Solicitor shall also be empowered to institute injunction, abatement or any other appropriate action in any appropriate court to prevent, enjoin, abate or remove such violation, or compel compliance with the provisions of this appendix. The Town Solicitor may consolidate an action for injunctive relief and/or fines under this appendix in the Superior Court for Providence County. The remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

§ 17-6. Establishment of the Zoning Board of Review

[Ord. No. 08-31, 10-7-2009]

A Zoning Board of Review, herein called the "board," is hereby created. Board members may be remunerated in the performance of official duties, at an amount to be established by the Town Council. The board, with the approval of the Town Council may engage technical assistance to aid in the discharge of its duties. The Building Official shall serve as staff to the board. The Town Solicitor or assistant Town Solicitor shall serve as legal counsel to the board. The board shall establish written rules of procedures within six months of the adoption of this appendix. Appeals and correspondence to the board shall be sent to the board in care of the Building Official. The Building Official shall file all records and decisions of the board.

§ 17-7. Membership and voting requirements of the Board

[Ord. No. 08-31, 10-7-2009]

- (a) Membership. The Zoning Board of Review shall consist of five members who are residents of Cumberland, appointed by the Town Council, each to hold office for the term of five years; provided, however, that the original appointments shall be made for terms of one, two, three, four, and five years respectively. The board shall also include two alternates, to be appointed by the Town Council for terms of one year.
- (b) Vacancies. Vacancies in unexpired terms of board members shall be filled by the Town Council no more than 90 days following the vacancy. Members may be removed by the Town Council for due cause and for not attending three consecutive meetings.
- (c) Chair, vice-chair and secretary. The board shall, at its first meeting following the adoption of this appendix, and in January of each year thereafter, elect a chairperson, vice-chairperson and secretary from its membership. The chairperson, or in his/her absence, the vice-chairperson, may administer oaths and compel the attendance of witnesses by the issuance of subpoenas.
- (d) Participation and voting. The alternate members shall sit and may actively participate in hearings. An alternate, as chosen by the chair of the board, shall vote when a member of the board are unable to serve at a hearing. No member or alternate may vote on any matter before the board unless they have attended all hearings concerning such matter. No member or alternate may participate in any way whatsoever on any matter for which they would have a conflict of interest as defined by the Rhode Island Law and the Rhode Island Ethics Commission.

§ 17-8. Powers and duties of the Board

[Ord. No. 08-31, 10-7-2009]

The board shall have the following powers and duties:

- (a) To hear and decide appeals in a timely fashion where it is alleged there is error in any order, requirement, decision, or determination made by an administrative officer or agency in the enforcement or interpretation of this appendix.
- (b) To hear and decide appeals from a party aggrieved by a decision of the historic district commission (HDC), pursuant to Article 8.
- (c) To authorize upon application, in specific cases of hardship, variances in the application of the terms of this appendix. To hear and decide applications for variances, pursuant to Article 18.
- (d) To authorize upon application, where specified in this appendix, special use permits. To hear and decide applications for special use permits, pursuant to Article 18.
- (e) To refer matters to the Planning Board, planning department, or to other boards or agencies of the Town as the board may deem appropriate, for findings and recommendations.
- (f) To provide for issuance of conditional zoning approvals where a proposed application would otherwise be approved except that one or more state or federal agency approvals, which are necessary, are pending. A conditional zoning approval shall be revoked, upon motion of the board, after a public hearing with due notice, in the instance where any necessary state or federal agency approvals are not received within a specified time period.
- (g) To hear and decide such other matters, according to the terms of this appendix or other statutes, and upon which the board may be authorized to pass under this appendix or other statutes.

§ 17-9. Voting decisions of the Board

[Ord. No. 08-31, 10-7-2009]

In rendering a decision, the board shall be required to vote as follows:

- (a) Five active members shall be necessary to conduct a hearing. As soon as a conflict occurs for a member, that member shall recuse himself/herself, and shall not sit as an active member and shall take no part in the conduct of the hearing. Only five active members shall be entitled to vote on any issue.
- (b) The concurring vote of three of the five members of the board sitting at a hearing shall be necessary to reverse any order, requirement, decision or determination of the Building Official, Planning Board, HDC or any zoning administrative other officer or agency from whom an appeal was taken.
- (c) The concurring vote of four of the five members of the board sitting at a hearing shall be required to decide in favor of an applicant on any matter within the discretion of the board upon which it is required to pass under this appendix, including variances and special use permits.

§ 17-10. Application procedures

[Ord. No. 08-31, 10-7-2009]

Application procedures and forms for the filing of appeals, request for variances, special use permits, development review, site plan review and such other applications as may be specified in this appendix, shall be prepared by the Building Official and published made available to all applicants.

- (a) Fees. Reasonable fees may be required, in an amount to be established by the Town Council, to be paid by the appellant or applicant for the adequate review and hearing of applications, issuance of zoning certificates and the recording of the decisions thereon. In addition, the board may require the services of outside professional experts to assist in the review of an application, the cost of which shall be borne by the applicant on an actual fee basis.
- (b) Decisions and records of the Zoning Board of Review. Following a public hearing, the board shall render a decision within a reasonable period of time. The board shall include in its decision all findings of fact and conditions, showing the vote of each member participating thereon, and the absence of a member or his or her failure to vote. Decisions shall be recorded and filed in the office of the Building Official, as well in the land evidence records referencing the property affected by such decision. The

board shall keep written minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations, findings of fact, and other official actions, all of which shall be recorded and filed in the office of the Building Official in an expeditious manner upon completion of the proceeding. For any proceeding in which the right of appeal lies to the superior or supreme court, the board shall have the minutes taken either by a competent stenographer or recorded by a sound-recording device.

Any decision by the board, including any special conditions attached thereto, shall be mailed to the applicant, to the Planning Board, and to the associate director of the Division of Planning of the Rhode Island Department of Administration. Any decision evidencing the granting of a variance or special use permit shall also be recorded in the land evidence records of the Town.

§ 17-11. Appeals to the Zoning Board

[Ord. No. 08-31, 10-7-2009]

- (a) Procedure. An appeal to the board from a decision of the Building Official, any other zoning enforcement officer or agency or of the HDC pursuant to Article 8, may be taken by an aggrieved party. Such appeal shall be taken within 30 days of the date of the recording of the decision of the officer or agency, or within 30 days of the time when the aggrieved party knew or should have known of the action or decision of such officer or agency. The appeal shall be commenced by filing an application with the board, with a copy to the officer or agency from whom the appeal is taken, specifying the ground thereof. The officer or agency from whom the appeal is taken shall forthwith transmit to the board all papers, including any transcript or audiotapes, constituting the record upon which the action appealed from was taken. Notice of the appeal shall also be transmitted to the Planning Board.
- (b) Stay of proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board, after the appeal shall have been duly filed, that by reason of facts stated in the certificate, a stay would in the officer's opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by a court of competent jurisdiction on application thereof and upon notice to the officer from whom the appeal is taken on due cause shown.
- (c) Public hearing. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof in the same manner as set forth in subsection 18-1(c) of this appendix, as well as due notice to the parties of interest, and shall render a decision within a reasonable period of time following the hearing. The hearing of any appeals shall be at a separate meeting from the hearing of any variance or special use permit applications (see Article 18), although such hearings may be held on the same day or night. At the hearing, any party may appear in person or by agent or by attorney. The officer or a designated individual of the agency, commission, or board from whom the appeal is taken shall appear before the Zoning Board of Review at the hearing to represent such agency, commission or board. Other members of the agency, commission or board may appear and be heard, but shall not represent the agency, commission or board. The cost of any notice required for the hearing shall be borne by the appellant.
- (d) Decision and records of the board. In exercising its powers in ruling, the board may, in conformity with the provisions of this appendix, reverse or affirm wholly or partly and may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the officer or agency from whom the appeal was taken. The vote and recording of a decision of the board regarding an appeal shall conform to the provisions of subsections 17-9(b) and 17-10(b) of this article.

§ 17-12. Appeals to Superior Court

[Ord. No. 08-31, 10-7-2009]

An aggrieved party may appeal a decision of the board to the superior court for Providence County by filing a complaint setting forth the reasons of appeal within 20 days after such decision has been filed and posted with the Town Clerk. The decision shall be posted in a location visible to the public in the Town hall for

a period of 20 days following the recording of the decision. The board shall file the original documents acted upon by it and constituting the record of the case appealed from, or certified copies thereof, together with such other facts as may be pertinent, with the clerk of the court within 30 days after being served with a copy of the complaint. When the complaint is filed by someone other than the original applicant or appellant, such original applicant or appellant and the members of the board shall be made parties to such proceedings. The appeal shall not stay proceedings upon the decision appealed from, but the court may, in its discretion, grant a stay on appropriate terms and make such other orders as it deems necessary for an equitable disposition of the appeal.

§ 17-13. Adoption and amendment and administration of Zoning Ordinance

[Ord. No. 08-31, 10-7-2009]

- (a) Procedure. Other than for proposals originated by the Town Council, the Town Clerk shall be the officer to receive a proposal for adoption or amendment or repeal of a zoning ordinance or zoning map(s). Immediately upon receipt of such proposal, the Town Clerk shall refer such proposal to the Town Council and the Planning Board for study and recommendation. If the proposal originates with the Town Council, the Town Council shall refer such proposal to the Building Official and the Planning Board. The Planning Board shall report to the Town Council within 45 days after receipt of the proposal, giving its findings and recommendations. The Town Council shall hold a public hearing within 65 days of receipt of proposal, giving proper notice as prescribed in paragraph (c) below. The Town Council shall render a decision on any such proposal within 45 days after the date of completion of the public hearing. The provisions of this subsection pertaining to deadlines shall not be construed to apply to any extension consented to by the applicant.
- (b) Review by Planning Board. Among its findings and recommendations to regarding the proposed amendment or repeal of this appendix or zoning map, the Planning Board shall:
 - (1) Include a statement on 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
 - (2) Include a demonstration of recognition and consideration of each of the applicable purposes of zoning as presented in § 1-1 of this appendix.
- (c) Hearing and notice requirements.
 - (1) No zoning ordinance shall be adopted repealed, or amended until after a public hearing has been held upon the question before the Town Council. The Town Council shall first give notice of such public hearing by publication of notice in a newspaper of general circulation within the Town at least once each week for three consecutive weeks prior to the date of such hearing, which may include the week in which the hearing is to be held, at which hearing opportunity shall be given to all persons interested to be heard upon the matter to the proposed ordinance. Written notice, which may be a copy of said newspaper notice, shall be mailed by registered or certified mail to the associate director of the Division of Planning of the Rhode Island Department of Administration, and, where applicable, to the parties specified in Subsections (2), (3), (4) and (5) of this section, at least two weeks prior to the hearing. Such newspaper notice shall be published as a display advertisement, using a type size at least as large as the normal type size used by the newspaper in its news articles, and shall:
 - * a. Specify the place of said hearing and the date and time of its commencement;
 - * b. Indicate that adoption or amendment or repeal of a zoning the ordinance is under consideration;
 - * c. Contain a statement of the proposed amendments to the ordinance that may be printed once in its entirety, or summarize or describe the matter under consideration;
 - * d. Advise those interested where and when a copy of the matter under consideration may be obtained or examined and copied; and
 - * e. State that the proposal 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 such alteration or amendment must be presented for comment in the course of said hearing.

- (2) Where a proposed general amendment to an existing zoning the ordinance includes changes in an existing zoning map, public notice shall be given as required by Subsection (1) of this section.
- (3) Where a proposed amendment to an existing the ordinance includes a specific change in a zoning district map but does not affect districts generally, public notice shall be given as required in Subsection (1) of this section, with the additional requirements that:
 - * a. Notice shall include a map showing the existing and proposed boundaries, zoning district boundaries, and existing streets and roads and their names, and Town boundaries where appropriate; and
 - * b. Written notice of the date, time and place of the public hearing and the nature and purpose thereof shall be sent to all owners of real property whose property is located within 200 feet of the perimeter of the area proposed for change, whether within the Town of Cumberland or within an adjacent city or Town in which the property is located.
- (4) Notice of a public hearing shall be sent by first class mail to the city or Town Council of any city or Town to which one or more of the following pertain:
 - * a. Which is located within 200 feet of the boundary of the area proposed for change; or
 - * b. Where there is a public or quasi-public water source, or private water source that is used or is suitable for use as a public water source, within 2,000 feet of any real property that is the subject of a proposed zoning change, regardless of municipal boundaries.
- (5) Notice of a public hearing shall be sent to the governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water resource and/or surface watershed that is used, or is suitable for use, as a public water source and that is within 2,000 feet of any real property which is the subject of a proposed zoning change, provided, however, that the governing body of any state or municipal water company has filed with the Building Official in the Town a map survey, which shall be kept as a public record, showing areas of surface water resources and/or watersheds and parcels of land within 2,000 feet thereof.
- (6) No defect in the form of any notice under this section shall render any ordinance or amendment invalid, unless such defect is found to be intentional or misleading.
- (7) Costs of any notice required under this section shall be borne by the applicant.
- (d) Limitations on amendments to zoning ordinance. In granting a zoning ordinance amendment, the Town Council may limit the change to one or more 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 federal, state or local governmental agencies having jurisdiction over the land and use, which are subject to the zoning change;
 - (2) Relating to the effectiveness or continued effectiveness of the zoning change; and/or
 - (3) Relating to the use of the land as it deems necessary.

The Building Official and the Town Clerk shall cause the limitations and conditions so imposed to be clearly noted on the

- (e) Appeal of enactment of or amendment to zoning ordinance. An appeal of the enactment of or an amendment to this appendix may be taken to the superior court for Providence County by filing a complaint within 30 days after such enactment, or amendment has become effective. The complaint shall set forth with specificity the area or areas in which the enactment or amendment does not conform to the comprehensive plan and/or the manner in which it constitutes a taking of private property without just compensation. Such appeal may be taken by an aggrieved party or by any legal resident or landowner of the Town, or by any association of residents or landowners of the Town. This appeal shall not stay the enforcement of the zoning ordinance, as enacted or amended, but the court may, in its discretion, grant a stay on appropriate terms, which may include the filing of a bond, and make such other orders as it deems necessary for an equitable disposition of the appeal.

§ 17-14. Administration of Zoning Ordinance

[Ord. No. 08-31, 10-7-2009]

- (a) Maintenance of zoning ordinance. The Town Clerk shall be the custodian of this zoning ordinance and zoning map or maps created thereunder, and in conjunction with the Building Official, shall be responsible for maintenance and update of the text and zoning map comprising this appendix. Changes which impact the zoning map shall be depicted on the map within 90 days of such authorized change(s). The planning department shall be responsible for review of this appendix annually, and whenever changes are made to the comprehensive plan of the Town, to identify any changes necessary and forward these changes to the Town Council.
- (b) Publication and availability of zoning ordinance. Printed copies of this appendix and map(s) shall be available to the general public through the offices of the Town Clerk and the Building Official, 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 this appendix and map(s), 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 to the state law library.

§ 17-15. Vested rights

[Ord. No. 08-31, 10-7-2009]

- (a) Applications deemed to be substantially complete. Any application for development under this appendix, including an application for a building permit, variance, special use permit, planned development, or cluster development or under any other applicable provision or article, shall be deemed substantially complete when all required documents, including plans, together with required fees, are received by the official designated herein to receive such applications. Required documents shall include only those documents specified either by this appendix or by rules adopted and published by the permitting authority prior to the time the application is filed.
- (b) Applicable regulations. Any application for development under this appendix that is substantially complete prior to the enactment or amendment of this appendix shall be reviewed according to the regulations applicable in the zoning ordinance in force at the time the application was submitted. If such application is approved, the applicant must begin construction or exercise the right granted in the application if no construction is involved, not more than one year after the date of such approval. All construction must be completed not more than two years after the date of such approval, unless specifically set forth to the contrary in the original approval.

§ 17-16. Effective date

[Ord. No. 08-31, 10-7-2009]

This appendix is in effect when passed by the Town Council as of June 29, 1994, and was amended August 16, 1995, November 20, 1996, and November 4, 1998. This appendix, originally enacted June 29, 1994, and amended from time to time, shall take effect upon its adoption, and all other ordinances or parts thereof inconsistent herewith are hereby repealed.

§ 17-17. Severability

[Ord. No. 08-31, 10-7-2009]

If any provision of this appendix or of any rule, regulation or determination made thereunder, or the application thereof to any person, agency or circumstances, is held invalid by a court of competent jurisdiction, the remainder of this appendix or the rule, regulation, or determination and the application of such provisions to other persons, agencies, or circumstances shall not be affected thereby. The invalidity of any section or sections of this appendix shall not affect the validity of the remainder of the ordinance.

§ 18. Variances, Special Use Permits and Modifications

§ 18-1. Procedures for granting of a variance or special use permit

[Ord. No. 08-31, 10-7-2009; amended 12-6-2023 by Ord. No. 23-26]

- (a) Application. An application for relief from the literal requirements of this Zoning Ordinance because of hardship or an application for a special use permit may be made by any person, group, agency or corporation, provided that the owner or owners of the subject property must join in any application, by filing with the permitting authority an application describing the request and supported by such data and evidence as may be required. An application from a corporation must be signed by its attorney or duly authorized officer of the corporation.
- (b) Review by Planning Board. For applications not reviewed pursuant to unified development review, the Zoning Board shall, immediately upon receipt of an application, request that the Planning Board report its findings and recommendations, including a statement on the general consistency of the application with the goals and purposes of the comprehensive community plan of the Town Cumberland Comprehensive Plan in writing to the Board within 30 days. The finding of the Planning Board with respect to the consistency of the application with the goals and purposes of the comprehensive plan shall be recorded in the record of the Board; and the declaration of the Planning Board shall be a recognized statement of fact before the Board.
- (c) Hearing and Notice Requirements. The permitting authority shall hold a public hearing on any application for variance or special use permit in an expeditious manner, after receipt, in proper form, of an application. The permitting authority shall give notice of such public hearing, which notice shall include the precise location of the subject property, including the street address, and a description of the relief sought, at least 14 days prior to the date of the hearing by publication of notice in a newspaper of local circulation within the Town, which shall meet the requirements of this subsection and R.I.G.L. AA 45-24-53.
- (d) The same notice shall be posted in the Town Clerk's Office and one other municipal building in the Town and shall be accessible on the home page of the Town's website at least 14 days prior to the hearing. For any notice sent by first class mail, the sender of the notice shall submit a notarized affidavit to attest to such mail. The cost of newspaper and mailing notification shall be borne by the applicant.
- (e) Requests for dimensional and use variances and special use permits submitted under a unified development review provision of this Zoning Ordinance shall be submitted as part of the subdivision or land development application to the Administrative Officer of the Planning Board, pursuant to Article 12, Section 4. All subdivision or land development applications submitted under the unified development review provisions of this Zoning Ordinance shall have a public hearing, which shall meet the requirements of this subsection and R.I.G.L. AA 45-23-50.1(c).
- (f) Uses Not Listed in Table of Uses. To the extent a proposed land use is not specifically listed in Appendix B, Attachment 1, Table 1 (Use Table), the property owner may submit a written request to the Zoning Board of Review for an evaluation and determination of whether the proposed use is of a similar type, character, and intensity as a listed use requiring a special use permit. Upon such determination, the proposed use may be considered to be a use requiring a special use permit.

§ 18-2. Granting of a variance

[Ord. No. 08-31, 10-7-2009; amended 12-6-2023 by Ord. No. 23-26]

- (a) General Standards. In granting a variance, the Board shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:
 - (1) 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 not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in R.I.G.L. AA 45-24-30(a)(16);
 - (2) That said hardship is not the result of any prior action of the applicant; and

- (3) That the granting of the requested variance will not alter the general characteristic of the surrounding area or impair the intent or purpose of this Zoning Ordinance or the Town of Cumberland Comprehensive Plan.
- (b) The Board shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:
 - (1) In granting a use variance, the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of this appendix. Nonconforming use of neighboring land or structures in the same district and permitted use of land or structures in an adjacent district shall not be considered grounds for granting a use variance.
 - (2) In granting a dimensional variance, 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, meaning that the relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

§ 18-3. Requirements for specific categories of special use

[Ord. No. 08-31, 10-7-2009; Ord. No. 13-01, § 1, 3-6-2013; amended 12-6-2023 by Ord. No. 23-26; 2-5-2025 by Ord. No. 24-26A; 9-3-2025 by Ord. No. 25-18; 11-19-2025 by Ord. No. 25-22A]

The following special uses are permitted upon approval by the board, in accordance with this article. Applications for special use permits must meet the specific and objective criteria specified herein as to each use:

- (a) Adult Use - Books, Entertainment, Retail. The following criteria shall apply in addition to those pursuant to Article 8, Section 34.
 - (1) No adult use shall not be located within 500 feet of any residential, agricultural or open space use or zoning district nor within 500 feet of a school, religious facility, public recreation facility, or day care center.
 - (2) No adult use shall be located within 2,000 feet of any other adult use. Distance shall be measured from property line to property line along the shortest distance between property lines.
 - (3) All windows, doors, openings, etc., for all adult uses shall be located, covered, screened or otherwise treated so that views of the interior of the establishment are not possible.
- (b) Assisted Living Facility.
 - (1) The applicant shall provide proof of state licensing.
 - (2) The density shall be no more than one bed per each 2,000 square feet of gross acreage of the parcel on which it is located.
 - (3) The assisted living units shall comprise no more than 15% of the total number of units.
- (c) Auto Body Repair.
 - (1) The minimum lot size shall be 20,000 square feet.
 - (2) Buildings shall be set back at least 25 feet from the street right-of-way and at least 20 feet from any other property line.
 - (3) The establishments shall be screened along interior side and rear lot lines with a solid wall or opaque fence, a minimum of four feet and a maximum of six feet in height.
 - (4) All storage of all merchandise, auto parts and supplies and the repair, service and sales and/or leasing operations shall be performed within a fully-enclosed building.
 - (5) No partially dismantled, wrecked, or unlicensed vehicles shall be stored outdoors on the premises. This standard does not apply to vehicles under repair and/or service.
 - (6) Outside storage of vehicles intended to be repaired and/or serviced shall be limited to one vehicle for every 500 square feet of lot area.
 - (7) No motor vehicles shall be stored and no repair and/or service work shall be conducted in the public right-of-way.
 - (8) If washing of vehicles occurs inside or outside a building, the entire washing area shall be paved and all the water used in such washing shall be properly drained on site with no run-off onto the public right-of-way.

- (9) Only waterborne base coat paints shall be used in the operation of the business.
- (10) Only dustless sanding systems shall be used in the operation of the business.
- (11) No variances may be granted relating to the dimensional requirements as stated in this subsection (c).
- (12) The site shall otherwise comply with landscaping requirements of the Land Development and Subdivision Regulations.

Editor's Note: See Appendix A, Land Development and Subdivision Regulations.

- (d) Auto Service and Gasoline Sales. Automobile service stations shall be permitted subject to Rhode Island Department of Environmental Management regulations and only when the following requirements are met.
 - (1) Lot requirements:
 - * a. Minimum lot size shall be 20,000 square feet.
 - * b. Minimum lot depth shall be 100 feet.
 - * c. Minimum lot width and frontage shall be 100 feet.
 - (2) Requirements for service station buildings:
 - * a. Minimum setback from all street lines shall be 40 feet.
 - * b. Minimum setback from all interior lot lines shall be 20 feet.
 - (3) Requirements for driveways:
 - * a. Minimum distance between access driveways shall be 20 feet.
 - * b. Maximum width for curb cuts shall be 25 feet.
 - * c. For a corner lot, curb cuts are restricted to one curb cut for every 50 feet of street frontage.
 - (4) Requirements for other structures:
 - * a. Minimum distance between pump islands, compressed air connections and similar equipment and any street or property lines shall be 20 feet.
 - * b. Minimum distance between the canopy and the street line shall be 12 feet.
 - * c. Minimum distance between any canopy and any interior lot line shall be 20 feet.
 - (5) Requirements for underground tanks:
 - * a. Maximum storage capacity for petroleum products shall be 42,000 gallons.
 - * b. Minimum separation distance required between underground tanks, adjoining buildings and property lines should be 10 feet. Service station buildings are exempt from the separation distance requirement if there are no basements or pits that extend below the top of any tank within the separation distance.
 - (6) Requirements for repairing and washing vehicles.
 - * a. Repairing shall be limited to minor repair work, such as tire or tube repairing, battery changing, lubrication, engine tune-ups and similar type work, and must be conducted wholly within a fully-enclosed building.
 - * b. Repair work shall not include any bodywork.
 - * c. No partially dismantled, wrecked, or unlicensed vehicles shall be stored outdoors on the premises. This standard does not apply to vehicles under repair and/or service.
 - * d. Storage of all merchandise, auto parts and supplies shall be conducted wholly within a fully-enclosed building.
 - * e. No motor vehicles shall be stored and no repair and/or service work shall be conducted in the public right-of-way.
 - * f. If washing of vehicles occurs inside or outside a building, the entire washing area shall be paved and all the water used in such washing shall be properly drained on site with no run-off onto the public right-of-way. All outdoor activities shall be screened from adjoining A and R zones by a four-foot-high compact evergreen screen or tight board fence.
 - (7) Vehicle services establishments shall be screened along interior side and rear lot lines with a solid wall or fence, a minimum of four feet and a maximum of six feet in height.
 - (8) The site shall otherwise comply with landscaping requirements of these Regulations.
 - (9) Outside storage of vehicles intended to be repaired shall be limited to one vehicle for every 500 square feet of lot area.
 - (10) Electric vehicle charging stations may be included as an accessory use to a gas station but may not be counted toward parking requirements.

- (e) Car Wash.
 - (1) Car wash facilities shall be screened along interior side and rear lot lines with a solid fence or wall, a minimum of four feet and a maximum of six feet in height. One shrub, a minimum of three feet in height at time of planting, shall be planted linearly every three feet on center along such fence or wall.
 - (2) When a car wash facility abuts a residential, agricultural, or open space use or zoning district, the facility shall adhere to the buffer requirements in this appendix.
 - (3) When vacuums are included on the site, they shall include mufflers to reduce the sound of the equipment to a maximum of 80 decibels.
 - (4) Trash receptacles shall be placed near all vacuum stations as applicable and at the entrance to the car wash entrance.
 - (5) Outside storage of vehicles intended to be repaired shall be limited to one vehicle for every 500 square feet of lot area.
- (f) Communications and Utilities.
 - (1) The property shall be completely enclosed along all lot lines by an opaque fence a minimum of four feet and a maximum of six feet in height, including ingress and egress. Where buildings are proposed, they should be located along the street frontage, meeting setback requirements. Otherwise, screening the operation from the street, which may include fences, tall vegetation, or walls along the front, is required.
 - (2) Where the use abuts a residential use or zoning district, the fence shall be set back a minimum of 20 feet from each such lot line abutting a residential use or zoning district.
- (g) Communication Towers. It is the intent of this section to encourage, where appropriate, the location of antennae on existing structures, as well as the joint use (co-location) of new and existing towers with the goal of minimizing the number of poles while providing for "seamless" or complete coverage. It is also the intent of this section to facilitate the use of public property and structures for the siting of towers and antennae.
 - (1) The application shall also include a narrative report and supplemental information which contains the following:
 - * a. An explanation of the technical, economic and other reasons for the design and placement of the tower, including its area of coverage.
 - * b. An inventory of existing towers, or sites approved for towers, that are within the jurisdiction of the Town or within one mile of the Town's border thereof, including specific information about the location, height and design of each tower, and its area of coverage.
 - * c. A certification of structural integrity from a professional engineer registered by the State of Rhode Island.
 - * d. Evidence that the applicant has made all reasonable efforts to utilize existing substantial structures for cellular antennae and that no other structures are reasonably available within the area sought by the applicant to produce adequate communications coverage.
 - * e. An explanation of how the site will be designed to co-locate future carriers and how many carriers can be technically accommodated, as well as a statement that if the site can physically support co-location and the additional carrier is willing to sign a commercially reasonable lease, it shall be allowed to co-locate.
 - (2) The applicant shall also submit a surety of an amount equal to the cost of removal of the tower and all ancillary equipment in the event that use of the tower is discontinued. The surety amount shall be approved by the permitting authority in consultation with the Public Works Director.
 - (3) Public safety requirements. At the time of application for any communication tower, space shall be made available on the tower for Town police, fire, rescue and public works communication needs related to public safety, health and welfare, at no cost to the Town. The communication tower owner and wireless service carriers shall assist the Town, when deemed necessary, in the enhancement of existing public safety communication systems by providing for the acquisition and installation of related equipment.
 - (4) Development standards. The following shall be specifically applied to all communication towers:
 - * a. Whether erected on an existing building or erected as a separate structure, the tower shall

- be integrated through location and design to be compatible with the existing characteristics of the site to the extent practical.
 - * b. No freestanding communications tower shall exceed 150 feet in height.
 - * c. The distance between the base of the tower or pole and any parcel boundary shall not be less than one foot distance for every one foot of tower height, plus an additional 15% of the total height of the tower added to the lineal distance from the property boundary.
 - * d. Removal of on-site vegetation and changes to existing topography shall be minimized.
 - * e. Towers shall be enclosed by a protective fence not less than eight feet nor more than 10 feet in height from the natural grade.
 - * f. Appropriate screening, including use of trees and other vegetation, shall be installed at all tower sites to screen views from adjacent properties and streets.
 - * g. Towers shall be neutral in appearance, and related structures shall blend in with the surrounding environment through the use of appropriate design, materials and colors.
 - * h. No tower shall be artificially lighted except as required by the Federal Aviation Commission.
 - * i. There shall be a minimum setback of 50 feet from any residential property line and, where the use is a freestanding tower, a minimum of 50 feet at least as far back from lot lines as the height of the structure.
- (5) Site and coverage consideration.
 - * a. Town owned sites or facilities that are located in the prospective coverage area which could potentially accommodate the proposed tower or antennae shall be considered first and given priority for location of said tower or antennae.
 - * b. When considering an application for a communication tower. The permitting authority shall evaluate the context of the site under consideration, including the underlying zoning, uses of the property, uses and activities on adjoining properties, maximization of co-location on the proposed facility and compatibility of the proposed tower/facility with the area in which it is located.
 - * c. No new communications tower shall be erected within the unobstructed service range of an existing tower or where telecommunications coverage is otherwise provided.
 - * d. Evidence that the area of Town to be serviced by the tower already has complete telecommunications coverage can be grounds for denial of the special use permit.
 - * e. Abandonment of communication towers. Any communication tower that has not been used for a period of one year shall be considered to be abandoned and it and all ancillary equipment shall be dismantled and removed at the owner's expense. The owner of such facility shall have 90 days from the receipt of notice from the Building Official to complete removal. Failure shall be considered a violation of this appendix and subject to the penalties and enforcement actions contained in AA 17-5.
- (h) Contract Construction Service, Including Outdoor Storage.
 - (1) The outdoor storage area shall be screened with a solid fence or wall, a minimum of four feet and a maximum of six feet in height. One shrub, a minimum of three feet in height at time of planting, shall be planted linearly every three feet on center along the outside of such fence or wall.
 - (2) Where the use abuts a residential, agricultural or open space use or zoning district, the property shall adhere to the buffer requirements in this appendix.
- (i) Day Care Center.
 - (1) The applicant shall provide proof of state licensing.
 - (2) There shall be a designated pick up and drop off area near an entrance to the building with a queuing lane that does not block vehicle parking spaces or extend into the street.
 - (3) The parking plan shall provide safe pedestrian circulation with clearly marked crosswalks from each parking area to the building entrance(s).
 - (4) Minimum lot size shall be 30,000 square feet.
 - (5) Building and outside play area setbacks in residential zones:
 - * a. Minimum setback from all street lines shall be 40 feet.
 - * b. Minimum setback from all side lot lines shall be 20 feet.
 - * c. Minimum setback from rear lot lines shall be 30 feet.

- (6) Setbacks in agricultural zones shall conform to those found in Article 5.
- (7) Requirements for parking. Minimum of one space per 250 square feet of GFA, plus one space per employee.
- (8) The facility shall be located on a principal or minor arterial roadway as defined in the R.I. Statewide Planning's Highway Functional Classification System.
- (j) Drive-Through Service.
 - (1) All drive-through facilities shall provide a minimum of on-site stacking/queuing spaces as follows:
 - * a. Restaurant: 10 spaces per station.
 - * b. Bank: five spaces for the first station, plus two spaces for each additional station.
 - * c. Other uses: four spaces per station.
 - (2) Stacking spaces provided for drive-through uses shall be
 - * a. A minimum of 10 feet in width, as measured from the outermost point of any service window, menu board or bay entrance, to the edge of the driveway, and 20 feet in length. In the case of a recessed service window, the measurement shall be taken from the building wall.
 - * b. Stacking spaces shall begin behind the vehicle parked at a final point of service, such as a service window or car wash bay (and does not include a menu board). Spaces shall be placed in a single line behind each lane or bay.
 - * c. The number of required queued cars shall apply to all lanes or bay where multiple lanes are proposed.
 - (3) All drive-through lanes shall be located and designed to ensure that they do not adversely affect traffic circulation on adjoining streets. Drive-through lanes on corner lots shall not route exiting traffic into adjacent residential neighborhoods.
 - (4) Drive-through facilities shall be screened along, side and rear lot lines, with a solid wall or fence or other hardscape or landscape, a minimum of four feet and a maximum of six feet in height.
 - (5) An additional buffer of 10 feet shall be provided along lot lines adjacent to residential, agricultural and open space uses and zoning districts.
 - (6) Speakers used for ordering and other service shall be located so as not to disturb or interfere with the use of neighboring properties, considering such property's type of use (e.g., industrial, commercial, institutional, residential, etc.).
 - (7) The site shall otherwise comply with landscaping requirements of these regulations. The landscaping standards do not apply to drive-through facilities within multitenant retail centers where the drive-through use does not abut lot lines.
 - (8) No drive-through facility shall be located in any front yard. Entrances to a drive-through facility shall be offset at least 150 feet from an intersection. No drive-through lane shall exit directly onto a street.
 - (9) Drive-through lanes shall be delineated from traffic lanes and parking areas with striping, curbing, landscaping and/or the use of alternative paving material. Where pedestrians will intersect with a drive-through lane, crosswalks shall be provided, making use of striping and/or alternative paving material.
 - (10) Adequate directional and warning signs shall be provided to assure smooth traffic circulation and pedestrian safety, including marking entrances, exits and one-way lanes of drive-through areas. The placement of all directional signage shall be subject to review and approval under the provisions of these regulations.
 - (11) Menu boards or other informational boards shall face away from public rights-of-way. All lighting associated with menu boards, window service areas or travel lanes shall be directed and shielded so as to prevent any glare or reflection on adjoining streets or property. The placement of all informational signage shall also be subject to review and approval under the provisions of these regulations.
- (k) Drug or Alcohol Rehabilitation Facility.
 - (1) Such facilities shall meet all federal, state and local requirements, including, but not limited to, licensing, health, safety and building code requirements.
 - (2) A copy of the state license shall be visible at all times.

- (3) When located in a nonresidential district, the building shall be designed with a lobby entrance along the primary frontage.
- (l) Educational Institutions.
 - (1) The applicant shall provide proof of state licensing as required.
 - (2) The site shall otherwise comply with landscaping requirements of these regulations.
 - (3) There shall be a designated drop-off area near an entrance to the building with a queuing lane that does not block vehicle parking spaces or extend into the street.
 - (4) A traffic impact analysis shall be required that includes an analysis of drop off and pick up capacity and operations.
- (m) Funeral Home.
 - (1) Parking shall not be in excess of 135% of the required parking spaces.
 - (2) The parking lot shall be screened and landscaped in accordance with the requirements of this Zoning Ordinance.
- (n) Group Quarters, Short-Term Rentals and Lodging.
 - (1) All short-term rentals must be owner-occupied at least six months per year.
 - (2) If the building had been built as a dwelling, the exterior shall maintain its original appearance as a dwelling.
 - (3) Cooking facilities are prohibited in guest rooms.
 - (4) If meals are provided, only registered guests may be served.
 - (5) Leasing of a common dining area for social events is prohibited.
 - (6) Guest stays are limited to a maximum of 14 consecutive days.
 - (7) Minimum on-site parking shall be one parking space per guest room.
 - (8) No more than two individuals per bedroom shall be allowed.
- (o) Marijuana Facilities - Retail Sales, Medical Use, and/or Compassion Centers.
 - (1) No marijuana establishment shall be combined with residential use of property.
 - (2) All operations shall take place within a permanent building and shall not be visible from the exterior of the building.
 - (3) No marijuana facility that dispenses marijuana or marijuana-related products shall have a gross floor area of more than 3,000 square feet.
 - (4) Hours of operation shall not be outside the hours of 8:00 a.m. through 10:00 p.m.
 - (5) No drive-through service shall be permitted for a marijuana facility.
 - (6) No outside storage of marijuana, related supplies, or promotional materials shall be permitted.
 - (7) Marijuana facilities shall be ventilated in such a manner that:
 - * a. No pesticides, insecticides, or other chemicals or products used in the cultivation or processing of marijuana are dispersed into the outside atmosphere; and
 - * b. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the marijuana facility, or any adjoining use of property. An odor control plan shall be submitted that provides for adequate ventilation, detailing the specific odor-emitting activities or processes to be conducted on site, the source of those odors, the locations from which they are emitted from the facility, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administrative and engineering controls that will be implemented to control such odors, including maintenance of such control.
 - (8) A security plan including information relating to alarms, fencing, gates, limited access areas, delivery procedure, police details and video and lighting locations. The security plan shall show the arrangement of pedestrian circulation and access to the public points of entry to the premises from the nearest public street or off-street parking area. The security plan must be approved by the Chief of Police or his/her designee and updates shall be submitted to and approved by the Chief of Police or his/her designee. To the maximum extent possible, the security plan and any updates shall be deemed confidential documents.
 - (9) The site shall otherwise comply with landscaping requirements of the Land Development and Subdivision Regulations.
Editor's Note: See Appendix A, Land Development and Subdivision Regulations.
 - (10) That the exterior appearance of the structure will be consistent with the exterior appearance

- of structures already constructed or under construction within the immediate neighborhood, to prevent blight or deterioration, or substantial diminishment or impairment of property values within the neighborhood.
 - (11) Lighting shall be required such that it will illuminate the compassion center, its immediate surrounding area, any accessory uses including storage areas, the parking lot(s), its front facade, and any adjoining public sidewalk. Wherever possible, lighting shall be directed straight downward and full-cutoff fixtures shall be used in order to prevent glare or light trespass.
 - (12) The property shall be at least 3/4 mile from the property line of another marijuana facility and at least 1,000 feet from a pre-existing public or private school.
- (p) Materials Processing Centers.
 - (1) The materials processing area shall be completely enclosed along all lot lines by an opaque fence a minimum of four feet and a maximum of six feet in height, including ingress and egress. Where buildings are proposed, they should be located along the street frontage, meeting setback requirements. Otherwise, screening the operation from the street, which may include fences, tall vegetation, or walls along the front is required.
 - (2) The use shall be screened along interior side and rear lot lines with a solid fence or wall, a minimum of four feet and a maximum of six feet in height.
 - (3) Where the use abuts a residential use or zoning district, the fence shall be set back a minimum of 20 feet from each such lot line abutting a residential use or zoning district.
 - (4) The site shall otherwise comply with landscaping requirements of the Land Development and Subdivision Regulations.

Editor's Note: See Appendix A, Land Development and Subdivision Regulations.
- (q) Outdoor Dining.
 - (1) The seating area may only be established adjacent to the business with which the outdoor area is associated, as shown on a submitted site plan drawn to scale that shows the delineated area of the proposed outdoor seating area, including the location and placement of tables, seats, planters, awnings, umbrellas, and the business's entrance and windows.
 - (2) If proposed in front of an adjacent business, the applicant must receive written permission from the adjacent business.
 - (3) Outdoor seating areas must be separated from parking areas with a physical barrier to contain and define the outdoor seating area, as approved by the Chief of Police or his/her designee.
 - (4) Parking requirements shall be increased accordingly to include the outdoor seating.
- (r) Parking Structures and Lots.
 - (1) Parking Structure.
 - * a. On the ground floor facade along public streets where parking spaces are visible, a decorative fence and landscape or a kneewall is required to screen parking spaces. Fence or kneewall shall be a minimum of four feet in height.
 - * b. For parking structures with rooftop open-air parking, a minimum four-foot parapet wall is required for screening of parked vehicles.
 - * c. Where parking structures front on public streets, facade design and screening shall mask the interior circulation ramps and create the illusion of horizontality along the street.
 - * d. The site shall otherwise comply with the landscaping requirements of the Land Development and Subdivision Regulations.

Editor's Note: See Appendix A, Land Development and Subdivision Regulations.
 - (2) Parking Lot.
 - * a. A parking lot shall be used solely for the temporary parking of motor vehicles and shall not be used as an off-street loading area.
 - * b. Only structures for the shelter of attendants or for payment kiosks shall be permitted in a parking lot. Shelters or kiosks shall not exceed eight feet in height and 36 square feet in area.
 - * c. The site shall otherwise comply with landscaping requirements of the Land Development and Subdivision Regulations.

Editor's Note: See Appendix A, Land Development and Subdivision Regulations.

 - * d. Parking lots shall not exceed 80% impervious surface.

- (s) Pre-Schools.
 - (1) Shall be permitted subject to conformance with Department of Elementary and Secondary Education regulations.
 - (2) Shall be located on a principal or minor arterial roadway as defined in the R.I. Statewide Planning's Highway Functional Classification System.
- (t) Small hydroelectric generation facilities (see Article 18-7).
- (u) Solar energy systems (see Article 18-8).
- (v) Veterinarian and Animal Hospital: Kennel and Nonagricultural.
 - (1) Exterior exercise areas shall be located in the interior side or rear yard and shall be completely enclosed along all lot lines by an opaque fence a minimum of six feet high and a maximum of eight feet high, including ingress and egress.
 - (2) Where the use abuts a residential, agricultural or open space use or zoning district, the fence shall be set back a minimum of 20 feet from each such lot line abutting a residential, agricultural or open space use or zoning district.
 - (3) All overnight boarding operations shall be located indoors.
 - (4) All animal care and/or kennel facilities shall have a valid municipal license.
- (w) Criteria to Subdivide a Lot with Multiple Residences.
 - (1) All principal residential structures existing on the property are pre-existing and legally non-conforming; and
 - (2) Each parcel in the proposed subdivision shall have adequate physical access to a public road; and
 - (3) The applicant shall make each new lot conform with the dimensional requirements of the zoning district to the greatest extent possible; and
 - (4) Each new lot shall have the required minimum parking; and
 - (5) Any new lot fronting on an unimproved public street shall improve the street frontage to Town standards for the entirety of the frontage; and
 - (6) The Planning Board shall modify dimensional requirements for minimum lot area, setbacks, frontage, width, and lot coverage and assign dimensional requirements as necessary, in order to achieve one residential structure per record lot.
 - (7) Any lot that includes affordable housing as approved under a Comprehensive Permit shall not be entitled to the provisions of this section if any of the resulting subdivided lots do not meet the dimensional requirements for that zone. This restriction shall be in effect in perpetuity, regardless if the term of the deed-restriction has expired.

Editor's Note: This ordinance also repealed former § 18-3, Granting of a special use permit, adopted by Ord. No. 08-31, 10-7-2009, and redesignated former §§ 18-4 through 18-7 as §§ 18-3 through 18-6, and former § 18-9 as § 18-7, respectively.

§ 18-4. Modifications

[Ord. No. 08-31, 10-7-2009; amended 12-6-2023 by Ord. No. 23-26]

- (a) In applications for relief from the literal dimensional requirements of this appendix as contained in Article 5 involving the construction, alteration, or structural modification of a structure or lot of record, the Zoning Officer shall be authorized to grant approval in the form of a modification permit. Such modification shall not exceed 15% of any dimensional requirement specified in this appendix.
- (b) Suitability Determination. Within 10 days of receipt of a request for a modification, the Zoning Officer shall make a decision as to the suitability of the requested modification, based on the following:
 - (1) The modification requested is reasonably necessary for the full enjoyment of the permitted use;
 - (2) If the modification is granted, neighboring property will neither be substantially injured nor its appropriate uses substantially impaired;
 - (3) The modification requested does not violate any rules or regulations with respect to freshwater wetlands;
 - (4) The modification requested does not require a variance of a flood hazard requirement, unless

the building is built in accordance with applicable regulations.

- (c) In the case of a modification of 5% or less, the Zoning Officer shall have the authority to issue a permit approving the modification without any public notice requirements. All other provisions of this section shall apply to such administrative modification applications.
- (d) In the case of a modification greater than 5%, the Zoning Officer shall notify, by first class mail, all property owners abutting the property which is the subject of the modification request, and shall indicate the street address of the subject property in the notice, and shall publish notice in a newspaper of local circulation within the Town of Cumberland that the modification will be granted unless written objection is received within 14 days. If a written objection is received within 14 days of the public notice, the request for a modification shall be scheduled for the next available hearing before the Zoning Board of Review on application for a dimensional variance, following the standard procedures for such variances, including notice requirements provided for under this appendix. If no such written objection is received within 14 days, the Zoning Officer shall grant the modification, and in granting, may apply such special conditions to the permit as may, in the opinion of the Officer, be required to conform to the intent and purposes of this appendix.
- (e) The Zoning Officer shall keep public records of all requests for modifications, and of findings, determinations, special conditions, and any objections received.
- (f) Costs of any notice required under this section shall be borne by the applicant requesting the modification.

§ 18-5. Special conditions

[Ord. No. 08-31, 10-7-2009; amended 12-6-2023 by Ord. No. 23-26]

In granting a variance or special use permit, or in making any determination upon which it is required to pass after public hearing under this appendix, the Board 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 of the Town and this appendix. Failure to abide by any special conditions attached to a grant shall constitute a zoning violation. Such special conditions shall be based on competent credible evidence on the record, be incorporated into the decision, and may include, but are not limited to, provisions for:

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

§ 18-6. Expiration of variances and special use permits

[Ord. No. 08-31, 10-7-2009; amended 12-6-2023 by Ord. No. 23-26]

Any variance or special use permit shall expire one year after the date of the filing of the resolution with the Town Clerk unless the applicant shall, within one year, obtain a legal building permit and proceed with the construction; or obtain a certificate of occupancy when no legal building permit is required. Variances and special use permits obtained through unified development review. The board may, upon written request and for cause shown prior to the expiration of the initial one-year period, renew the variance or special use permit for a second one-year period. Said request for an extension need not be advertised.

Should an applicant fail to begin construction with a legal building permit, or obtain a certificate of occupancy within the second one-year period, the board may upon written request prior to the expiration of the second one-year period, renew the variance or special use permit for a third one-year period provided that the applicant can demonstrate due diligence in proceeding and substantial financial commitment in promoting the subject of the variance or special use permit since the date of the filing of the resolution, and notice shall

be given in accordance with Section 18-1(c) and a hearing shall be held on the request the granting of the variance or special use permit shall be null and void, and any further request for such relief shall require the submittal of a new application with notice given and a hearing held in accordance with Section 18-1(c).

Notwithstanding this provision, in the event an applicant receives extensions from the Planning Board, in conjunction with development approvals, variances and special use permits granted by the Board, shall expire on the date such Planning Board approvals expire.

None of the year periods shall run during the pendency of any superior court actions seeking to overturn the grant.

§ 18-7. Small hydroelectric generation facilities

[Added 2-6-2019 by Ord. No. 18-25A; amended 12-6-2023 by Ord. No. 23-26]

- (a) Definitions. As used in this section, the following terms shall have the meanings indicated:

FEDERAL ENERGY REGULATORY COMMISSION — The federal commission within the United States Department of Energy that is authorized under the Federal Power Act to issue hydroelectric generation licenses using or affecting Waters of the United States.

GRID-INTERCONNECTED FACILITY — A facility that is connected to an electric circuit served by an electric utility.

HYDROELECTRIC GENERATION — Converting the power potential of flowing water to kinetic energy for the purpose of generating electricity. The most common type of hydroelectric generation facility uses a dam on a river, which impounds water.

HYDROELECTRIC GENERATION FACILITY ("FACILITY") — Any facility using the power potential of flowing water over a dam to generate electricity.

LOW IMPACT OR "RUN-OF-RIVER" HYDROELECTRIC GENERATION FACILITY — A facility that produces electricity without the storage of water, where inflow to the facility equals outflow from the facility at all times and where water levels are not drawn down for the purpose of generating power.

NAMEPLATE CAPACITY — The maximum output of electric power production of the hydroelectric generation facility, commonly expressed in megawatts (MW) or kilowatts (KW).

PUBLIC DRINKING WATER SUPPLY — The source of surface water for a public drinking water supplier.

SMALL HYDROELECTRIC GENERATION FACILITY — Any low impact or "run-of-river" hydroelectric generation facility using the power potential of flowing water over a dam to generate electricity with a total installed nameplate capacity of 2.0 MW or less. No facility shall be constructed, installed, or modified without first obtaining a license pursuant to the requirements of the Federal Power Act issued by the Federal Energy Regulatory Commission.

Editor's Note: See 16 U.S.C. AA 791 et seq.

- (b) No small hydroelectric generation facility shall be constructed on a public drinking water supply in the Town of Cumberland, as depicted on the Rhode Island Department of Environmental Management Environmental Resource Map.
- (c) Building Permit. No facility shall be constructed, installed, or modified without first obtaining a building permit and shall be subject to periodic inspections as deemed necessary by the Building Official.
- (d) Major Land Development Project. No facility shall be constructed, installed, or modified without first obtaining approval from the Planning Board for a major land development project in accordance with the Land Development and Subdivision Regulations.

Editor's Note: See Appendix A, Land Development and Subdivision Regulations.

- (e) Special Use Permit. No facility shall be constructed, installed, or modified without first obtaining a special use permit from the Zoning Board of Review. In addition to other requirements of this article, the following design and operation standards shall be met in order to meet the requirements of a special use permit.
 - (1) Site control. The facility proponent shall submit documentation of actual or prospective access and control of the facility site sufficient to allow for the construction and operation of the proposed facility.
 - (2) Operation and maintenance plan. The facility proponent shall submit a plan for the operation and maintenance of the facility, which shall include measures for maintaining safe access to the facility, stormwater controls, as well as general procedures for operational maintenance of the facility
 - (3) Utility notification. No grid-interconnected facility shall be constructed until evidence has been given to the Planning Department that the facility proponent has submitted notification to the utility company of the intent to construct and operate an interconnected generation facility.
 - (4) Lighting. Lighting of small hydroelectric generation facilities shall be consistent with local, state, and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties.
 - (5) Noise. Noise levels generated by small hydroelectric generation facilities shall be consistent with federal and state law and shall comply with the ambient noise level thresholds prescribed by the Town of Cumberland Code of Ordinances.
 - (6) Signage. Signs on small hydroelectric generation facilities shall comply with the Town of Cumberland Zoning Ordinance. Signs shall display identification of the owner or operator of the facility and a twenty-four-hour emergency contact telephone number.
 - (7) Security. Small hydroelectric generation facilities shall, at a minimum, comply with federal law and any specific requirements prescribed by the Federal Energy Regulatory Commission. The Town of Cumberland may require additional security measures which are not inconsistent with the requirements prescribed by the Federal Energy Regulatory Commission.
 - (8) Emergency services. All means of shutting down the facility shall be clearly marked. The facility owner or operator shall:
 - * a. Provide a copy of the facility's emergency action plan to the local Fire Chief;
 - * b. Cooperate with federal, state, and local emergency services in developing emergency response actions; and
 - * c. Identify a responsible person for public inquiries throughout the life of the facility.
 - (9) Land clearing. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of the facility or otherwise prescribed by applicable laws, regulations, and bylaws/ordinances.
 - (10) Monitoring and maintenance: small hydroelectric generation facility conditions. The facility owner or operator shall maintain the facility in accordance with the requirements of the federal hydroelectric generation license issued by the Federal Energy Regulatory Commission. In addition, maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief, Emergency Management Director, and emergency medical services. The owner or operator shall be responsible for the cost of maintaining the facility and any access road(s), unless accepted as a public way.
 - (11) Financial surety. The facility proponent shall be required to provide a form of surety, either through escrow account, bond, or otherwise, to cover the cost of decommissioning and removing the facility at the end of the federal hydroelectric license term and for restoring the landscape, in an amount and form determined to be reasonable by the Planning Board and subject to review by the Town Solicitor.

§ 18-8. Solar energy systems and facilities

[Added 10-5-2016 by Ord. No. 16-19; amended 2-15-2017 by Ord. No. 17-01A; 6-5-2019 by Ord. No. 19-09A; 1-15-2020 by Ord. No. 19-34A; 12-6-2023 by Ord. No. 23-26]

- (a) Definitions. As used in this section, the following terms shall have the meanings indicated:

PHOTOVOLTAIC SYSTEM — An active solar energy system that converts solar energy directly into electricity.

RATED NAMEPLATE CAPACITY — The maximum rated output of electric power production of the photovoltaic system in watts of alternating current (AC).

SOLAR ACCESS — The access of a solar energy system to direct sunlight.

SOLAR COLLECTOR — A device, structure or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

SOLAR ENERGY — Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

SOLAR ENERGY SYSTEM — A device or specific-use structural design feature, a substantial purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water heating.

SOLAR ENERGY SYSTEM, ACTIVE — A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

SOLAR ENERGY SYSTEM, COVERED PARKING — An active solar energy system that is structurally mounted to the ground yet additionally maintains a permanent function to park vehicles under; may be of any size (minor, medium, or major scale).

SOLAR ENERGY SYSTEM, GRID-INTERTIE — A photovoltaic system that is connected to an electric circuit served by an electric utility.

SOLAR ENERGY SYSTEM, GROUND-MOUNTED — An active solar energy system that is structurally mounted to the ground and is not roof-mounted; may be of any size (minor, medium, or major scale).

SOLAR ENERGY SYSTEM, MAJOR — An active solar energy system that occupies more than 40,000 square feet of surface area, including inter-row and panel/collector spacing or has a rated nameplate capacity 250kW AC or greater.

SOLAR ENERGY SYSTEM, MEDIUM — An active solar energy system that occupies more than 1,750 square feet but less than 40,000 square feet of surface area, including inter-row and panel/collector spacing or has a rated nameplate capacity 25-250kW AC.

SOLAR ENERGY SYSTEM, MINOR — An active solar energy system that occupies 1,750 square feet of surface area or less, inter-row and panel/collector spacing or has a rated nameplate capacity 25kW AC or less.

SOLAR ENERGY SYSTEM, OFF-GRID — A photovoltaic system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility.

SOLAR ENERGY SYSTEM, PASSIVE — A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchange.

SOLAR ENERGY SYSTEM, ROOF-MOUNTED — An active solar energy system that is structurally mounted to, or structurally ballasted on the roof of, a building or structure; includes solar shingles; may be of any size (minor, medium, or major scale).

- (b) Building Permit. No solar energy system shall be constructed, installed or modified without first obtaining a building permit and shall be subject to periodic inspections as deemed necessary by the Building Official.
- (c) Dimensional Regulations Ground-Mounted Solar Energy Systems.
 - (1) The maximum height of a ground-mounted solar energy system shall be 12 feet, with the exception of solar covered parking structures which shall have a maximum height of 18 feet from the ground, as measured from the pre-development lot grade at the location of the panel. The height shall be measured from the ground level or the base of the system's pedestal to the highest point of the solar energy system, including the top of any support structure or panel.
 - (2) Setbacks. Small- and medium-scale ground-mounted solar energy systems that are accessory to a primary building or structure on a lot are provided with more flexible setback requirements than those that would typically apply to a primary structure. Whenever a solar energy system is sited as a principal structure on a lot, the setback requirements for principal structures in that zoning district apply.
 - * a. Minor ground-mounted solar energy systems accessory to principal structures may be located no closer than 1/2 of the setback that would otherwise apply or 20 feet from the front, side, or rear site lines, whichever is greater. Medium-scale ground-mounted solar installations should maintain the same setbacks as accessory structures.
 - (3) Lot coverage. Major and medium ground-mounted solar installations shall cover no greater than 20% of a lot of contiguous lots in common ownership. In Industrial-2 ("I-2") Zoning Districts, for lots over 10 acres in size, up to 30% of lot coverage is allowed, including areas where trees and/or vegetation have been disturbed and/or removed previous to the enactment of this article. In no event shall any ground-mounted solar installation on any lot or contiguous lots in the same or related ownership exceed 10 acres of land determined by lot coverage as set forth above. The term "lot coverage," for the purpose of this section only, shall mean only the area of land physically covered by solar panels and accessory buildings, but shall not include any area or spaces between solar panels. Trees and/or vegetation shall, for purposes of this section only, mean trees with a twenty-four-inch diameter at breast height measured 4.5 feet above the ground minimum.
 - (4) Solar energy systems with grass or another pervious surface under them are exempt from impervious surface calculations. If the area is paved or otherwise rendered impervious, then it counts towards any coverage or impervious surface limit. This exemption is not intended to apply to municipal stormwater regulations, as the panels could have the effect of altering volume, velocity, and discharge pattern of stormwater runoff.
 - (5) Emergency access as approved by the Fire Department.
 - (6) The applicant shall commission and submit at the time of building permit application a wildlife assessment (impact study), conducted by a qualified wildlife expert having no less than five years of experience conducting wildlife assessments, indicating possible risks to local wildlife, habitat, and migratory birds. Additionally, the applicant's wildlife Dimensional/Design Regulations: Roof-Mounted Solar Energy Systems expert shall also develop a mitigation plan, if applicable, that addresses/mitigates any risk to wildlife, migratory birds, and affiliated habitat.
- (d) Dimensional/Design Regulations: Roof-Mounted Solar Energy Systems.
 - (1) Photovoltaic roofing shingles or tiles are preferred and may be directly applied to the roof surface. With such shingle or tile installation a standard red rectangle sign stating "photovoltaic power source" shall be mounted to the area of the electric meter, and a disconnect accessible from the ground shall be installed in this same area.
 - (2) Solar devices shall be considered part of the overall design of the structure. Color, shape and proportions of the solar devices should not conflict with the shape and proportions of the roof.
 - (3) Rooftop solar energy systems must not increase the footprint of the structure, and must not extend within four feet of any edge of a roof surface.
 - (4) Flat roofs. Set solar devices back from the edge and/or behind architectural features to be minimally visible. Panels and devices may be set at a pitch and elevated, if not visible from public streets.

- (5) Pitched roofs. Unless there is no other viable alternative, locate solar panels away from public view so as to not change the character of the building. The system must be parallel to the roofline. Otherwise, location on a primary or street-facing roof plane is not allowed.
- (e) Major Solar Energy Systems. Proposals for major solar energy systems and ground-mounted medium solar energy systems shall be required to comply with the requirements for major land development review under the provisions of AA 5-F of the Cumberland Land Development and Subdivision Regulations.terms.
- (f) Design and Operation Standards: Major and Medium Solar Energy Systems.
 - (1) Site control. The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for the construction and operation of the proposed energy system.
 - (2) Operation and maintenance plan. The project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar energy system, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
 - (3) Utility notification. No grid-intertie photovoltaic system shall be installed until evidence has been given to the Planning Department that the owner has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.
 - (4) Lighting. Lighting of solar energy systems shall be consistent with local, state, and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar energy system shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
 - (5) Screening. With the exception of roof-mounted structures, installations shall plant and properly maintain a twenty-foot-wide vegetated buffer surrounding the perimeter of the installation, consisting of plantings designed to screen the installation but not impede its solar energy capture efficiency. For major solar installations a vegetated buffer plan prepared by a registered landscape architect shall be included with the development application. The vegetative buffer shall consist of plants from the Rhode Island native plant database. All major installations shall be set back at least 50 feet from every boundary line. The twenty-foot buffer shall not begin until the fifty-foot buffer has been met.
 - (6) Signage. Signs on solar energy systems shall comply with a municipality's sign ordinance. A sign consistent with a municipality's sign ordinance shall be required to identify the owner and provide a twenty-four-hour emergency contact phone number. Solar energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy system.
 - (7) Security. With the exception of roof-mounted structures, a fence shall surround the perimeter of the installation of no less than seven and no more than 10 feet in height to prevent unauthorized access with bottom of the fence being elevated at least 16 inches rise from the ground to provide for wildlife access.
 - (8) Utility connections. With the exception of roof-mounted structures, reasonable efforts, as determined by the Planning Department, shall be made to place utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider.
 - (9) Emergency services. All means of shutting down the solar energy system shall be clearly marked. For major and medium solar installations:
 - * a. The solar energy system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief.
 - * b. Upon request, the owner or operator shall cooperate with the local emergency services in developing an emergency response plan.
 - * c. Upon request, the owner or operator shall cooperate with the local emergency services to

- conduct a basic on-site safety and operational training.
- * d. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- (10) Land clearing, soil erosion and habitat impacts. With the exception of roof-mounted structures, forested areas shall not be cleared for the purpose of installing solar installations. Otherwise clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of solar energy system or otherwise prescribed by applicable laws, regulations, and bylaws/ordinances. The disturbance and removal of topsoil from the site shall be limited to those areas that are required for the installation of the proposed solar energy system. The permitting authority may give priority to proposed solar projects that utilize existing cleared land or those which minimize the impact on forest and habitat.
- (11) Monitoring and maintenance: solar energy system installation conditions. The solar energy system owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief, Emergency Management Director, and emergency medical services. The owner or operator shall be responsible for the cost of maintaining the solar energy system and any access road(s), unless accepted as a public way.
- (12) Modifications. All material modifications to a solar energy system made after issuance of the required building permit shall require approval by the Planning Department.
- (13) Financial surety. With the exception of roof-mounted structures, applicants proposing to develop major and medium solar photovoltaic projects may be required to provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the facility and restore the landscape, in an amount and form determined to be reasonable by the Board (and subject to the review of the Town Solicitor), and/or as agreed to and detailed in the site lease agreements. As part of the review for the lease agreements, the applicant shall submit a fully inclusive estimate of the costs associated with removal. The amount shall include a mechanism for calculating increased removal costs due to inflation and any expected salvage or resale value. Such surety will not be required for municipally or state-owned facilities.
- (14) Removal requirements. With the exception of roof-mounted structures, any major or medium solar energy system that has reached the end of its useful life or has been abandoned shall be removed. Reusable components are to be recycled whenever feasible. The owner or operator shall physically remove the facility no more than 180 days after the date of discontinued operations. The owner or operator shall notify the Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
 - * a. Physical removal of all large-scale ground-mounted solar energy systems, structures, equipment and security from the site.
 - * b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - * c. Stabilization or revegetation of the site as necessary to minimize erosion. The Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- (15) Abandonment. With the exception of roof-mounted structures, absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar energy system shall be considered abandoned when it fails to operate for more than one year without the written consent of the Town Council and Planning Board as it relates to the land development project approval. If the owner or operator of major and medium solar energy systems fails to remove the facility in accordance with the requirements of this section within 150 days of either abandonment or the proposed date of decommissioning, the Town may physically remove the facility, without further notice.