Zoning Ordinance

Town of New Shoreham

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Town of New Shoreham

Zoning Ordinance

This document reflects the ordinance as adopted through September 2026.

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§ 1. General

Article 1 General

Appendix E Zoning Ordinance CROSS REFERENCES Historical Preservation, ch. 7 of the Revised Ordinances of the Town of New Shoreham. See Zoning Appendix J for table of use categories allowed by zoning district.

§ 101. Title

§ 101 Title

This Ordinance shall be entitled the ”New Shoreham Zoning Ordinance” and referred to as the ”Zoning Ordinance” or the ”Ordinance.”

§ 102. Purpose

§ 102 Purpose

The Zoning Ordinance, with all its provisions, addresses the following purposes, each with equal priority and listed in no particular order:

A. Promoting the public health, safety and general welfare.

B. Providing for a range of uses and intensities of use appropriate to the character of the Town and reflecting current and expected future needs.

C. Providing for orderly growth and development which recognizes:

1. The goals and patterns of land use contained in the Comprehensive Plan;

2. The natural characteristics of the land, including its suitability for uses based on soil characteristics, topography, and susceptibility to surface or groundwater pollution;

3. The values and dynamic nature of coastal and freshwater ponds, the shoreline, and freshwater and coastal wetlands;

4. The values of unique or valuable natural resources and features;

5. The availability and capacity of existing and planned public and/or private services and facilities;

6. The need to shape and balance urban and rural development;

7. The use of innovative development regulations and techniques.

D. Providing for the control, protection, and/or abatement of air, water, groundwater and noise pollution, and soil erosion and sedimentation.

E. Providing for the protection of the natural, historic, cultural and scenic character of the Town or areas therein.

F. Providing for the preservation and promotion of agricultural production, forest, silviculture, aquaculture, timber resources and open space.

G. Providing for the protection of public investment in transportation, water, storm water management systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space, and other public requirements.

H. Promoting a balance of housing choices, for all income levels and groups, to assure the health, safety and welfare of all citizens and their rights to affordable, accessible, safe and sanitary housing.

I. Providing opportunities for the establishment of low and moderate income housing.

J. Promoting safety from fire, flood, and other natural or man-made disasters.

K. Promoting a high level of quality in design in the development of private and public facilities.

L. Promoting implementation of the Town's Comprehensive Plan.

M. Providing for coordination of land uses with neighboring towns, the state and other agencies, as appropriate, especially with regard to resources and facilities that extend beyond municipal boundaries or have a direct impact on that municipality.

N. Providing for efficient review of development proposals, to clarify and expedite the zoning approval process.

O. Providing for procedures for the administration of the Zoning Ordinance including, but not limited to Variances, Special Use Permits, and where adopted, procedures for Modifications.

§ 103. Authorization

§ 103 Authorization

The Zoning Ordinance is authorized by G.L. 1956, §§ 45-24-27 through 45-24-72 as amended, known as the "Rhode Island Zoning Enabling Act of 1991."

§ 104. Consistency with Comprehensive Plan

§ 104 Consistency with Comprehensive Plan

The Ordinance is developed and maintained in accordance with the current Comprehensive Plan, as adopted and as amended in accordance with G.L. 1956, ch. 45-22.2.

§ 105. Relationship to Other Laws

§ 105 Relationship to Other Laws

Whenever restrictions imposed by provisions of the Zoning Ordinance are in conflict with restrictions imposed by provisions of any other governing law, rule or regulation, then to the extent permitted by state and federal law, the more restrictive provisions shall govern. Nothing in this Ordinance shall be construed to limit the authority of any state government agencies to perform any regulatory responsibilities.

§ 106. Adoption, Effective Date and Publication

§ 106 Adoption, Effective Date and Publication

Upon its adoption by the Town Council, the Zoning Ordinance shall be part of the publication of the Town Charter and Ordinances as Revised and Reissued.

§ 107. Zoning Ordinance Mandatory Review

§ 107 Zoning Ordinance Mandatory Review

The Zoning Ordinance shall be reviewed by the Planning Board at least once in every five years and whenever the Comprehensive Plan is amended. Such review shall be based on input from the Town's Fire Department, Police Department, the Town Council and Zoning Board of Review, as well as input from the public in response to notification of mandatory review, in accordance with the procedures for notification set forth in § 708, Amendments to the Ordinance.

§ 108. Validity and Severability

§ 108 Validity and Severability

[Amended 3-20-2024 by Ord. No. 2024-09]

Should any section or provision of this Zoning Ordinance be declared by the Courts to be invalid, such decision shall not invalidate any other section or provision of the Zoning Ordinance. If the Zoning Ordinance in its entirety should be declared invalid, then the prior zoning ordinance of the Town shall automatically take effect.

§ 109. Zoning Overlays

§ 109 Zoning Overlays

The Zoning Ordinance provides for zoning overlays. The regulations applicable to the zoning overlays shall be in addition to the regulations applicable to the underlying zoning district.

§ 110. General Regulations

§ 110 General Regulations

A. No building or land shall be used, and no buildings shall be erected or structurally altered, except in conformance with the regulations herein described.

B. The use of any structure or land shall comply with the performance standards of this Zoning Ordinance. The Building Official and Zoning Official, when reviewing an application for any permit required by law, shall determine that a use complies with all applicable performance standards. [Amended 5-3-2022 by Ord. No. 2022-04]

C. When a lot is divided by a zoning district boundary, the regulations for either zoning district shall apply, except that the regulations of one zoning district shall not be extended more than 30 feet into the adjoining district.

D. Development Plan Review is required for all uses requiring a Special Use Permit. Refer to § 501, Development Plan Review Standards, and § 704, Development Plan Review.

§ 111. General Prohibitions

§ 111 General Prohibitions

[Amended November 7, 1994; November 21, 1998; June 4, 2001; July 1, 2002; September 15, 2004; Added October 6, 2008; January 20, 2010; November 5, 2012 by Ord. No. 2012-9; November 3, 2014 by Ord. No. 2014-10; 3-20-2024 by Ord. No. 2024-09]

The following uses are prohibited in all (except as noted) zoning districts:

A. Any structure or building or any use of any structure, building, premises or land which is injurious, obnoxious, offensive, dangerous or a nuisance to the community or to the neighborhood through noise, vibration, concussion, odors, fumes, smoke, gases, dust, harmful fluids or substances, danger of fire or explosion, or other objectionable features detrimental to the community or neighborhood health, safety, convenience, morals or welfare, including but not limited to the following:

1. Outside storage of motor vehicles as follows:

a. No person shall deposit, store, keep or permit to be deposited, stored or kept upon public property a dismantled, junked or abandoned vehicle, an unserviceable vehicle, or a vehicle legally or physically incapable of being operated or a vehicle that does not display, if required by state law, a current safety inspection certificate on its windshield.

b. No person shall deposit, store, keep or permit to be deposited, stored or kept outside of a building or structure upon private property more than two dismantled, junked or abandoned vehicles, unserviceable vehicles, or vehicles legally or physically incapable of being operated or vehicles that do not display, if required by state law, a current safety inspection certificate on the windshield.

c. If a dismantled, junked or abandoned vehicle, an unserviceable vehicle, or a vehicle legally or physically incapable of being operated or a vehicle that does not display a current safety inspection certificate on its windshield is being deposited, stored or kept upon private property pursuant to subsection (b) of this section, every such vehicle shall be deposited, stored or kept in a location on the property that conforms to the minimum side yard, rear yard and front yard setbacks required by the applicable zoning ordinance.

2. Tents for human habitation;

3. Trailers or mobile homes for residential, Accessory Dwelling Unit use, Accessory Residential Structure use, except on a day-use (non-habitation) basis by a contractor in association with a permitted construction job site, or on a temporary living basis by a resident under the provisions of § 112;

4. Floating residences or businesses;

5. [Amended 8-2-2021 by Ord. No. 2021-07; 12-5-2022 by Ord. No. 2022-07]

(i) Residential structures in the RA and RB Zone which meet any of the following criteria (See Section 202, Definitions, "Plane, Building," "Plane, Wall," "Building Footprint," "Floor Area, Living," "Building Volume") (Added October 6, 2008; Amended to add "Floor Area, Living" August 2, 2021):

a. A wall plane in excess of 45 feet; (Added October 6, 2008)

b. A building plane in excess of 75 feet; (Added October 6, 2008)

c. A building footprint in excess of 3,500 square feet, exclusive of ground level or first floor decks, or one story (no floor area above) unenclosed porches; (Added October 6, 2008; Amended August 2, 2021)

d. A living floor area in excess of 5,000 square feet and/or (Added August 2, 2021)

e. A building volume in excess of 65,000 cubic feet (Added October 6, 2008; Amended August 2, 2021)

6. Commercial car washes;

7. Gambling or gambling facilities;

8. Motels;

9. Amusement parks or rides, commercial rifle ranges, field houses;

10. Dumps and sanitary landfills (municipal and private);

11. Storage or manufacture of toxic or hazardous materials;

12. Junkyards;

13. Chemical and bacteriological laboratories;

14. Raceways;

15. Game rooms;

16. Asphalt manufacture or refining except as necessary on a temporary basis for resurfacing Island roads;

17. Petroleum refining;

18. Commercial kennels;

19. Car, moped, jet ski, and other motorized vehicle rental;

20. Commercial hog raising;

21. Vending machines (unless licensed by the Town);

22. Penal institutions;

23. The parking or use of trailers, shipping containers and similar temporary and/or mobile facilities for any commercial or industrial activity or storage, except by a contractor in association with a permitted construction job site. The following uses of trailers shall be exempt from this prohibition:

a. Livestock or other agricultural purposes;

b. Transport of machinery, equipment or materials;

c. Trades purposes, as provided for in § 516;

24. The use of galley leach fields as a means of treating on-site wastewater effluent shall be prohibited for all new ISDS, ISDS alterations and major repairs;

25. The underground storage of any petroleum products, including diesel fuel, gasoline, heating oil, motor fuels, aviation fuels, and hazardous materials as defined in the "Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials" as promulgated by the Rhode Island Department of Environmental Management";

26. Drive-through windows;

27. The landing and takeoff of aircraft, and aircraft landing runways, strips or pads, including heliports or helipads, except at the State airport and in emergency situations.

28. Electronic games of chance or sweepstakes played on gaming devices or computer hardware that is available for the use and entertainment of the public except those regulated and licensed by the State of Rhode Island.

§ 112. Special Temporary Permits

§ 112 Special Temporary Permits

[Amended November 7, 1994; January 20, 2010]

A. The Town Council may, in circumstances of emergency or other urgent necessity for the public health and safety, grant temporary permits to individuals, groups or corporations to use property for uses otherwise prohibited, or permissible only by Special Use Permit, provided that:

1. A permit may be granted only for the use or purpose that cannot be accomplished by compliance with the provisions of the ordinance.

2. The permit shall be granted for the least period of time feasible, and in no event shall such period extend beyond six months provided, however, that upon similar application one additional period of six months may be allowed in accordance with these provisions.

B. The use of temporary structures or facilities associated with building construction or rehabilitation shall only be permitted as follows:

1. A temporary building or yard for construction materials and/or equipment or a temporary trailer used for residential occupancy necessitated by any loss or damage of a principal structure by fire, hurricane or other natural disaster shall be permitted in any district subject the approval by the Building Official or Zoning Official, provided that any building permit for any such temporary use shall be valid for not more than six months unless such time period is extended by the Building Official or Zoning Official, for one additional six-month period, for good cause. [Amended 5-3-2022 by Ord. No. 2022-04]

2. A temporary facility for the storage of an owner or occupant's household or interior belongings shall be permitted in any district for the duration of the construction period, regardless of the circumstances, provided that such facility is removed prior to the issuance of the Certificate of Occupancy.

§ 113. Non-Conformance

§ 113 Non-Conformance

[Amended October 21, 2009]

A. Continuance of Non-Conformance. Any structure or the use of any structure or land which structure or use was lawful at the date of enactment of this Zoning Ordinance and which is non-conforming under the provisions of this Zoning Ordinance, or which shall be made non-conforming by a subsequent amendment, may be continued subject to the following provisions.

B. Non-Conforming by Use. Something is non-conforming by use if it is a lawfully established use of land, building, or structure which is not a permitted use in that zoning district. A building or structure containing more dwelling units than are permitted by the use regulations of this Ordinance shall be non-conforming by use.

1. Repairs and Alterations. A building devoted to a non-conforming use may be repaired, maintained or improved, provided the number of square feet of floor area devoted to the non-conforming use is not increased.

2. Change in Use. A non-conforming use may be changed only to a use which conforms to the Zoning Ordinance. Once changed to a conforming use, no structure or use shall revert to a non-conforming use.

3. Abandonment. If a non-conforming use is abandoned, it may not be reestablished. Abandonment shall consist of some overt act, or failure to act, which would lead one to believe that the owner of the property neither claims nor retains any interest in its continuation, unless the owner can demonstrate intent not to abandon the use. An involuntary interruption of non-conforming use, such as by fire and natural catastrophe, will not establish the intent to abandon. If any non-conforming use is halted for a period of one year, for what ever reason, either voluntary or involuntary, the owner of the property will be presumed to have abandoned the non-conforming use, unless that presumption is rebutted by the presentation of sufficient evidence of the intent not to abandon the use. Any subsequent use shall conform to the regulations of this Zoning Ordinance.

4. Relocation. A non-conforming use shall not be moved in whole or in part to any portion of the land other than that occupied by such use at the time of adoption of the Ordinance unless granted a Special Use Permit under the provisions of Article 7 of this Ordinance.

C. Non-Conforming Buildings.

1. Expansion. A structure which is non-conforming with respect to the dimensional requirements of the Zoning Ordinance may not be expanded, enlarged or increased unless such expanded or enlarged portion complies with the dimensional requirements of the Zoning Ordinance.

2. Destruction or Demolition. A non-conforming structure which is destroyed or damaged by any means beyond the control of the owner shall be rebuilt or restored within a period of 18 months, or thereafter conform with the dimensional requirements of the Zoning Ordinance. If a non-conforming building or structure is demolished or removed by or for its owner, it shall not be rebuilt or replaced except in conformity with the dimensional requirements of the Zoning Ordinance.

3. Use of Non-Conforming Building. Notwithstanding any dimensional requirements of the Zoning Ordinance, a non-conforming building or structure may be used for any use allowed in the zoning district where it is located unless the zoning district regulations contain specific dimensional requirements peculiar to the use which cannot be met by the existing structure or on the existing lot.

D. Construction Begun Prior to Ordinance.

1. Nothing herein contained shall require any change in plans, construction or structure the construction of which has been diligently prosecuted previous to the date of enactment of the Zoning Ordinance provided complete plans for such a building or structure shall have been filed with and accepted by the Building Official, and a Building Permit has been issued which remains valid.

E. Substandard Lots of Record. [Amended 5-3-2022 by Ord. No. 2022-04; 4-17-2024 by Ord. No. 2024-11]

1. A substandard lot of record may be considered a buildable lot, regardless of the lot frontage or lot area, provided such lot or parcel of land was shown on a plat, or on a deed, duly recorded prior to the effective date of this Ordinance, and further provided that at the time of such recording the lot or parcel of land so created conformed in all respects to the minimum requirements of the Zoning Ordinance in effect at that time or received the appropriate relief from the permitting authority to create a substandard lot.

2. Notwithstanding the failure of a single substandard lot of record or contiguous lots of record to meet the dimensional and/or quantitative requirements of this zoning ordinance, a substandard lot of record shall not be required to seek any zoning relief based solely on the failure to meet minimum lot size requirements of the district in which such lot is located. The setback, frontage, and/or lot width requirements for a structure under this section shall be reduced and the maximum building coverage requirements shall be increased by the same proportion as the lot area of the substandard lot is to the minimum lot area requirement of the zoning district in which the lot is located. All proposals exceeding such reduced requirements shall proceed with a modification request under Section 705 or a dimensional variance request under Section 706, whichever is applicable.

3. If, as of the effective date of this ordinance, or subsequent thereto, one or more substandard lots of record are held in common ownership with any contiguous lot, such lots shall be combined for the purposes of this ordinance in order to conform, or more nearly conform, to the minimum lot area and minimum lot frontage of this ordinance for the Zoning District in which the lots are located. If all such contiguous lots, when combined, do not constitute sufficient area and dimension to meet the applicable area and dimensional requirements for more than one lot, meaning two or more fully conforming lots, then all the lots shall be combined to create a single lot only. Such combined lots may not be sold separately.

a. Contiguous substandard lots of record shall not be combined if both substandard lot already supports a principal use. When one substandard lot is developed with a principle use and a contiguous substandard lot is undeveloped with a principal use, they shall merge under this provision.

b. Any contiguous substandard lot of record which was designated and identified by the Tax Assessors as a separate and distinct taxable lot, and was assessed as a separate and distinct lot on December 31, 2007 shall not be combined. Any lots not so designated, identified and assessed shall be subject to this ordinance. (Section E, "Substandard Lots of Record," was renamed and amended on March 19, 2008, additionally amended on October 21, 2009)

c. The merger of lots shall not be required when the substandard lot of record has an area equal to or greater than the area of fifty percent (50%) of the lots within two hundred (200) feet of the subject lot, as confirmed by the Zoning Official through the submission of a Compilation Survey of the property prepared by a Rhode Island Registered Professional Land Surveyor.

§ 114. Permitted Uses

§ 114 Permitted Uses

[Added 2-21-2024 by Ord. No. 2024-03]

Notwithstanding any other provisions of this chapter, the following uses are permitted uses within all residential zoning districts and all industrial and commercial zoning districts except where residential use is prohibited for public health or safety reasons:

A. Households;

B. Community residences;

C. Family daycare homes; and

D. Adaptive reuse (as defined in RIGL 42-64.22-2).

1. Eligibility.

a. At least 50% of the existing gross floor shall be 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 US EPA.

2. Density.

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

a. For projects that meet the following criteria, the minimum residential density shall be fifteen (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 and fire codes, and utilities.

(2) The development includes at least twenty percent (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.

3. Dimensional requirements.

a. Notwithstanding any other provisions of this chapter, existing building setbacks shall remain and the encroachments are considered legal nonconforming.

b. No additional encroachments shall be permitted into any nonconforming setback unless otherwise allowed by zoning ordinance or relief is granted by the applicable authority.

c. Notwithstanding other provisions of this chapter, the height of the existing structure shall be considered legal nonconforming and main remain if it exceeds the maximum height of the zoning district in which the structure is located.

(1) Any rooftop construction is included in the height exemption.

4. Parking requirements.

a. Adaptive reuse developments shall provide a minimum of 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 Section 502 of this ordinance 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 Appendix B of this ordinance.

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

6. Development and Design Standards. Site design shall be in accordance with the Land Development and Subdivision Regulations.

7. Procedural requirements.

a. Adaptive reuse projects shall be subject to the procedural requirements of the Subdivision Regulations and undergo either Development Plan Review, Minor, or Major Land Development as determined in that section.

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

(1) The proposed residential density and the square footage of nonresidential uses. Residential density under the provisions of subsection D2b of this section shall require the submission of a detailed floor plan as described in subsection D7b(2) of this section as part of the application.

(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 room and each unit.

§ 2. Definitions

Article 2 Definitions

§ 201. Word Usage

§ 201 Word Usage

A. Words used in the present tense include the future tense. The singular includes the plural and the plural includes the singular. The masculine gender includes the feminine, and the feminine gender includes the masculine.

B. The word ”shall” is mandatory; the word ”may” is permissive.

C. The word ”use,” as a verb, shall be construed as if followed by the words ”or intend, arrange, design, build, alter, convert, rent or lease to be used.”

D. The Town of New Shoreham shall be designated by ”the Town” or ”the Island.”

E. The definitions for words describing natural features, unless otherwise provided in this Ordinance, shall be those adopted by the Rhode Island Department of Environmental Management and the Rhode Island Coastal Resources Management Council and/or set forth in the Rhode Island General Laws of 1956, as amended.

F. Words or terms, whether or not defined in this Ordinance, which are substantially similar to words or terms defined herein, shall be construed according to the definitions provided in this Ordinance.

§ 202. Definitions

§ 202 Definitions

[Ord. of 4-20-2011, art. 2, § 202; Ord. of 8-17-2011, art. 2, § 202]

A. In the Zoning Ordinance the following words and terms shall have the following meanings:

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

2. ACCESS RISER — A structurally sound and water tight inspection port, which at its lowest point attaches to a septic tank or other component of an OWTS and extends upward to the ground's surface, allowing visual inspection and where necessary physical access to the OWTS for the purposes of maintenance and repair. [Amended November 21, 1998; 3-5-2018 by Ord. No. 2018-01]

3. ACCESSORY DWELLING UNIT— A residential living unit on the same parcel as a legally established principal use. An Accessory Dwelling Unit 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. [Amended 10-19-2022 by Ord. No. 2022-06; 3-20-2024 by Ord. No. 2024-09]

4. Reserved. [Repealed 10-19-2022 by Ord. No. 2022-06]

4.1. Accessory family dwelling unit. An apartment connected to and accessible from a single-family dwelling unit that contains permanent provisions for living, sleeping, eating, cooking, and sanitation and is occupied by a family member of the property owner who is 62 years old or older or is disabled, as defined by R.I. Gen. Laws § 42-87-1. See § 518, Accessory Family Dwelling Units. [Added 3-5-2018 by Ord. No. 2018-01]

5. ACCESSORY RESIDENTIAL STRUCTURE — Any structure, accessory to a principal use, designed, intended or used for overnight human habitation or occupancy. No Accessory Residential Structure shall have kitchen facilities. [Amended December 6, 1999; and June 21, 2000; 3-20-2024 by Ord. No. 2024-09]

5.1. ACCESSORY HOTEL ROOM — An accessory hotel room is a hotel room developed on the same lot as a hotel which is not accessed from the inside lobby of the hotel and may or may not be freestanding. [Added 7-6-2020 by Ord. No. 2020-02]

6. ACCESSORY STRUCTURE — A structure which is customarily incidental and subordinate to the principal structure. An accessory structure shall be restricted to the same lot as the principal structure. An accessory structure shall not be permitted without the primary structure to which it is related. No accessory structure shall be used for overnight human habitation unless it is an Accessory Residential Structure in compliance with § 511 or it satisfies the definition of Dwelling Unit in this section. [Amended December 6, 1999; 3-5-2018 by Ord. No. 2018-01; 3-20-2024 by Ord. No. 2024-09]

7. ACCESSORY USE-HOME OCCUPATION — A use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building. An accessory use shall be restricted to the same lot as the principal use. An accessory use shall not be permitted without the principal use to which it is related. [Amended 3-20-2024 by Ord. No. 2024-09]

8. AFFORDABLE HOUSING — Residential housing built or set aside for year round habitation for sale or rent, affordable to households whose adjusted gross income is less than 140% of the area median income, adjusted for family size, based on applicable United States Department of Housing and Urban Development schedules. See § 405, Affordable Housing. [Amended September 27, 2006; March 5, 2007; February 20, 2013 by Ord. No. 2013-03]

9. AGGRIEVED PARTY — An aggrieved party, for purposes of this Ordinance, shall be:

a. A person or entity who can demonstrate that their property will be injured by a decision of any officer or agency responsible for administering the Zoning Ordinance; or

b. Anyone requiring notice pursuant to this Ordinance.

10. AGRICULTURAL LAND — Land suitable for agriculture by reason of suitability of soil or other natural characteristics or past use for agricultural purposes. Agricultural land includes that defined as prime farm land or additional farm land of statewide importance for Rhode Island by the Soil Conservation Service of the United States Department of Agriculture.

11. ALTERATION (of an on-site wastewater treatment system) — Any modernization, modification or change in the size, type or layout of an existing sewage disposal system, including but not limited to, any work associated with a building renovation and/or change of use of that building; any change needed to accommodate any increase in sewage flow. Minor repairs shall not be considered an alteration. [Amended November 21, 1998; 3-5-2018 by Ord. No. 2018-01]

12. APPLICANT — An owner or authorized agent of the owner submitting an application or appealing an action of any official, board or agency. An authorized agent shall submit documentation of their authority to act for the owner.

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

14. AQUACULTURE — Farming of designated water bodies wherein organisms such as finfish, algae or shellfish are grown under controlled conditions for harvesting.

15. AQUIFER — A geological formation that stores and transmits significant quantities of recoverable water; most often designated as a source of drinking water.

16. ASSEMBLY HALL — A building which is available to the public, including but not limited to auditoriums, conference centers, churches, meeting rooms and halls.

17. RESERVED [Repealed 3-20-2024 by Ord. No. 2024-09]

18. AUTOMOTIVE SERVICE — The sale of motor vehicle fuel and related materials and services and/or general repair, rebuilding or reconditioning of motor vehicles.

19. BILLBOARD — Any sign or advertisement device greater than 12 square feet in area. Any sign or advertising devices not related to use of lot.

20. BIOCHEMICAL OXYGEN DEMAND, FIVE DAY TEST (BOD5) — A five day test of wastewater strength that measures the dissolved oxygen used by microorganisms in the biochemical oxidation (breakdown) of organic matter. [Amended November 21, 1998]

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

22. BUILD — To construct or reconstruct or excavate, fill, drain, or conduct physical operations of any kind in preparation for or in pursuance of construction or reconstruction or moving of a building or structure on a lot.

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

24. BUILDING ENVELOPE — The three-dimensional space within which a structure is permitted to be built on a lot and which is defined by regulations governing building setbacks, maximum height, and bulk; by other regulations; and/or any combination thereof.

25. BUILDING FOOTPRINT — The area within the perimeter of a building's foundation regardless of the number of usable floors, and all of the perimeter area encompassed by an upper story that extends beyond the foundation boundary by means of a cantilever. Building footprint shall include all porches, decks (ground level or elevated), stoops and ramps that are attached to the building. See Appendix I, Figures 1A, 1B and 1C. (The building footprint of all structures shall be measured when determining lot building coverage).

Note: Appendix I is included as an attachment to this chapter. [Amended October 6, 2008]

26. BUILDING HEIGHT — For a vacant parcel of land, building height shall be measured from the average, existing grade elevation where the foundation of the structure is proposed. For an existing structure, building height shall be measured from average grade taken from the outermost four corners of the existing foundation. In all cases, building height shall be measured to the top of the highest point of the existing or proposed roof or structure. This distance shall exclude appurtenant features such as chimneys, spires, cupolas and flag poles. For any property or structure located a Special Flood Hazard Area, as shown on the official FEMA Flood Insurance Rate Maps, building height shall be measured from base flood elevation, and where freeboard is being utilized or proposed, such freeboard areas, not to exceed five feet, shall be excluded from the building height calculation. [Amended May 21, 2008; October 6, 2008; 3-5-2018 by Ord. No. 2018-01; 7-15-2020 by Ord. No. 2020-04]

27. BUILDING SEWER — The pipe which begins outside the building wall and extends to any place or mechanism of sewage disposal, including but not limited to, a cesspool, leaching chamber septic tank or pressure gravity sewer leading to a leaching chamber. [Amended November 21, 1998]

28. BUILDING VOLUME — The total volume of a building above finished grade, measured in cubic feet from the exterior limits thereof, but not including roof overhangs, decks and unenclosed porches. See Appendix I, Figure 2B. [Added October 6, 2008]

29. CAPACITY OR LAND CAPACITY — The suitability of the land, as defined by geology, soil conditions, topography, and water resources, to support its development for uses such as residential, commercial, industrial, open space, or recreation. Land capacity may be modified by provision of facilities and services.

30. CESSPOOL — Any buried chamber including but not limited to any metal tank, perforated concrete vault or covered hollow or excavation, which receives discharges or sanitary sewage from a building sewer, for the purpose of collecting solids and/or discharging liquids to the surrounding soil. [Amended November 21, 1998]

31. CHANGE OF USE — Any change in use or occupancy of any structure or part thereof which would violate any provision of the RI State Building Code, RI General Laws, Chapter 23-27.3 as amended, and/or any regulation promulgated thereto, without first obtaining the approval of the Building Official (or their designee) or without the issuance of a certificate of occupancy indicating that the structure complies with the provisions of the state building code for the proposed new use. [Amended November 21, 1998; 5-3-2022 by Ord. No. 2022-04]

32. CLUSTER DEVELOPMENT — See § 402, Flexible Design Residential Development.

33. COASTAL FEATURES — Those coastal features defined by G.L. 1956, § 46-23-1 et seq.

34. COASTAL RESOURCES MANAGEMENT COUNCIL — The Rhode Island Coastal Resources Management Council (CRMC) and its successors or assigns.

35. COMMERCIAL KENNEL — Any structure, which must be an accessory building, in which more than four dogs are kept, the use of which kennel is for monetary gain.

36. COMMERCIAL/RESIDENTIAL MIXED USE — The use of a building which is principally commercial for both commercial and residential purposes. See § 411, Commercial/Residential Mixed Use. [Added July 6, 2009]

37. COMMERCIAL STABLES — The keeping of one or more horses to offer services such as riding lessons, trail rides or related activities for compensation. [Amended March 2, 2009]

38. 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 any association (such ownership may also include a municipality) of one or more contiguous lots under specific development techniques.

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

a. Whenever six or fewer retarded children or adults reside in any type of residence in the community, as licensed by the state. All requirements pertaining to local zoning are waived for these community residences;

b. A group home for children providing care or supervision, or both, to not more than eight mentally disabled or mentally handicapped or physically handicapped persons, and licensed by the state;

c. A residence for children providing care or supervision, or both, to not more than eight children including those of the care giver, and licensed by the state;

d. A community transitional residence providing care or assistance, or both, to no more than six unrelated persons or no more than three families, not to exceed a total of eight persons, requiring temporary financial assistance, and/or to persons who are victims of crimes, abuse or neglect, and who are expected to reside in that residence not less than 60 days nor more than two years. Residents will have access to and use of all common areas, including eating areas and living rooms, and will receive appropriate social services for the purposes of fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

40. COMPREHENSIVE PLAN — The current Town of New Shoreham Comprehensive Community Plan as adopted and as amended pursuant to Title 45 Chapter 22.2 of the General Laws of Rhode Island.

41. CONDOMINIUM — A form of ownership of common areas, residential, commercial or marine units, including time-share units, as provided by state statute.

42. CONVENTIONAL SEPTIC SYSTEM — An OWTS that includes a septic tank and a leach field and meets only the minimum RI code requirements for discharge of wastewater effluent into the soil. Effluent constituents prior to discharge to the soil are typically on the order of 300 mg/l BOD, 250 mg/l TSS, 63 mg/l TN and 10,000,000 fecal coliform/100 mls. [Amended November 21, 1998; 3-5-2018 by Ord. No. 2018-01]

43. CORNICE — Any projection which crowns or finishes the part to which it is affixed.

44. CRITICAL RESOURCE AREA — Sensitive land and water resources that provide unique habitat and/or important ecological or economic function(s). For purposes of this Ordinance, such areas include the watersheds for Peckham, Sands, Fresh and Great Salt Ponds, all wellhead protection areas and all wetlands together with their associated buffers as stipulated in § 506 of the New Shoreham Zoning Ordinance. [Amended November 21, 1998]

44.1. CUPOLA — This definition of cupola is provided exclusively for the purposes of calculating building height. A small, traditional barn-style architectural feature, for venting or decorative purposes. No direct access from within the structure shall be allowed for habitation or other human use including to provide a lookout. The size of a cupola shall be proportionate to the size of the building and shall not exceed 15% of the length of the principal ridge line on which the cupola is placed or four feet above the maximum permitted building height. [Added 3-5-2018 by Ord. No. 2018-01]

45. DAY CARE — DAY CARE CENTER — Any other day care center which is not a "Family Day Care Home." For purposes of this Ordinance, a Day Care Center constitutes a business or professional service.

46. DAY CARE — FAMILY DAY CARE HOME — Any home other than the individual's home in which day care in lieu of parental care or supervision is offered at the same time to six or less individuals who are not relatives of the care giver, but may not contain more than a total of eight individuals receiving day care.

47. DAYS — Calendar days.

48. DENSITY, RESIDENTIAL — The number of dwelling units per developable land area that may be constructed on a given lot. The density is calculated by dividing the number of dwelling units by the total developable land area on the lot.

49. DEPARTMENT OF ENVIRONMENTAL MANAGEMENT — The Rhode Island Department of Environmental Management (RIDEM) and its successors and assigns.

50. DEVELOPABLE LAND — For the purpose of calculating the maximum permitted development density for a parcel, is the total gross land area of a parcel proposed for development LESS the total of the following: [Amended October 6, 2008; 3-5-2018 by Ord. No. 2018-01; 3-5-2018 by Ord. No. 2019-02]

a. Freshwater wetlands as defined by R.I. General Laws Title 2, Chapter 1, as amended, and in any rules and regulations adopted pursuant thereto. Provided, however, that any setback requirement from the edge of a wetland, as so defined in R.I. General Laws Title 2, Chapter 1, shall not be included in the calculation of wetland area.

b. Shoreline features, such as beaches, bluffs, coastal wetlands, and dunes, as classified in Section 210 of the Coastal Resources Management Program as undevelopable, as amended December 2012, or subsequent amendments thereto.

c. All land area within easements serving other lots, including but not limited to sewage disposal systems, or wells, but not including scenic and conservation easements, or easements for access.

51. 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.

52. DEVELOPMENT PLAN REVIEW — The process whereby authorized local officials review the site plans, maps, and other documentation of a development to determine compliance with the stated purposes and standards of this Ordinance.

53. DIRECT LIGHT — Light emitted directly from the lamp, off of the reflector or reflector diffuser or through the refractor or diffuser lens of a luminaire. (See Appendix G included as an attachment to this chapter) [Amended December 4, 2000]

54. DISTRICT — See "Zoning Use District."

55. DISTURBED AREA — An area where the ground and/or its cover is altered or removed leaving the land subject to accelerated erosion; an area now or once used for earth removal; an area where excavations and other materials have been dumped.

56. DRAINAGE SYSTEM — A system for the removal of water from land by drains, grading, or other appropriate means. These techniques may include run-off controls to minimize erosion and sedimentation during and after construction or development, the means for preserving surface [waters] and groundwaters, and the prevention and/or alleviation of flooding.

57. DRAIN FIELD — Synonymous with leach field. [Amended November 21, 1998]

58. DRIVE-IN FACILITY — An accessory use which by design, physical facilities, service, or packaging procedures, allows customers to receive services or goods while remaining in or on their motor vehicles. This shall be construed to include drive-up, drive-through and similar such facilities.

59. DUMP/SANITARY LANDFILL — An area set aside for the permanent or temporary storage and/or treatment of waste materials derived from normal residential, business and related activities, but not including hazardous waste materials. This shall not be construed to limit the Town, as permitted by the State, to dispose of municipal waste.

60. 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. See also, "Household." [Amended 3-20-2024 by Ord. No. 2024-09]

61. EARTH REMOVAL — The extraction or removal of any soil or topsoil from any tract of land or water body, but excluding the processing of soil transported from off-site areas, and the manufacture of soil-related products such as pre-mixed concrete, bricks, block, and the like, and also excluding regarding or landscaping or normal construction and site work approved under this Zoning Ordinance.

62. EAVE — The lower edge of a sloping roof; that part of a roof of a building which projects beyond a wall.

63. ELDER CARE FACILITY — A facility licensed by the State of Rhode Island that provides in-house medical and living support services for persons 62 years of age or older.

64. ENHANCED ON-SITE WASTEWATER TREATMENT SYSTEMS — Systems which achieve the enhanced reduction of contaminants (nutrients, pathogens, BOD, TSS), as compared to conventional septic systems. [Amended November 21, 1998]

65. EXISTING STRUCTURE — A structure lawfully existing as of March 4, 1989.

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

67. FACADE — The exterior wall surface of a building.

68. FAILED SEPTIC SYSTEM — Any septic system that does not adequately treat and dispose of sewage that consequently creates a public or private nuisance or threat to public health and/or environmental quality, as evidenced by, but not limited to, one or more of the following conditions: [Amended 3-5-2018 by Ord. No. 2018-01]

a. Failure to accept sanitary sewage into the building sewer.

b. Discharge of wastewater either directly or indirectly to a subsurface drain, surface drain, wetland, or surface water body.

c. Effluent rising to the surface of the ground over or near any part of a septic system or seeping down-gradient from the absorption area at any change in grade, bank or road cut.

d. Discharge of improperly treated effluent to ground or surface waters.

e. Inadequate treatment and disposal of wastewater due to deterioration, damage, or improper design. (For example inadequate separation distance from the bottom of the leaching system to groundwater or impermeable layer, damage from a vehicle driven over a leach field, structural failure resulting in a leaking tank or undersized tank.)

f. Pumping records that indicate very frequent septic tank pumping. A system may be considered failed if the system has been pumped or is in need of pumping two or more times in a calendar year. [Amended November 21, 1998]

69. FAMILY — A person or persons related by blood, marriage, or other legal means. See also, "Household." [Amended 3-20-2024 by Ord. No. 2024-09]

70. FARMING — Cultivation of the soil for food products or other useful products of the apiary, field, orchard, vineyard, garden, nursery or greenhouse, breeding or keeping of animals or fowl, raising of livestock or dairying.

(70.1)=70.1. FLAGPOLE

A flagpole is an accessory structure which consists of two parts: the flag and the structure supporting the flag. Flagpoles are erected only for the purposes of flying a flag or banner representing a country, state or community, or organization, concept or other non-commercial content. In no case shall a flagpole which is an accessory structure consist of or serve the purposes of a sign, which displays lettering, logos and/or trademarks intended to convey a commercial message or advertise a good or service. Any structure containing such content shall be considered a sign and regulated under the provisions of § 504.

[Added January 5, 2015 by Ord. No. 2015-02]

71. FIXTURE — The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror and/or a refractor or lens. [Amended December 4, 2000]

72. FLEXIBLE DESIGN RESIDENTIAL DEVELOPMENT — An alternative residential subdivision which makes use of flexible zoning and site sensitive design standards. See § 402.

73. FLOOD OR FLOODING — A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation or run off of surface waters from any source.

74. FLOOD OR SPOT LIGHT — Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction. [Amended December 4, 2000]

75. FLOOD INSURANCE RATE MAP — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the Town of New Shoreham, effective April 3, 1985, as amended.

76. FLOOD INSURANCE STUDY — The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.

77. FLOODING, AREA OF SHALLOW FLOODING — A designated "AO Zone" or "VO Zone" on the Flood Insurance Rate Map. The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; velocity flow may be evident.

78. FLOODPLAINS OR FLOOD HAZARD AREA — An area that has a 1% or greater chance of inundation in any given year, as delineated by the Federal Emergency Management Agency, pursuant to the National Flood Insurance Act of 1968, as amended, and known as the Federal Emergency Management Agency or its successors.

79. FLOOR AREA, LIVING — The total floor area, measured in square feet from the exterior limits thereof, of that portion of a residential building which is used for habitation purposes, but excluding garage space, unfinished basements and exterior spaces such as porches and decks. [Amended October 6, 2008]

79.1. FREEBOARD — A factor of safety expressed in feet above base flood elevation of a flood hazard area for the purposes of floodplain management. [Added 3-5-2018 by Ord. No. 2018-01]

80. GALLEY LEACH FIELD — A type of leach field where the effluent from the septic tank is discharged to a prescribed number of perforated chamber(s) which are typically, although not necessarily, four feet x four feet x four feet and made of concrete. Galley leach field does not include flow diffusers, or infiltrating systems such as Elgen in-drains or the Infiltrator. [Amended November 21, 1998]

80.1. GAME ROOM — A public place, building or room where three or more gaming devices, machines, or apparatuses, including but not limited to pinball machines, computer gaming devices, electronic gaming devices, and video game machines, are kept for the use and entertainment of the public and where public use of the devices, machines, or apparatuses for a fee is the principal source of income. [Added November 5, 2012 by Ord. No. 2012-09]

80.2. GAMING DEVICE — A machine, apparatus, computer component or item or items of electronic equipment, connected to an electrical outlet by one cord, which upon the insertion of a coin, slug, token, plate, disc, or card may be operated by the public generally for use as a mechanical, electronic, video, or other game or amusement, whether or not it registers a score and whether or not the operation involves skill. [Added November 5, 2012 by Ord. No. 2012-09]

81. GLARE — Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see and in extreme cases causing momentary blindness. [Amended December 4, 2000]

82. GOVERNMENTAL FACILITY — A facility which is open to the public and which is owned or leased by the municipality or state and operated under the direct supervision of the municipality or state, including but not limited to schools, libraries, offices, recreational areas, but not including a public works facility.

83. GRADE, AVERAGE — The average elevation of the grade as measured on at least four sides of a structure, whether natural grade or finished grade. [Amended May 21, 2008; 3-5-2018 by Ord. No. 2018-01]

84. GRADE, FINISHED — The measurement of elevation on land that has been altered as a result of development. Finished grade is measured assuming the completion of all building site improvements as represented on final approved building plans. [Added October 6, 2008]

85. GRADE, NATURAL — The measurement of elevation on land that is unaltered by human activity. [Amended May 21, 2008]

86. GROSS AREA — The total area of a building, measured in square feet from the exterior limits thereof, including all living areas, attic space, unfinished basements, crawl spaces, porches, decks, attached garages and any exterior space attached to the building, excluding uncovered patios. [Added October 6, 2008]

87. GROUNDWATER — Groundwater and associated terms, as defined in Title 46 Chapter 13.1-3 of the Rhode Island General Laws of 1956 as amended.

88. HALFWAY HOUSES — A residential facility for adults or children who may have been institutionalized for criminal conduct and who require a group setting to facilitate the transition to a functional member of society.

88.1.Hawking And Peddling: Hawking means to sell or to offer for sale any goods, wares, or merchandise, including any food or beverage, on any public street, highway, or public right of way from a stationary location. Peddling means selling or offering for sale any goods, wares, or merchandise from a vehicle, cart, or any other conveyance that is not stationary. Notwithstanding the above, Hawking and Peddling do not include activities conducted by Mobile Food Establishments required to be registered pursuant to Title 5, Chapter 11.1 of the Rhode Island General Laws. [Added 2-7-2022 by Ord. No. 2022-01]

89. HEIGHT OF LUMINAIRE — The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light emitting part of the luminaire. [Amended December 4, 2000]

90. HISTORIC DISTRICT — One or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites, and which has been registered, or is deemed eligible to be included, on the State Register of Historic Places pursuant to Title 42 Chapter 45-5 of the Rhode Island General Laws of 1956 as amended.

91. HISTORIC OVERLAY DISTRICT — An overlay zoning district comprised of areas and structures of historic and/or architectural significance to the Island. (See § 317, Historic Overlay)

92. HISTORIC SITE — Any real property, man-made structure, natural object, or configuration or any portion or group of the foregoing which has been registered, or deemed eligible to be included, on the State Register of Historic Places pursuant to Title 42 Chapter 45-5 of the Rhode Island General Laws of 1956 as amended.

93. HOME OCCUPATION — Any activity customarily carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit. See also, "Accessory Use." [Amended 3-20-2024 by Ord. No. 2024-09]

94. HOME OWNERS' ASSOCIATION — An affiliation of contiguous home or lot owners, within a cluster development or other subdivision, formed for the express purposes of regulating and funding the care and maintenance of their common lands, buildings, access roads, utility systems and other facilities designated in the original agreement of ownership, as required therein by the Planning Board or otherwise stipulated or required.

95. HOTEL — A building or building complex containing 11 or more rooms or suites for rent. Each unit must have access from an inside lobby and be without individual cooking facilities. Meals for guests may or may not be provided.

96. 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. An individual household shall consist of any one of the following: [Amended 3-20-2024 by Ord. No. 2024-09]

a. A family, which may also include servant and employees living with the family; or

b. A person or group of no more than six unrelated persons living together.

97. IMPERMEABLE — Soils, substrata or other material having a permeability equal to or slower than 40 minutes per inch. Impermeable surfaces also include such things as rooftops, paved driveways and tennis courts. [Amended November 21, 1998]

98. INCENTIVE ZONING — The process whereby the local authority may grant additional development capacity in exchange for the developer's provision of a public benefit or amenity as may be specified in this Ordinance.

99. INDIRECT LIGHT — Direct light that has been reflected or has scattered off of other surfaces. [Amended December 4, 2000]

100. (Reserved) [Amended November 21, 1998; repealed 3-5-2018 by Ord. No. 2018-01]

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

102. INN — A building or building complex containing three to 10 rooms or suites for rent. Each unit must have access from an inside lobby and be without individual cooking facilities. Meals for guests may or may not be provided.

103. (Reserved) [Amended November 21, 1998; repealed 3-5-2018 by Ord. No. 2018-01]

104. (Reserved) [Amended November 21, 1998; repealed 3-5-2018 by Ord. No. 2018-01]

105. JUNKYARD — Any lot, or portion thereof, used for the storage or keeping of non-hazardous junk or scrap materials, or the dismantling or demolition of vehicles, machinery or parts thereof.

106. LAMP — The component of a luminaire that produces the actual light. [Amended December 4, 2000]

107. 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 development for residential, commercial, institutional, recreational, open space, and/or mixed uses as may be provided for in this Ordinance. (See § 402, Flexible Design Residential Development)

108. LEACHFIELD — A subsurface area from which septic tank effluent or waste containing little or no solids is leached into the soil. Leach field shall be synonymous with drain field. [Amended November 21, 1998]

109. LIGHT ASSEMBLY — A business with the equivalent of at least two full-time year-round employees and a dedicated work space of at least 1,000 square feet that involves the low intensity assembly or manufacture of a product or products in multiple quantities for the purposes of wholesale or retail sale. Such operations do not create noise, vibration, light, glare, smoke, dust, odor or traffic to an extent which would have a deleterious impact on surrounding property, and do not discharge any emission, pollution or hazardous material or waste into the air, ground or water. Light assembly may include one of the following categories: [Amended December 16, 2009]

a. Arts and crafts, articles for aesthetic enjoyment (art objects, pottery, jewelry) from clay, ceramic, metal, stone, glass, wood, paper, leather or similar material, as well as paintings, drawings and photographs; [Amended December 16, 2009]

b. Wood products, signs, furniture, shelving and containers, and other similar products made of wood, but not the mass processing of lumber into boards and other finished wood materials; [Amended December 16, 2009]

c. Paper products. Printing press, book binding and products made of paper, but not the processing of pulp into paper; [Amended December 16, 2009]

d. Textile products, processing of fibers into yarn, weaving, lacework, and textile products such as rugs, blankets and clothing items; and [Amended December 16, 2009]

e. Other. Any other low impact assembly or production that meets the above criteria, as determined by the Zoning Official. [Amended December 16, 2009; 5-3-2022 by Ord. No. 2022-04]

110. LIGHT TRESPASS — The shining of light produced by a luminaire beyond the boundaries of the property on which it is located. [Amended December 4, 2000]

111. 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.

112. LOT AREA — The total area within the boundaries of a lot, excluding any street right-of-way, usually reported in acres or square feet. [Amended October 6, 2008]

113. LOT BUILDING COVERAGE — That portion of the lot that is or may be covered by Buildings or Accessory Structures. [Amended 3-20-2024 by Ord. No. 2024-09]

114. LOT COVERAGE — That percentage of the total lot area that is or may be covered by all structures and man-made surfaces, such as building footprints, patios, tennis courts, swimming pools and any other similarly altered surface, as well as roadways and parking areas that are constructed with an impervious surface. [Amended October 6, 2008]

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

116. LOT FRONTAGE — That portion of a lot abutting a street. Any lot created after the enactment of this Ordinance shall have contiguous frontage which satisfies, at a minimum, the minimum lot frontage requirements of the zoning district.

117. 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. The lot line separating a lot from a street right-of-way. On corner and through lots, the front lot line shall be that property line which gives priority to main streets over secondary streets, as determined by the Zoning Official.

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 which is entirely within the lot, and which is parallel to and at a maximum distance from, the front lot line.

c. Side. Any lot line other than a front or rear lot line. On a corner lot, a side lot line may be a street lot line which is not a front or rear lot line.

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

119. LOT WIDTH — The horizontal distance between the side lines of a lot, measured at right angles to its depth along a straight line which is parallel to the front lot line at the minimum front setback line.

120. LOW OR MODERATE INCOME — Income not exceeding the low or moderate income standards for the Island set by the Farmer's Home Administration or as established by the Town Council and published in the Office of the Town Clerk.

121. LOW OR MODERATE INCOME HOUSING — Any housing subsidized by the federal, state or municipal government under any program to assist the construction or rehabilitation as low or moderate

income housing, as defined in the applicable federal or state statute or this ordinance, whether built or operated by any public agency or nonprofit organization, or by any limited equity housing cooperative or any private developer, that will remain affordable for 99 years from initial occupancy through a land lease or deed restriction. See § 712 - Comprehensive Permits for Low and Moderate Income Housing. [Amended September 27, 2006; February 20, 2013 by Ord. No. 2013-03]

122. LUMEN — A unit of luminous flux. One foot-candle is one lumen per square foot. For the purposes of this Ordinance the lumen output values shall be the initial lumen output ratings of a lamp. For purposes of example: 1800 lumens is approximately equivalent to 105 watts of incandescent light or 30 watts of fluorescent light; 900 lumens is approximately equivalent to 62 watts of incandescent light or 15 watts of fluorescent light. [Amended December 4, 2000]

123. LUMINAIRE — This is a complete lighting system and includes a lamp or lamps and a fixture. [Amended December 4, 2000]

124. MAJOR REPAIR (OF AN ISDS) — Any work performed on an ISDS, excluding minor repairs, in order to repair or replace a failed system. [Amended November 21, 1998]

125. MARINA — Any dock, pier, wharf, float, or combination of such facilities that service five or more boats. A marina shall be considered a commercial enterprise and may be in association with a club and located on or adjacent to navigable waters and may include related services such as restaurants, sail makers and chandleries, but not residential facilities.

126. MARSH — An area of any size over 1000 square feet and having the characteristics set forth as defining marshes in the wetlands regulations of the Department of Environmental Management.

127. MEAN SEA LEVEL — Arithmetic mean of observed water elevations over a Metonic Cycle in relationship to the National Geodetic Vertical Datum of 1929. [Reference: Tides and Tidal Datum. D.L. Harris Coastal Engineering Research Center, U.S. Army Corps of Engineers Special Report-7 (Feb. 1981) p. 103.]

128. MEDICAL FACILITY — A facility licensed by the State of Rhode Island and available to island residents and visitors for primary health services and medical and emergency care, as well as occupational and physical therapy, drug and alcohol treatment and counseling services, and consisting of all space, equipment and facilities necessary for examination, diagnosis and treatment.

129. MINOR REPAIR (of a septic system) — Any work performed on a septic system involving the repair, replacement or upgrade of the building sewer, septic tank or distribution box and/or the installation of inspection ports and/or effluent filters on septic tanks. [Amended November 21, 1998; 3-5-2018 by Ord. No. 2018-01]

130. MIXED USE — A mixture of land uses within a single development, building or tract.

130.1. Mobile Food Establishment: A food service operation that is operated from a movable motor driven or propelled vehicle, portable structure, or watercraft that can change location. It specifically includes, but is not limited to, food trucks, food carts, ice-cream trucks/carts, and lemonade trucks/carts. [Added 2-7-2022 by Ord. No. 2022-01]

131. MOBILE HOME — A structure designed as a dwelling unit for residential purposes, capable of being moved on its own wheels and fixed to a permanent foundation.

132. MODERATE INCOME — See "Low or Moderate Income."

133. MODERATE PRICE — A moderate sale price for a dwelling unit as established for the Island by the Farmer's Home Administration, or as established by the Town Council and published in the Office of the Town Clerk.

134. MODERATE RENT — Rent which is a specified percentage below the market rate, as established for the Island by a state or federal department or agency, or as established by the Town Council and published in the Office of the Town Clerk.

135. MODIFICATION — Permission granted and administered by the Zoning Official, pursuant to the provisions of § 705 of this Ordinance, to allow a Dimensional Variance, of up to 25%, from each of the applicable dimensional requirements of the Zoning Ordinance, as specified in that Section. [Amended 5-3-2022 by Ord. No. 2022-04]

136. MOTEL — A building or building complex containing rooms or suites for rent, which is not an inn or hotel, where not all units have access from an inside lobby. No unit may have cooking facilities.

137. MULTI-FAMILY DEVELOPMENT — A land use wherein two or more dwelling units are located on a single lot. This does not include Accessory Dwelling Units. See also "Secondary Dwelling Development." (See § 403, Secondary Dwelling Development) [Amended December 6, 2004; July 2, 2007; 3-20-2024 by Ord. No. 2024-09]

137.1. MUNICIPAL GOVERNMENT SUBSIDY — Assistance that is made available through a Town program to make housing affordable, as defined by the Rhode Island Low and Moderate Income Housing Act; such assistance may include, but is not limited to, direct financial support, abatement of taxes, waiver of fees and charges, and approval of density bonuses and/or internal subsidies, and any combination of forms of assistance. [Added February 20, 2013 by Ord. No. 2013-3]

138. NEW STRUCTURE — Structure for which the start of construction, reconstruction, rehabilitation or any other such work for which a Building Permit is required commenced on or after the effective date of this Zoning Ordinance.

139. NON-CONFORMANCE — A building, structure, or parcel of land, or use thereof, lawfully existing at the time of the adoption or amendment of this Ordinance and not in conformity with such provisions of the Ordinance or amendment. Non-conformance shall consist of only two types:

a. Non-Conforming by Use. A lawfully established use of land, building, or structure which is not a permitted use in that zoning district. A building or structure containing more dwelling units than are permitted by the use or regulation of the Ordinance shall be non-conforming by use; or

b. Non-Conforming by Dimension. A building, structure, or parcel of land not in compliance with the dimensional regulations of this Ordinance. Dimensional regulations include all regulations of the Ordinance, other than those pertaining to the permitted uses. A building or structure containing more dwelling units than are permitted by the use regulations of the Ordinance shall be non-conforming by use; a building or structure containing a permitted number of dwelling units by the use regulations of the Ordinance, but not meeting the lot area per dwelling unit regulations, shall be non-conforming by dimension.

140. OPEN SPACE — Land, primarily undeveloped, which may be public, semi-public or private, the purpose of which is to provide for the conservation of land and other natural resources and to provide park, recreational, historic and scenic areas.

141. OUTDOOR LIGHTING — The nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means. [Amended December 4, 2000]

142. OVERLAY DISTRICT — A district established in this Ordinance that is superimposed on one (1) or more districts or parts of districts that imposes specified requirements in addition to, but not less than, those otherwise applicable for the underlying zone.

143. OWNER — Any person who alone, jointly, or severally with others has a legal title to any premises.

143.1. OWTS — Onsite wastewater treatment system. See Section 506, Onsite Wastewater Treatment Systems. [Added 3-5-2018 by Ord. No. 2018-01]

143.2. OWTS TREATMENT LEVEL 1 — A level of on-site wastewater treatment, greater than that provided by a conventional septic system, and as described in Section 506, paragraph E(1)(a) of the New Shoreham Zoning Ordinance. (Amended November 21, 1998) [Amended 3-5-2018 by Ord. No. 2018-01]

143.3. OWTS TREATMENT LEVEL 2 — A level of on-site wastewater treatment, greater than "OWTS Treatment Level 1," and as described in Section 506, paragraph E(1)(b) of the New Shoreham Zoning Ordinance. (Amended November 21, 1998) [Amended 3-5-2018 by Ord. No. 2018-01]

144. PARKING AREA OR LOT — All that portion of a development that is used by vehicles, the total area used for vehicular access, circulation, parking, loading and unloading.

145. PERFORMANCE STANDARDS — A set of criteria or limits relating to elements which a particular use or process either must meet or may not exceed.

146. PERMITTED USE — A land use permitted as of right so long as dimensional standards and appropriate overlay district regulations are met.

147. PERSON — The term person shall include any individual, group of individuals, firm, corporation, association, partnership or private entity, including a district, city, town or other government unit or agent thereof, and in the case of a corporation, any individual having active and general supervision of the properties of such corporation.

148. PLANE, BUILDING — That portion of a building facade aligned in the same general plane. A building angle of 45° or greater with a minimum distance of 16 feet from the building facade (measured at a right angle from the building facade) shall be considered an interruption of the building plane. See Appendix I, Figures 3A and 3B and Figures 5A and 5B. [Added October 6, 2008]

149. PLANE, WALL — That portion of a building plane of consistent height and roof style. A perpendicular recess of at least six feet in depth shall be considered an interruption of the wall plane. See Appendix I, Figure 3C and Figures 4A, 4B and 4C. [Added October 6, 2008]

150. PLANNED DEVELOPMENT — A "Land Development Project," as regulated by this Ordinance, and developed according to plan as a single entity and containing one or more structures and/or uses with appurtenant common areas. See also "Flexible Design Residential Development."

151. POND — An area of any size over 1000 square feet where open standing water is present at least six months of the year.

151.1. POWER GENERATOR — A machine which burns fuel to convert mechanical energy into electrical energy. (Generators with a capacity over 20 kW for private use require a special use permit under § 426). [Added June 18, 2014 by Ord. No. 2014-07]

152. PRE-APPLICATION CONFERENCE — A review meeting of a proposed development held between applicants and the Planning Board and/or staff, as provided in this Ordinance, before formal submission of an application for a permit or for development approval. This provides developers the opportunity to present their proposals informally and to receive comments and directions from the Town. (See § 702F, General Procedures, Pre-Application]

153. PROFESSIONAL AND BUSINESS SERVICES — Activities including, but not limited to banking and associated services, financial services, real estate, management, tax consulting, engineering, accounting, photography, art gallery and/or school, medical services, legal services, and physical fitness activities led by an instructor including, but not limited to, physical fitness classes and yoga classes. The term Professional and Business Services shall not include drive-up facilities. [Amended 5-3-2017 by Ord. No. 2017-01]

154. PUBLIC SHORELINE ACCESS WAY (RIGHT-OF-WAY) TO WATER — An unobstructed path or corridor from a public thoroughfare or facility leading to or along shoreline areas below the mean high water mark.

155. PUBLIC WORKS FACILITY — A facility owned or leased and operated under the direct supervision of the municipality or state, the purpose of which is to store and/or service equipment and materials associated with the repair and maintenance of governmental facilities, roadways, or other areas of governmental responsibility.

156. RECREATIONAL FACILITY — A facility for sport or passive enjoyment by the public whether owned, operated and maintained by a government entity or privately. [Amended November 7, 1994]

157. RELIGIOUS FACILITY — A facility used primarily for worship and related activities.

158. RENTAL — Real estate leased or otherwise made accessible and useful to designated renters for a stipulated period of time for compensation.

159. RENTAL ROOMS — Bedrooms within an owner-occupied dwelling unit, which may be rented upon receiving prior approval from the Town. (See § 509, Rental Rooms). [Amended 3-20-2024 by Ord. No. 2024-09]

160. RESIDENCE — An abode, home, habitation or place of dwelling. [Amended 3-20-2024 by Ord. No. 2024-09]

161. RESTAURANT — A facility for the preparation and serving of food and beverages.

162. RETAIL TRADE — Any business engaged primarily in the sale, rental or lease of goods and/or services individually or in small quantities to the ultimate consumer for direct consumption and/or use, and not for resale. The term Retail Trade shall not include automotive rental or services, drive-up facilities or any type of restaurant, or any uses prohibited by § 111, General Prohibitions.

163. RHODE ISLAND GENERAL LAWS (RIGL) — The General Laws of the State of Rhode Island, 1956, as amended.

164. SECONDARY DWELLING DEVELOPMENT — A land use wherein two unattached dwelling units are located on a single lot according to the procedures and standards contained in § 403. [Added July 2, 2007; amended 3-20-2024 by Ord. No. 2024-09]]

165. 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. [Amended November 19, 2001]

166. (Reserved) [Repealed 3-5-2018 by Ord. No. 2018-01]

167. SETBACK, FRONT — An open unoccupied space on the same lot with the structure extending the full width of the lot and situated between the street line and the front line of the structure projected to the side lines of the lot. [Amended November 19, 2001]

168. SETBACK, REAR — An open unoccupied space on the same lot with the structure extending the full width of the lot and situated between the rear line of the lot and the nearest line of the structure on the lot. [Amended November 19, 2001]

169. SETBACK, SIDE — An open unoccupied space between the side line of the lot and the nearest line of the structure and extending from the front yard to the rear yard, or in the absence of either of such yards, to the streets or rear lot lines as the case may be. [Amended November 19, 2001]

170. SEWER, PUBLIC — A municipally owned and operated sewer system. Presently the system that services the area from around Old Harbor to New Harbor and which is serviced by the sewer plant off Spring Street.

171. SHALLOW DRAIN FIELD — Any ISDS that discharges effluent, to a pressure-dosed, shallow, narrow drain field, generally by means of a pump. [Amended November 21, 1998]

172. SIGN — Any display of lettering, logos, colors, lights, trade flags or illuminated sign device including neon tubes visible to the public from the outside of a building or from a traveled way which either conveys a message to the public, or intends to advertise, direct, announce or draw attention to, directly or indirectly, a use conducted, goods, products, services or facilities available, either on the lot or any other premises; excluding window display merchandise which shows no advertising, and excluding properly existing pavement markings or directional arrows painted on the ground and which show no advertising. (See § 504, Signs) This definition shall be construed in conjunction with other applicable definitions.

a. ATTACHED SIGN — A sign which is affixed to any structure. This may include, but is not limited to, roof signs, wall signs, projecting signs, and signs attached to buildings and sheds.

b. DIRECTORY SIGN — Any off-premises free-standing sign containing more than one store name on individual panels.

c. FLASHING SIGN — A sign whose illumination is not kept constant in intensity at all times when in use, and/or which exhibits changes in light, color, direction or animation. For the purposes of this section, illuminated signs which indicate exclusively the date, time and temperature are not considered flashing signs, provided however they meet all other provisions of this section.

d. FREE-STANDING SIGN — A self-supporting sign not attached to any building, wall, or fence, but in a fixed location.

e. ILLUMINATED SIGN — Any sign lit by electrical bulbs, fluorescent lights, or neon tubes. Neon tubes used as abstract, graphic, decorative or architectural elements shall be considered an illuminated sign.

f. MARQUEE — A permanent canopy often of metal and glass above a theater entrance containing the name of a currently featured film or play and its stars.

g. MOVEABLE SIGN — A sign capable of being readily moved or relocated, including portable and A-frame signs and those on a chassis or wheels or supported by legs.

h. OFF-PREMISES SIGN — Any sign which is not on the premises of the business, including a billboard. Not an on-premises sign.

i. ON-PREMISES SIGN — Any sign which advertises, calls attention to, or identifies the occupant of the premises on which the sign is maintained, or the business transacted thereupon.

j. PROJECTING SIGN — Any sign which is affixed to a building or other structure, is affixed at a right angle, and which extends more than six inches beyond the surface to which it is affixed.

k. ROOF SIGN — Any sign which is located above, or projects above, the lowest point of the eaves or the top of the parapet of any building, or which is painted on or fastened to a roof.

l. SYMBOL — A three-dimensional, two-sided representation of the primary generic merchandise sold on the premises, usually mounted on a bracket perpendicular to the shop front.

m. TEMPORARY SIGN — A sign intended to be used for a period of no more than 30 days. Exceptions for devices intended for civic purposes may be granted by special permit from the Zoning Board of Review.

n. TRADEMARK — The registered name, figure, letter, word or mark adopted and used by a manufacturer or merchant in order to designate their goods and to distinguish them from any others. {amended 5-3-2022 by Ord. No. 2022-04]

o. WALL SIGN — Any sign which is painted on, incorporated into, or affixed parallel to the wall of a building and which extends not more than six inches from the surface of that building.

173. SITE PLAN — The development plan for one or more lots on which is shown the existing and/or the proposed conditions of the lot. (See "Land Development Project" and § 703, Procedures for Special Use Permit)

174. SOIL — Any earth, sand, clay, loam, gravel, humus, rock, mineral or other earth product irrespective of the presence therein of organic matter.

175. SOLID WASTE TRANSFER FACILITY — A facility owned by and operated under the direct supervision of the municipality for the temporary storage and sorting of solid waste and recyclable material prior to its removal and disposal. [Amended December 7, 2009]

176. SPECIAL USE — A regulated use which is permitted pursuant to the Special Use Permit issued by the Zoning Board of Review, pursuant to § 704 of this Ordinance.

177. START OF CONSTRUCTION — The placement of permanent construction of the principal structure on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, the installation of streets and/or walkways, excavation or the erection of temporary forms for basements, footings, piers or foundations. For a principal structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its pilings or foundation.

178. STREET — A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles. Streets are classified by hierarchy according to function (see "Street Classification" as defined in the New Shoreham Land Development and Subdivision Regulations), and may be one of the following:

a. STATE ROAD — A right-of-way owned and maintained by the State of Rhode Island, and dedicated for use by the public.

b. TOWN ROAD — A right-of-way which has been improved to Town road standards, has been dedicated for use by the public and has been accepted for maintenance by the Town.

c. PRIVATE ROAD — A right-of-way paved or unpaved, not maintained by the Town or State and not dedicated for use by the public. As used herein, the term "road" shall be synonymous with "street."

179. 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 porches, patios, stairs, decks and flagpoles.

180. SUBDIVISION — See: Land Development and Subdivision Regulations of the Town of New Shoreham (appendix D to these Revised Ordinances, included as an attachment to this chapter).

181. SUBSTANDARD LOT OF RECORD — Any lot lawfully existing at the time of adoption or amendment of this Ordinance and not in conformance with the dimensional and/or area provisions of this Ordinance.

182. SWAMP — An area of any size over 1,000 square feet and having the characteristics set forth as defining swamps in the wetlands regulations of the Department of Environmental Management.

182.1. TABLE GAME — A game played on a horizontal surface, including but not limited to a billiard table, a bagatelle table, a pool table, or a scippio table, that is available for the use and entertainment of the public. [Added November 5, 2012 by Ord. No. 2012-09]

183. TEMPORARY OUTDOOR LIGHTING — The specific illumination of an outside area or object by any man-made device located outdoors that produces light by any means for a period of less than seven days with at least 180 days passing before being used again. [Amended December 4, 2000]

184. THEATER — A place of assembly having facilities for an audience and for a stage, screen, platform, or other area to be used for lectures, performances or other presentations attended by an audience.

185. TIME-SHARE — A form of ownership wherein two or more parties own a unit (usually a condominium unit), each for a stipulated period of time each year.

186. TIPPING DISTRIBUTION BOX — A type of distribution box where the effluent from the septic tank flows into a tipping pan, which when full, empties into the leach field lines, thereby facilitating a more uniform distribution of effluent over the entire leach field. [Amended November 21, 1998]

187. TOTAL SUSPENDED SOLIDS (TSS) — Solids physically suspended in wastewater. [Amended November 21, 1998]

188. TOXIC OR HAZARDOUS MATERIALS — Any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of the Town. Toxic or hazardous materials include, without limitation, organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, herbicides, solvents and thinners.

189. TRANSPORTATION FACILITY — A facility providing public transport by land, air, or water and including the buildings, parking, service, loading and unloading areas, wharfs and docks associated with such transport.

190. UPLIGHTING — Any light source that distributes illumination above a 90° horizontal plane. [Amended December 4, 2000]

191. 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.

192. UTILITY FACILITY — A facility, whether publicly or privately owned, which provides direct or indirect utility service to the public, including but not limited to, water works, sewage and water pumping stations and treatment facilities, telephone electronic equipment structures, electric power sub-stations and transformer stations and mobile radio service equipment and antennae. Local utility transmission lines are excluded from this definition as are radio broadcast stations, television broadcast stations and related antennae and other transmission facilities, and telecommunications towers. [Amended October 3, 1994]

193. VARIANCE — Permission to depart from the literal requirements of a Zoning Ordinance. An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land, which is prohibited by this Ordinance. There shall be only two categories of variance, a use variance or a dimensional variance.

a. USE VARIANCE — Permission to depart from the use requirements of this Ordinance where the applicant for the requested variance has shown by evidence upon the record that the subject land or structure cannot yield any beneficial use if it is to conform to the provisions of this Ordinance.

b. DIMENSIONAL VARIANCE — Permission to depart from the dimensional requirements of this Ordinance, where the applicant for the requested relief has shown, by evidence upon the record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use of the subject property unless granted the requested relief from the dimensional regulations. However, the fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

194. WAREHOUSE AND STORAGE FACILITY — A land area where goods or materials are stored in a warehouse facility and/or in specific outdoor areas.

195. WATER SUPPLY PROTECTION PROGRAM (WSPP) — An Island-wide program of various zoning and subdivision regulations, ordinances, educational programs and management practices that are, at a minimum, designed to preserve the existing quality of Block Island's ground and surface water reservoirs. [Amended November 21, 1998]

196. WATER TABLE — The upper surface of the water-saturated zone of the soil. [Amended November 21, 1998]

197. WATERFRONT USES — Uses adjacent to coastal waters as permitted and regulated by the Rhode Island Coastal Resource Management Council (CRMC).

198. WELLHEAD PROTECTION AREA (WHPA) — The critical portion of a three dimensional zone surrounding a public well or well field, through which water will move towards and reach such well or well field as designated by the Director of the DEM or as adopted by the Town. [Amended November 21, 1998]

199. WETLAND, COASTAL — A salt marsh bordering on the tidal waters of this state and contiguous uplands extending no more than 50 yards inland therefrom, or as defined by under the General Laws of Rhode Island as amended.

200. WETLAND, FRESHWATER — A marsh, swamp, bog, pond, river, river or stream floodplain or bank, area subject to flooding or storm flowage; emergent or submergent plant community in any body of fresh water; or area within 50 feet of the edge of a bog, marsh, swamp, or pond, or as defined by Title 2 Chapter 1-20 of RIGL.

201. WIND ENERGY CONVERSION SYSTEM (WECS) — Mechanisms and related facilities designed or operated for the purpose of converting wind energy to electrical and/or mechanical power. (See § 508, Wind Energy Conversion System) [Amended May 23,2001]

202. WECS, UTILITY — A wind turbine installed for the purpose of providing an additional power source for municipal or general public use, and which is part of the electrical power production and distribution system for New Shoreham, or in the event of a cable connection to the mainland, integrated into the publicly regulated electric grid system. [Amended December 7, 2009]

203. ZONING — The reservation of certain specified areas within the Town of New Shoreham for building and structures, or use of land, for certain purposes, with other limitations such as height, lot coverage, and

other stipulated requirements.

204. ZONING CERTIFICATE — A document signed by the Zoning Official, as required in this Ordinance, which acknowledges that a use, or structure, building or lot either complies with or is legally non-conforming to the provisions of this New Shoreham Zoning Ordinance or is an authorized variance or modification therefrom.

205. ZONING MAP — The map or maps which are a part of the Zoning Ordinance and which delineate the boundaries of all mapped zoning districts within the physical boundary of the Town.

206. ZONING USE DISTRICTS — The basic unit of zoning, either mapped or unmapped, to which a uniform set of regulations applies, or a uniform set of regulations for a specified use applies.

("Mean Grade" deleted, amended May 21, 2008)

("Stable" deleted March 2, 2009)

("Retail/Residential Mixed Use" deleted July 6, 2009)

§ 3. Zoning Districts and Regulations

Article 3 Zoning Districts and Regulations

§ 301. Establishment of Zoning Districts

§ 301 Establishment of Zoning Districts

A. For purposes of the Zoning Ordinance the Town of New Shoreham is hereby divided into zoning districts:

Residential A Zone	(RA Zone)
Residential B Zone	(RB Zone)
Residential C Zone	(RC Zone)
Residential C/Mixed Use Zone	(RC/M Zone)
Mixed Use Zone	(M Zone)
Old Harbor Commercial Zone	(OHC Zone)
New Harbor Commercial Zone	(NHC Zone)
Service Commercial Zone	(SC Zone)
Coastal Zone	(C Zone)
Planned Development Zone	(PD Zone)
Public Education Zone	(PE Zone)
Public Utility Zone	(PU Zone) [Amended December 7, 2009]

B. For purposes of the Zoning Ordinance the Town of New Shoreham hereby establishes the following zoning overlays:

Flood Control Overlay	**FC Overlay**
Pond Quality Overlay	(PQ Overlay)
Historic Overlay	(H Overlay)
Waterfront Overlay	(W Overlay)

§ 302. Zoning Maps

§ 302 Zoning Maps

[Amended September 15, 2010; Ord. No. 2012-06, June 4, 2012; Ord. No. 2013-02, January 16, 2013; October 7, 2013 by Ord. No. 2013-11]

A. The zoning districts of the Town are shown on a map entitled "New Shoreham Zoning Map," dated June 5, 1967, revised to March 4, 1989 and on file in the office of the Town Clerk, which map, and any amendments thereto, are hereby made a part of this Zoning Ordinance ("Zoning Map").

B. The Flood Control Overlay (FC Overlay) district. The district includes all special flood hazard areas within the town designated as Zone A, AE, AH, AO, A99, V, or VE on the Washington County flood insurance rate map (FIRM) and digital FIRM issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Washington County FIRM that are wholly or partially within the Town of New Shoreham are panel numbers 44009C0352J, 44009C0353J, 44009C0354J, 44009C0356J, 44009C0358J, 44009C0361J, 44009C0362J, 44009C0363J, 44009C0364J, 44009C0366J and 44009C0368J dated October 16, 2013. The exact boundaries of the district may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Washington County flood insurance study (FIS) report dated October 16, 2013. The FIRM and FIS report and any revisions thereto are incorporated herein by reference and are on file with the Building Official.

C. The Pond Quality Overlay (PQ Overlay) is as defined in § 316

D. The Historic Overlay (H Overlay) is as shown on the New Shoreham Historic District Map, which map, and any amendments thereto, are hereby made a part of this Zoning Ordinance.

1. Amendments.

a. Pursuant to Ordinance No. 2012-06, adopted June 4, 2012: The New Shoreham Zoning Map is amended to add the property of the William J. Penn Revocable Living Trust at File# 815, Plat 18, Lot 66 off Beacon Hill Road currently zoned as Residential A, to the Historic District.

b. Pursuant to Ordinance No. 2013-02, adopted January 16, 2013: The New Shoreham Zoning Map be changed to add Plat 18, Lot 6-1 to the Historic District amending the New Shoreham Zoning Map to add Plat 18, Lot 6-1, West Side Road, the Estate of David K. Harrison, currently zoned as Residential A, to the Historic District.

E. The Waterfront Overlay (W Overlay) is as defined in § 318.

F. Amends the New Shoreham Zoning Map by changing Plat 19, Lot 2 from Residential A to New Harbor Commercial. [Added 8-2-2021 by Ord. No. 2021-09]

§ 303. Zoning District Boundaries

§ 303 Zoning District Boundaries

Where the boundary of any zoning district shown on the New Shoreham Zoning Map is unclear, the following rules shall apply:

A. Where district boundaries appear to follow lot lines, such lot lines shall be the zoning district boundaries;

B. Where district boundaries appear to follow the center lines of roads, streets, lanes, highways or streams, such center lines shall be the zoning district boundaries;

C. Where the precise location of any zoning district boundary is uncertain, the Zoning Board of Review with advice from the Planning Board, shall determine the boundary, except as provided in § 316 (PQ Overlay) and § 318 (W Overlay).

§ 304. General Zoning District Regulations

§ 304 General Zoning District Regulations

The following Sections state the purpose and land use regulations for each of the zoning districts of the Zoning Ordinance. Except as otherwise provided in § 113, Non-Conformance, and § 706, Variance, no structure shall be constructed, moved, or altered, and no structure or land shall be used or occupied except

as permitted in the zoning district in which it is located or as permissible by Special Use Permit in said zone and so authorized. No development shall occur except on developable land.

§ 305. Modification of Dimensional Standards in Subdivisions

§ 305 Modification of Dimensional Standards in Subdivisions

A. In subdividing land, in order to allow boundaries to coincide with stone walls or other historical landscape features, as long as the aggregate number of lots allowed under conventional subdivision is not exceeded and as long as the average lot size of the subdivision meets the minimum lot area standard for the zone, individual lots may be modified. In Residential Zone A and Residential Zone B, the standards for minimum lot area and minimum setbacks shall be modified as follows:

1. Up to 20% less than the minimum lot area of the zone for land not bounded by a Town road or State highway; and,

2. Up to 10% less than the minimum lot area of the zone for land bounded by a Town road or State highway.

B. Dimensional standards to be applied to cluster subdivisions shall be those established by the Planning Board at the time the cluster subdivision was approved. If the applicable dimensional standards are not set forth on the recorded plan, or in a written decision of the Planning Board, then the dimensional standards in the Zoning Ordinance, or Subdivision Regulations, applicable to the cluster subdivision which were in effect at the time the cluster subdivision development was approved shall be applied. (Section Amended August 18, 1999)

§ 305.1. Accessibility alterations to existing buildings

§ 305.1 Accessibility alterations to existing buildings

[Added 3-5-2018 by Ord. No. 2018-11]

A. Ramps, lifts, and other appurtenant structures added to any existing building to provide disabled persons with access to the building shall be permitted by right in all zoning districts. The dimensional regulations applicable to the property do not apply to such appurtenant structures.

§ 306. Residential A Zone (RA Zone)

§ 306 Residential A Zone (RA Zone)

[Amended June 21, 2000; May 23, 2001; June 19, 2002; December 6, 2004; July 2, 2007; October 6, 2008; Ord. of 8-17-2011; amended 3-5-2018 by Ord. No. 2018-02; 7-15-2020 by Ord. No. 2020-05; 2-7-2022 by Ord. No. 2022-01; 3-20-2024 by Ord. No. 2024-09; 4-17-2024 by Ord. No. 2024-11]

A. Purpose. The Residential A Zone (RA Zone) comprises primarily rural land mostly remote from the village center and much of which is served by narrow lanes. It is intended that new development be integrated into the existing pattern of fields, walls, ponds and wetlands.

B. Residential Density. Minimum Developable land area required for each dwelling unit. (See § 202, Definitions, "Developable Land")

1. For lots of record of 200,000 square feet or less lawfully existing as of March 4, 1989, 70,000 square feet of developable land is required; or

2. For lots of record greater than 200,000 square feet, 90,000 square feet of developable land is required.

3. For all newly created lots, 120,000 square feet of developable land is required, in accordance with § 302 of the Land Development and Subdivision Regulations.

C. Dimensional Standards. [Table Amended October 6, 2008; October 21, 2009; November 5, 2012 by Ord. No. 2012-10; 7-15-2020 by Ord. No. 2020-05; 4-17-2024 by Ord. No. 2024-11]

Minimum Lot Area (See § 305)
Minimum Lot Frontage
Minimum Setbacks for Principal and Accessory Structures:
Front
Side
Rear
Minimum Setbacks for Accessory Structures: Building footprint limited to 144 square feet, and building height limited to 1
Front
Side
Rear
Minimum Setbacks for Substandard Lots of Record
Maximum Lot Building Coverage:*
As applied to the principal structure
As applied to all structures on the lot
Maximum Lot Building Coverage for Substandard Lots of Record
Maximum Lot Coverage
Maximum Height:
Main Structure
Accessory Structure

* Lot building coverage shall be measured as a percentage of total lot area; see also exemption allowed for substandard
** No portion or any side of a building shall exceed 37 feet in height, as measured from finished grade.
*** The maximum height for any main structure located in a special flood hazard area, as shown on official FEMA Flood

D. Permitted Uses.

Accessory Dwelling Units (Subject to § 406 and § 513)
Accessory Residential Structures (See § 511, Accessory Residential Structure)
Accessory Uses/Home Occupation (See § 510, Accessory Uses)
Community Residences
Family Day Care Homes
Farming
Rental Rooms (See § 509, Rental Rooms)
Single Family Dwelling Units (one per lot)
WECS subject to § 508
Hawking and Peddling pursuant to a license duly issued by the Town Council pursuant to Chapter 8, Article V, Section 8 f
Mobile Food Establishment pursuant to a duly issued license issued by the Town Council pursuant to Chapter 8, Article V,

E. Uses Allowed with Special Use Permit (See Article 4).

Accessory Dwelling Units (See § 406 and § 513)
Affordable Housing (See § 405, Affordable Housing)
Day Care Center
Earth Removal (See § 418, Earth Removal)
Governmental Facilities
Public Works Facilities
Recreational Facilities: Limited to Field Sports; Tennis Courts; Regulation Golf (See § 410, Recreational Facilities)
Religious Facility
Stables
Secondary Dwelling Development (See § 403, Secondary Dwelling Development)
Utility Facility (See § 417 - Utility Facilities)

Waterfront Uses (See Sections 318, Waterfront Overlay and 415, Waterfront Uses) WECS subject to § 508

A Single Family Dwelling Unit, Accessory residential Residential Structure or Accessory Structure associated with a residential use (garage, barn, greenhouse, boat shed, etc), that meets any of the following thresholds measuring building size and/or site disturbance (see § 406):

1. An individual building footprint in excess of 2,000 square feet, exclusive of ground level or first floor decks or one story unenclosed porches (see § 202 Definitions, "Building Footprint");

2. A total living area in excess of 3,300 square feet (see § 202 Definitions, "Floor Area, Living");

3. A total gross area in excess of 5,000 square feet, exclusive of ground level or first floor decks or one story unenclosed porches (see § 202 Definitions, "Gross Area);

4. A total building volume in excess of 45,000 cubic feet (see § 202 Definitions, "Building Volume"); and/or

5. Any retaining wall constructed of concrete, metal, fiberglass or other similar manufactured material that is in excess of five feet in height and/or fifteen feet in length, exclusive of a retaining wall associated with a walk- out basement.

F. Uses Allowed Only As Land Development Projects.

Flexible Design Residential Development (See § 402, Flexible Design Residential Development).

§ 307. Residential B Zone (RB Zone)

§ 307 Residential B Zone (RB Zone)

[Amended June 21, 2000; May 23, 2001; June 19, 2002; December 6, 2004; July 2, 2007; October 6, 2008; Ord. of 8-17-2011; 3-5-2018 by Ord. No. 2018-02; 7-15-2020 by Ord. No. 2020-05; 3-20-2024 by Ord. No. 2024-09; 4-17-2024 by Ord. No. 2024-11]

A. Purpose. The Residential B Zone (RB Zone) comprises rural land less remote from the village center than land zoned RA, but also served by narrow lanes. It is intended to integrate new development into the existing pattern of fields, walls, ponds and wetlands.

B. Residential Density. Minimum Developable land area required for each dwelling unit. (See § 202, Definitions, "Developable Land")

1. For lots of record of 100,000 square feet or less lawfully existing as of March 4, 1989, 40,000 square feet of developable land is required; or

2. For lots of record greater than 100,000 square feet, 50,000 square feet of developable land is required.

3. For all newly created lots, 60,000 square feet of developable land is required, in accordance with § 302 of the Land Development and Subdivision Regulations.

C. Dimensional Standards: [Table Amended October 6, 2008; October 21, 2009, November 5, 2012 by Ord. No. 2012-10; 7-15-2020 by Ord. No. 2020-05; 4-17-2024 by Ord. No. 2024-11]

Minimum Lot Area (See § 305)	60,000 square feet
Minimum Lot Frontage	150 feet
Minimum Setbacks for Principal and Accessory Structures:	
Front	50 feet
Side	25 feet
Rear	50 feet
Minimum Setbacks for Accessory Structures:	
Building footprint limited to 144 square feet, and building height limited to 12 feet	

Front	50 feet
Side	10 feet
Rear	15 feet
Minimum Setbacks for Substandard Lots of Record	See § 113E
Maximum Lot Building Coverage:*	
As applied to all structures on the lot	8%
Maximum Lot Coverage	16%
Maximum Lot Building Coverage for Substandard Lots of Record	See § 113E
Maximum Height:	
Main Structure	32 feet**
Accessory Structure	25 feet

* Lot building coverage shall be measured as a percentage of total lot area; see also exemption allowed for substandard

** No portion or any side of a building shall exceed 37 feet in height, as measured from finished grade.

*** The maximum height for any main structure located in a special flood hazard area, as shown on official FEMA Flood

D. Permitted Uses.

Accessory Dwelling Units (Subject to § 406 and § 513)
Accessory Residential Structures (See § 511, Accessory Residential Structure)
Accessory Uses/Home Occupations (See § 510, Accessory Uses)
Community Residences
Family Day Care Homes
Farming
Rental Rooms (See § 509, Rental Rooms)
Single Family Dwelling Units (one per lot)
WECS subject to § 508

E. Uses Allowed with Special Use Permit (See Article 4).

Accessory Dwelling Units (See § 406 and § 513)
Affordable Housing (See § 405, Affordable Housing)
Day Care Center
Earth Removal (See § 418, Earth Removal)
Governmental Facilities
Public Works Facilities
Recreational Facilities: Limited to Field Sports; Tennis Courts; Regulation Golf (See § 410, Recreational Facilities)
Religious Facility
Stables
Secondary Dwelling Development (See § 403, Secondary Dwelling Development)
Utility Facility (See § 417, Utility Facilities)
Waterfront Uses (See Sections 318, Waterfront Overlay and 415, Waterfront Uses)
WECS subject to § 508

A Single Family Dwelling Unit, Accessory Residential Structure or Accessory Structure associated with a residential use (garage, barn, greenhouse, boat shed, etc), that meets any of the following thresholds measuring building size and/or site disturbance (see § 406):

1. An individual building footprint in excess of 2,000 square feet, exclusive of ground level or first floor decks or one story unenclosed porches (see § 202 Definitions, "Building Footprint");

2. A total living area in excess of 3,300 square feet (see § 202 Definitions, "Floor Area, Living");

3. A total gross area in excess of 5,000 square feet, exclusive of ground level or first floor decks or one story unenclosed porches (see § 202 Definitions, "Gross Area);

4. A total building volume in excess of 45,000 cubic feet (see § 202 Definitions, "Building Volume"); and/or

5. Any retaining wall constructed of concrete, metal, fiberglass or other similar manufactured material that is in excess of five feet in height and/or fifteen feet in length, exclusive of a retaining wall associated with a walk-out basement.

F. Uses Allowed Only as Land Development Projects.

Flexible Design Residential Development (See § 402, Flexible Design Residential Development).

§ 308. Residential C Zone (RC Zone)

§ 308 Residential C Zone (RC Zone)

[Amended June 21, 2000; May 23, 2001; June 19, 2002; December 6, 2004; July 2, 2007; amended Ord. of 8-17-2011; 3-5-2018 by Ord. No. 2018-02; 7-15-2020 by Ord. No. 2020-05; 3-20-2024 by Ord. No. 2024-09]

A. Purpose. The Residential C Zone (RC Zone) comprises predominantly residential areas which include a significant component of hotels and inns. It is intended that the zone provide for a variety of residential uses and be limited to such uses.

B. Residential Density. Minimum developable land area required for each dwelling unit. (See § 202, Definitions, "Developable Land") Either:

1. With public sewer, 20,000 square feet of developable land is required;

2. Without public sewer, 40,000 square feet of developable land is required.

C. Dimensional Standards. (Table amended November 5, 2012 by Ord. No. 2012-10)

Minimum Lot Area:	
With Public Sewer	20,000 square feet
Without Public Sewer	40,000 square feet
Minimum Lot Frontage	75 feet
Minimum Setbacks for Principal and Accessory Structures:	
Front	25 feet, or no less than that of principal structure on any c
Side	20 feet
Rear	40 feet
Minimum Setbacks for Accessory Structures: Building footprint limited to 144 square feet, and building height limited t	
Front	25 feet
Side	10 feet
Rear	10 feet
Maximum Lot Building Coverage	16%
Maximum Lot Coverage	30%
Maximum Height*:	
Main Structure	30 feet
Accessory Structure	20 feet

* The maximum height for any main structure located in a special flood hazard area, as shown on official FEMA Flood

D. Permitted Uses.

Accessory Dwelling Units (Subject to § 513)
Accessory Residential Structures (See § 511, Accessory Residential Structure)
Accessory Uses/Home Occupations (See § 510, Accessory Uses)

Community Residences
Family Day Care Homes
Farming
Rental Rooms (See § 509, Rental Rooms)
Single Family Dwelling Units (one per lot)
WECS subject to 508

E. Uses Allowed by Special Use Permit (See Article 4).

Accessory Dwelling Units (See § 513)
Affordable Housing (See § 405, Affordable Housing)
Day Care Center
Secondary Dwelling Development (See § 403, Secondary Dwelling Development)
Earth Removal
Governmental Facilities
Hotels (See § 407, Hotels)
Inns (See § 408, Inns)
Parking Lot
Public Works Facilities
Recreational Facilities: Except Miniature Golf (See § 410, Recreational Facilities)
Religious Facility
Utility Facility
WECS subject to § 508

F. Uses Allowed Only As Land Development Projects.

Flexible Design Residential Development (See § 402, Flexible Design Residential Development).

§ 309. Residential C/Mixed Use Zone (RC/M Zone)

§ 309 Residential C/Mixed Use Zone (RC/M Zone)

[Ord. of 8-17-2011]

A. Purpose. The Residential C Zone/Mixed Use Zone (RC/M Zone) comprises predominantly residential areas which include a significant component of hotels and inns. It is intended that the zone provide for a variety of residential uses and retail/residential mixed uses.

B. Residential Density. Minimum developable land area required for each dwelling unit. (See § 202, Definitions, "Developable Land") Either:

1. With public sewer, 20,000 square feet of developable land is required; or

2. Without public sewer, 40,000 square feet of developable land is required.

C. Dimensional Standards. (Table amended November 5, 2012 by Ord. No. 2012-10) [Amended 7-15-2020 by Ord. No. 2020-05]

Minimum Lot Area:
With Public Sewer
Without Public Sewer
Minimum Lot Frontage
Minimum Setbacks for Principal and Accessory Structures:
Front

Side
Rear
Minimum Setbacks for Accessory Structures: Building footprint limited to 144 square feet, and building height limited t
Front
Side
Rear
Maximum Lot Building Coverage
Maximum Lot Coverage
Maximum Height*:
Main Structure
Accessory Structure

* The maximum height for any structure located in a special flood hazard area, as shown on official FEMA Flood Insur

D. Permitted Uses. [Amended June 21, 2000; June 19, 2002; May 23, 2001; 5-3-2017 by Ord. No. 2017-01; 3-5-2018 by Ord. No. 2018-02; 1-8-2024 by Ord. No. 2024-01; 3-20-2024 by Ord. No. 2024-09]

Accessory Dwelling Units (Subject to § 513)
Accessory Residential Structures (See § 511, Accessory Residential Structure)
Accessory Uses/Home Occupations (See § 510, Accessory Uses)
Community Residences
Family Day Care Homes
Farming
Professional and Business Services
Rental Rooms (See § 509, Rental Rooms)
Single Family Dwelling Units (one per lot)
WECS subject to 508
Physical fitness classes/yoga classes

E. Uses Allowed by Special Use Permit (See Article 4). [Amended May 23, 2001; December 6, 2004; July 2, 2007; July 6, 2009; December 16, 2009; 1-8-2024 by Ord. No. 2024-01; 3-20-2024 by Ord. No. 2024-09]

Accessory Dwelling Units (See § 513)
Affordable Housing (See § 405, Affordable Housing)
Commercial/Residential Mixed Use (See § 411, Commercial/Residential Mixed Use)
Day Care Center
Secondary Dwelling Development (See § 403, Secondary Dwelling Development)
Governmental Facilities
Hotels (See § 407-Hotels)
Inns (See § 408, Inns)
Light Assembly
Parking Lot
Public Works Facilities
Recreational Facilities: Except Miniature Golf (See § 410, Recreational Facilities)
Religious Facility
Utility Facility
WECS Subject to § 508

F. Uses Allowed Only As Land Development Projects.

Flexible Design Residential Development (See § 402, Flexible Design Residential Development)

§ 310. Mixed Use Zone (M Zone)

§ 310 Mixed Use Zone (M Zone)

[Ord. of 8-17-2011; amended November 5, 2012 by Ord. No. 2012-10]

A. Purpose. The Mixed Use Zone (M Zone) comprises an area transitional between the year-round and seasonal residential areas and the mixed residential retail area. It is intended that the area include a mix of residential dwellings with specially approved retail and service uses.

B. Residential Density. Minimum developable land area required for each dwelling unit. (See § 202, Definitions, "Developable Land") Either:

1. With public sewer, 20,000 square feet of developable land is required; OR

2. Without public sewer, 40,000 square feet of developable land is required.

C. Dimensional Standards. [Amended 7-15-2020 by Ord. No. 2020-05]

Minimum Lot Area:	
With Public Sewer	
Without Public Sewer	
Minimum Lot Frontage	
Minimum Setbacks for Principal and Accessory Structures:	
Front	
Side	
Rear	
Minimum Setbacks for Accessory Structures: Building footprint limited to 144 square feet, and building height limited t	
Front	
Side	
Rear	
Maximum Lot Building Coverage	
Maximum Lot Coverage	
Maximum Height*:	
Main Structure	
Accessory Structure	

* The maximum height for any structure located in a special flood hazard area, as shown on official FEMA Flood Insu

D. Permitted Uses. [Amended June 21, 2000; May 23, 2001; June 19, 2002;5-3-2017 by Ord. No. 2017-01; 3-5-2018 by Ord. No. 2018-02; 1-8-2024 by Ord. No. 2024-01; 3-20-2024 by Ord. No. 2024-09]

Accessory Dwelling Units (Subject to § 513)
Accessory Residential Structures (See § 511, Accessory Residential Structure)
Accessory Use/Home Occupations (See § 510, Accessory Uses)
Commercial Fishing
Community Residences
Family Day Care Homes
Farming
Professional and Business Services
Rental Rooms (See § 509, Rental Rooms)
Single Family Dwelling Units (one per lot)
WECS subject to 508
Physical fitness classes/yoga classes

E. Uses Allowed by Special Use Permit (See Article 4). [Amended May 23, 2001; December 6, 2004; July 2, 2007; July 6, 2009; June 7, 2010; 1-8-2024 by Ord. No. 2024-01; 3-20-2024 by Ord. No. 2024-09]

Accessory Dwelling Units (See § 513)
Affordable Housing (See § 405, Affordable Housing)
Bike Rental
Commercial/Residential Mixed Use (See § 411 Commercial/Residential Mixed Use)
Day Care Center
Secondary Dwelling Development (See § 403, Secondary Dwelling Development)
Earth Removal (See § 418, Earth Removal)
Governmental Facilities
Inns (See § 408, Inns)
Parking Lot (See § 420, Parking Lots)
Public Works Facilities
Recreational Facilities: Except Miniature Golf (See § 410, Recreational Facilities)
Religious Facility
Restaurant (See § 409 Restaurants in the M Zone)
Utility Facilities (See § 417, Utility Facilities)
Waterfront Uses (See Sections 318, Waterfront Overlay and 415, Waterfront Uses)
WECS subject to § 508

F. Uses Allowed Only As Land Development Projects.

Flexible Design Residential Development (See § 402, Flexible Design Residential Development)

§ 311. Old Harbor Commercial Zone (OHC Zone)

§ 311 Old Harbor Commercial Zone (OHC Zone)

[Amended July 10, 2000; Ord. of 8-17-2011]

A. Purpose. The Old Harbor Commercial Zone (OHC Zone) is historically and commercially defined. It provides seaward contact with the mainland with attendant dock activities and is the site of the major hotels, stores, restaurants and related activities. It is intended that all development within the OHC Zone be compatible with existing adjacent structures and uses and in accordance with the Old Harbor Plan 1987 as amended.

B. Residential Density. Minimum developable land area required for each dwelling unit, 20,000 square feet. (See § 202, Definitions, "Developable Land")

C. Dimensional Standards. [Amended 7-15-2020 by Ord. No. 2020-05]

Minimum Lot Area	20,000 square feet
Minimum Lot Frontage	75 feet
Minimum Setbacks*	
Front	5 feet, or consistent with adjacent buildings
Side	5 feet, or consistent with adjacent buildings
Rear	25 feet
Minimum Setbacks Accessory Structures and Uses	
Front	5 feet
Side	5 feet
Rear	25 feet
Maximum Lot Building Coverage	50%
Maximum Lot Coverage	75%
Maximum Height**	

Main Structure	40 feet
Accessory Structure	25 feet

* Any through lot which fronts on both Weldon's Way and Water Street shall be considered to have two front lot lines a

** The maximum height for any structure located in a special flood hazard area, as shown on official FEMA Flood Insura

D. Permitted Uses. [Amended June 21, 2000; May 23, 2001; June 19, 2002; July 6, 2009; November 5, 2012 by Ord. No. 2012-09; 5-3-2017 by Ord. No. 2017-01; 3-5-2018 by Ord. No. 2018-02; 1-8-2024 by Ord. No. 2024-01; 3-20-2024 by Ord. No. 2024-09]

Accessory Dwelling Units (Subject to § 513)
Accessory Residential Structures (See § 511, Accessory Residential Structure)
Accessory Uses/Home Occupations (See § 510, Accessory Uses)
Accessory Uses/Gaming devices and table games (See § 516 Gaming Devices and Table Games)
Commercial Fishing
Commercial/Residential Mixed Use (See § 411, Commercial/Residential Mixed Use)
Community Residences
Family Day Care Home
Farming
Professional and Business Services
Rental Rooms (See § 509, Rental Rooms)
Restaurants
Retail Trade
Single Family Dwelling Unit (one per lot)
WECS subject to 508
Physical fitness classes/yoga classes

E. Uses Allowed by Special Use Permit (See Article 4). [Amended May 23, 2001; December 6, 2004; July 2, 2007; December 16, 2009; 7-6-2020 by Ord. No. 2020-02; 1-8-2024 by Ord. No. 2024-01; 3-20-2024 by Ord. No. 2024-09]

Accessory Dwelling Units (See § 513)
Accessory Hotel Rooms (see § 407, Hotels)
Affordable Housing
Assembly Halls
Multi-Family Development
Bicycle Rental (See § 412, Bicycle Rental)
Commercial Radio and Television Stations (See § 417, Utility Facilities)
Day Care Center
Inns (See § 408, Inns)
Light Assembly
Parking Lots (See § 420, Parking Lots)
Public Works Facilities
Recreational Facilities (See § 410, Recreational Facilities)
Religious Facility
Theaters
Utility Facilities (See § 417, Utility Facilities)
Warehouse & Storage
Waterfront Uses (See Sections 318, Waterfront Overlay & 415, Waterfront Uses)
WECS subject to § 508

F. Uses Allowed Only As Land Development Projects.

Flexible Design Residential Development (See § 402, Flexible Design Residential Development)

§ 312. New Harbor Commercial Zone (NHC Zone)

§ 312 New Harbor Commercial Zone (NHC Zone)

[Ord. of 8-17-2011]

A. Purpose. The New Harbor Commercial Zone (NHC Zone) is primarily for marine-related uses and services, including recreational and boating facilities. The Zone is designed to allow these uses while providing protection necessitated by the area's high degree of natural vulnerability and its proximity to an important Island aquifer.

B. Residential Density. Minimum developable land area required for each dwelling unit, 20,000 square feet. (See § 202, Definitions, "Developable Land")

C. Dimensional Standards. [Amended 7-15-2020 by Ord. No. 2020-05]

Minimum Lot Area	
With Public Sewer	20,000 square feet
Without Public Sewer	40,000
Minimum Lot Frontage	150 feet
Minimum Setbacks	
Front, adjacent to Main road	25 feet
Front, all others	35 feet
Side	25 feet
Rear	25 feet
Minimum Setbacks Accessory Structures and Uses	
Front, adjacent to Main road	25 feet
Front, all others	35 feet
Side	25 feet
Rear	25 feet
Maximum Lot Building Coverage	20%
Maximum Lot Coverage	35%
Maximum Height*	
Main Structure	30 feet
Accessory Structure	25 feet
Maximum Bulk	No single structure shall exceed 8,000 square feet. Accessory buildi

* The maximum height for any structure located in a special flood hazard area, as shown on official FEMA Flood Insu

D. Permitted Uses. [Amended June 21, 2000; May 23, 2001; June 19,2002; July 6, 2009; November 5, 2012 by Ord. No. 2012-2009; 5-3-2017 by Ord. No. 2017-01; 3-5-2018 by Ord. No. 2018-02; 1-8-2024 by Ord. No. 2024-01; 3-20-2024 by Ord. No. 2024-09]

Accessory Dwelling Units (Subject to § 513)
Accessory Residential Structures (See § 511, Accessory Residential Structure)
Accessory Uses/Gaming devices and table games (See § 516 Gaming Devices and Table Games)
Accessory Use/Home Occupations
Commercial Fishing
Commercial/Residential Mixed Use (See 411, Commercial/Residential Mixed Use)
Community Residences
Family Day Care Homes

Farming
Professional and Business Services
Rental Rooms (See § 509, Rental Rooms)
Restaurants
Retail Trade
Single Family Dwelling Units
WECS subject to 508
Physical fitness classes/yoga classes

E. Uses Allowed by Special Use Permit (See Article 4). [Amended May 23, 2001; December 6, 2004; July 2, 2007; December 16, 2009; 1-8-2024 by Ord. No. 2024-01; 3-20-2024 by Ord. No. 2024-09]

Accessory Dwelling Units (See § 513)
Affordable Housing
Assembly Halls
Multi-Family Development
Bicycle Rental (See § 412, Bicycle Rental)
Commercial Radio and Television Stations (See § 417, Utility Facilities)
Day Care Center
Secondary Dwelling Development (See § 403, Secondary Dwelling Development)
Government Facilities
Hotels (See § 407, Hotels)
Inns (See § 408, Inns)
Light Assembly
Parking Lot (See § 420, Parking Lots)
Public Works Facilities
Recreational Facilities: Except Miniature Golf (See § 410, Recreational Facilities)
Religious Facility
Theaters
Utility Facilities (See § 417, Utility Facilities)
Warehouse and Storage Facilities (See § 416, Warehouse and Storage Facilities)
Waterfront Uses (See Sections 318, Waterfront Overlay 415, Waterfront Uses)
WECS subject to § 508

F. Uses Allowed Only As Land Development Projects.

Flexible Design Residential Development (See § 402, Flexible Design Residential Development)

§ 313. Service Commercial Zone (SC Zone)

§ 313 Service Commercial Zone (SC Zone)

[Ord. of 8-17-2011]

A. Purpose. The Service Commercial Zone (SC Zone) comprises land connecting the two harbors. It is intended that the SC Zone be developed primarily to serve the utility and service needs of the Island.

B. Residential Density. Minimum developable land area required for each dwelling unit, 20,000 square feet. (See § 202, Definitions, "Developable Land")

C. Dimensional Standards. [Amended 7-15-2020 by Ord. No. 2020-05]

Minimum Lot Area	20,000 square feet

Minimum Lot Frontage	100 feet
Minimum Setbacks	
Front	25 feet
Side	25 feet
Rear	50 feet
Minimum Setbacks Accessory Structures and Uses	
Front	25 feet
Side	25 feet
Rear	50 feet
Maximum Lot Building Coverage	25%
Maximum Lot Coverage	35%
Maximum Height*	
Main Structure	30 feet
Accessory Structure	30 feet

* The maximum height for any structure located in a special flood hazard area, as shown on official FEMA Flood Insu

D. Permitted Uses. [Amended June 21, 2000; May 23, 2001; June 19, 2002; July 6, 2009; November 5, 2012 by Ord. No. 2012-09; 5-3-2017 by Ord. No. 2017-01; 3-5-2018 by Ord. No. 2018-02; 1-8-2024 by Ord. No. 2024-01; 3-20-2024 by Ord. No. 2024-09]

Accessory Dwelling Units (Subject to § 513)
Accessory Residential Structures (See § 511, Accessory Residential Structure)
Accessory Uses/Gaming devices and table games (See § 516 Gaming Devices and Table Games)
Accessory Use/Home Occupation
Commercial/Residential Mixed Use (See § 411, Commercial/Residential Mixed Use)
Community Residences
Family Day Care Homes
Farming
Professional and Business Services
Rental Rooms (See § 509, Rental Rooms)
Restaurants
Retail Trade
Single Family Dwelling Unit
WECS subject to 508
Physical fitness classes/yoga classes

E. Uses Allowed by Special Use Permit (See Article 4). [Amended December 17, 1997; May 23, 2001; December 6, 2004; July 2, 2007; December 16, 2009; 1-8-2024 by Ord. No. 2024-01; 3-20-2024 by Ord. No. 2024-09]

Accessory Dwelling Units (See § 513)
Affordable Housing
Assembly Halls
Multi-Family Development (See § 404, Multi-Family Development)
Automotive Sales, Service and Repair (See § 419, Automotive Sales, Service and Repair)
Bicycle Rental (See § 412, Bicycle Rental)
Cellular Antenna Towers (See § 421, Cellular Antenna Towers)
Commercial Radio and Television Station (See § 417, Utility Facilities)
Day Care Center
Secondary Dwelling Development (See § 403, Secondary Dwelling Development)

Government Facilities
Inns (See § 408, Inns)
Light Assembly
Parking Lots (See § 420, Parking Lots)
Public Works Facilities
Recreational Facilities (See § 410, Recreational Facilities)
Religious Facility
Utility Facilities (See § 417, Utility Facilities)
Warehouse and Storage Facilities (See § 416, Warehouse and Storage Facilities)
Waterfront Uses (See Sections 318, Waterfront Overlay 415, Waterfront Uses)
WECS subject to § 508

F. Uses Allowed Only As Land Development Projects.

Flexible Design Residential Development (See § 402, Flexible Design Residential Development)

§ 314. Coastal Zone (C Zone)

§ 314 Coastal Zone (C Zone)

[Amended December 7, 2009]

A. Purpose. The Coastal Zone (C Zone) comprises the Island's environmentally vulnerable coastal bluffs, dunes, and wetlands and the area landward 100 feet from such delineated coastal feature or mean high water as determined by the Coastal Resources Management Council (CRMC), whichever is more inclusive. It is intended that these critical coastal features be provided a high level of protection.

B. Permitted Uses.

1. Pedestrian paths and travelways for recreational and/or educational use, provided however that, there will be no breaching or other disturbance of dunes or dune vegetation, no clear cutting of existing vegetation or alteration of wildlife habitats.

2. Town roads or pathways or public launch or rescue access ways to the water.

3. WECS subject to § 508, limited to Assessor's Plat 1, Lot 1-2. (Amended September 5, 2001; December 7, 2009]

C. Uses Allowed by Special Use Permit (See Article 4).

1. Waterfront Uses (See Sections 318, Waterfront Overlay 415, Waterfront Uses)

2. Utility WECS subject to § 508G and limited to Assessor's Plat 2 Lot 48-1 and Lot 39.

§ 315. Flood Control Overlay (FC Overlay)

§ 315 Flood Control Overlay (FC Overlay)

(Reserved)

§ 316. Pond Quality Overlay (PQ Overlay)

§ 316 Pond Quality Overlay (PQ Overlay)

(Reserved)

§ 317. Historic Overlay (H Overlay)

§ 317 Historic Overlay (H Overlay)

A. Purpose. The Historic Overlay (H Overlay) comprises areas and structures of historic and architectural value to the Island. It is intended that areas and structures within the H Overlay will be regulated as to construction, alteration, repair, moving and demolition in order to safeguard the heritage of the Island.

B. Historic District Zoning Ordinance Incorporated. This Zoning Ordinance incorporates by reference the Town of New Shoreham Historic District Zoning Ordinance, which is made a part hereof together with all of its provisions, which shall be administered by the Historic District Commission appointed by the Town Council. (See New Shoreham Historic District Map).

C. Amendment of Historic Overlay Boundaries. Notwithstanding any other provisions of the Zoning Ordinance to the contrary, the Town Council, upon advice of the Historic District Commission or the Planning Board, may amend the boundaries of the Historic Overlay.

§ 318. Waterfront Overlay (W Overlay)

§ 318 Waterfront Overlay (W Overlay)

[Amended May 19, 2004]

A. Purpose. The Waterfront Overlay (W Overlay) comprises the Island's saltwater harbors and ponds and the lands contiguous to them, which contain important ecological systems and archaeological sites and provide the basis for economic activity vital to the Island: facilities and services associated with recreational boating, commercial fishing, and marine transportation. It is intended that the W Overlay be protected by controls not provided by other provisions of the Zoning Ordinance, namely, the establishment of uses for the Island's harbors, ponds, and marshlands which conform to State and Federal regulations for managing coastal resources.

B. Jurisdiction. This section shall apply to all of the land area between the mean high water of all tidal waters and a line 50 feet landward thereof together with the abutting waters over which the Town has legal jurisdiction, either along with or concurrent with other State or Federal regulatory agencies.

C. Permitted Uses. Permitted uses along the shorelines within the Waterfront Overlay shall conform to the priorities, restrictions and designations established by the Coastal Resources Management Council (CRMC) for uses and activities on the adjoining waters. These are set forth in the Coastal Management Plan as amended together with the Addendum to that Plan with specific regard to the Block Island Quadrangle.

1. Type 1 Districts. Defined as the shoreline along the northern and eastern portions of the Great Salt Pond, extending from a point of land on the eastern shore of the channel to Trim's Pond being the high water mark on the northerly stone rip rap of Indian Head Neck Road running northerly to can buoy #13 (ref. NOAA Navigation Chart #13217); northeasterly to Harris Point; northwesterly to the point of land on the southeast side of the Great Salt Pond breachway. Trim's Pond east of a line from a point of land on the eastern shore of the channel to Trim's Pond being the high water mark on the northerly stone rip-rap of Indian Head Neck Road running southeasterly across the northerly boundary of Lot 116 on Tax Assessor's Plat 5 as laid out on March 4, 1989; Trim's Pond west of Ocean Avenue. All of Harbor Pond, Great Salt Pond and Cormorant Cove west of a line drawn from the point of land on the southwest side of the Great Salt Pond breachway running southeast to the intersection of the layout of Type 3 waters as designated by CRMC and subject to change; and adjoining and contiguous tidal marshes.

a. Commercial and recreational shellfishing not involving the construction or placement of structures.

2. Type 2 Districts. Defined as the central portion of the Great Salt Pond lying within an area created by lines drawn from the breakwater on the western side of Great Salt Pond breachway; running south-easterly to the boundary of Type 3 Waters as designated by CRMC and subject to change; easterly to can buoy #13; northeasterly to Harris Point; northwesterly to a point of land on the southeast side of the Great Salt Pond breachway. The waters of Trim's Pond, excepting the area known as the "Hog Pen," or a line from the

high water mark on the northerly stone rip-rap of Indian Head Neck Road running southeasterly across the northerly boundary of Lot 116 Tax Assessor's plat 5 as laid out on March 4, 1989, including the portion of Trim's Pond south of the "Hog Pen" extending west to Ocean Avenue. Bounded on the west by a line from the intersection of the northern boundary of Lot 104 with the western boundary of Lot 103, thence running northwest to the northernmost corner of Lot 64-1.

a. All recreational uses not involving the construction or placement of structures, as defined.

b. Commercial and recreational shellfishing not involving the construction or placement of structures.

3. Type 3 Districts. Defined as the southern shoreline of the Great Salt Pond from the boundary of the New Harbor Commercial Zone north of Champlin's Dock to the western side of the channel leading into Trims Pond. In addition, that portion of Trim's Pond known as the Hog Pen. West of a line starting at the northernmost corner of Lot 64-1 and running generally southeasterly to the intersection of the northern boundary of Lot 104 with the western boundary of Lot 103.

a. All recreational uses not involving the construction or placement of structures, as defined.

b. Commercial and recreational shellfishing not involving the construction or placement of structures.

4. Type 5 Districts. Defined as the shoreline of the Old Harbor, from the outer end of the east breakwater to the outer end of the west breakwater.

a. All recreational uses not involving the construction or placement of structures, as defined.

b. Commercial and recreational shellfishing not involving the construction or placement of structures.

D. Uses Allowed by Special Use Permit (See Article 4).

1. Type 1 Districts. (See definition noted in § 318(C)(1) above)

a. Activities/alterations to the shoreline designed to preserve and/or enhance the site as a conservation area and/or as a natural buffer against storms.

b. Aquaculture.

2. Type 2 Districts. (See definition noted in § 318(C) (2) above)

a. Activities/alterations to the shoreline designed to preserve and/or enhance the site as a conservation area and/or as a natural buffer against storms.

b. Aquaculture.

c. Construction of residential boating facilities, including docks and launching ramps, and accessory structures appropriate for recreational non-commercial use.

d. Public launching ramps.

3. Type 3 Districts. (See definition noted in § 318(C) (3) above)

a. Activities/alterations to the shoreline designed to preserve and/or enhance the site as a conservation area and/or as a natural buffer against storms.

b. Aquaculture.

c. Construction of residential boating facilities, including docks and launching ramps, and accessory structures appropriate for recreational non-commercial use.

d. Commercially operated docks and marinas appropriate to support recreational boating, fishing, and shellfishing.

e. Public launching ramps and any use accessory thereto.

f. Boatyards and boat storage facilities.

g. All retail uses, including restaurants whose principal use is marine-related or otherwise marine dependent.

4. Type 5 Districts. (See definition noted in § 318(C) (4) above)

a. Activities/alterations to the shoreline designed to preserve and/or enhance the site as a conservation area and/or as a natural buffer against storms.

b. Aquaculture.

c. Construction of residential boating facilities, including docks and launching ramps, and accessory structures appropriate for recreational non-commercial use.

d. Commercially operated docks and marinas appropriate to support recreational boating, fishing, and shellfishing.

e. Public launching ramps and any use accessory thereto.

f. Boatyards and boat storage facilities.

g. All retail uses, including restaurants whose principal use is marine related or otherwise marine dependent.

h. Office, storage and parking areas required for marine related uses, including but not limited to those uses and structures which depend on tourism and the accessibility to Block Island via Old Harbor.

i. Terminal facilities for passenger, vehicle and freight-carrying vessels.

j. Public recreational structures.

§ 319. Planned Development Zone (PD Zone)

§ 319 Planned Development Zone (PD Zone)

[Amended December 3, 2001; January 21, 2004; July 21, 2004]

A. Planned Development Authorized.

1. Applicability. This Section permits the creation of Land Development Projects 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 the planned development of residential, commercial, municipal, recreational, and open space, or a combination of those uses.

2. Procedural Intent. Planned Development Districts (PD Districts) are intended to give the Town Council an alternative to zoning amendments to allow creative development of certain critical parcels of land located in the Residential C Zone (hereinafter referred to as "Residential C Zone Planned Development Districts"), as well as parcels located within the Residential C Zone, or the New Harbor Commercial Zone which may be designated hereunder as being suitable for conversion of existing buildings to multi-family housing designed to alleviate the critical shortage of moderately priced year round housing, whether or not such housing conforms to the definitions of "affordable housing" under § 405 (hereinafter referred to as "Multi-Family Housing Planned Development Districts"). The PD District procedures provide for review and public hearing by the Planning Board prior to any Town Council consideration of the zoning amendment and a public hearing before the Town Council.

B. Residential C Zone Planned Development Districts.

1. Objectives.

a. To encourage the effective and timely development of critically located parcels in the Residential C Zone, particularly where the RC Zone abuts the OHC Zone, in accordance with the objectives and policies of the Town's Comprehensive Plan;

b. To allow for cohesive design and development in meeting identified town wide and municipal needs, including parking in the downtown area, affordable housing, day care, and elder care facilities.

2. Standards and Requirements for Residential C Zone Planned Development Districts.

a. Eligible Locations. A Residential C Zone Planned Development District shall consist of lands zoned Residential C Zone, and may also include additional contiguous land and structures, located in another zoning district, if there is a cooperative agreement involving said parcels including shared parking, easements for utilities and vehicular and pedestrian access and compatibility of uses and structures.

b. Owner Consent. No Residential C Zone Planned Development District shall be established or plans reviewed by the Planning Board unless and until there is on file with the Town the written consent of every property owner within the proposed district, at the time of the establishment of the district, agreeing that they will be bound by any conditions, stipulations or restrictions imposed within the district.

3. Conditions. The Town Council may apply such special conditions, restrictions or stipulations to any Residential C Zone Planned Development District established by it as it may, in its opinion, deem necessary to maintain harmony with neighboring uses and promote the purposes of the Comprehensive Plan and this Zoning Ordinance.

4. Permitted Principal Uses. Permitted uses shall be affordable housing, single family dwelling units, parking, daycare, community center, community residences, retail trades, hotels, inn, restaurant, continuation or expansion of existing commercial uses linked with the Planned Development, or any mixture of those uses. Dwelling units dedicated to affordable housing may be arranged in detached or attached structures to a maximum of six units per structure. Dwelling units above commercial or municipal uses are allowed as part of the total plan.

5. Permitted Accessory Buildings, Structures and Uses. The following accessory buildings, structures, and uses may be permitted as part of a Residential C Zone Planned Development District:

a. Off street parking and loading;

b. Any accessory building, structure or use customarily incidental and directly related to the operation of the principal use or uses of the property;

c. Signs, subject to the provisions of this Zoning Ordinance.

6. Utilities. The following regulations regarding utilities shall govern all PD Districts:

a. All structures and uses in the Planned Development shall be served by public water and sewer.

b. All utilities shall be underground and shall be in accordance with the Land Development and Subdivision Regulations and the Utility Standards of the Town.

7. Regulations.

a. Dimensional Standards. Unless modified as provided herein, all applicable dimensional standards for the underlying zoning district in which the property is situated shall apply to any Residential C Zone Planned Development District.

b. Unless modified as provided herein, all Planned Developments in the Residential C Zone Planned Development District shall conform to the off street loading, lighting, sign and all other regulations of the Zoning Ordinance for the zoning district in which the property is situated.

c. Modifications of these regulations may be approved for any Planned Development if both the Planning Board and the Town Council determine that any requested modification:

(1) Results in and facilitates a desirable living environment;

(2) Allows for an identified need in the community to be served;

(3) Is supportable by access provisions and utilities as proposed in the Plan;

(4) Is harmonious with existing character and safeguards the use and value of property adjacent to the area;

(5) Is consistent with protection of environmental resources;

(6) Is consistent with the objectives of the Comprehensive Plan;

(7) Is the smallest departure consistent with achieving all of the above.

C. Multi-Family Housing Planned Development Districts.

1. Objectives.

a. To recognize that certain locations within the Residential C and New Harbor Commercial Zones, given their existing and adjoining land use patterns and the presence of existing buildings which may be suitable for conversion to moderately priced year round multi-family housing; and

b. The modification of the multi-family development requirements otherwise applicable to existing buildings under § 404(A) (Multi-Family Housing Planned Development Districts) in order to fulfill the objectives and policies of the Town's Comprehensive Plan regarding moderately priced year-round housing.

2. Standards and Requirements for Multi-Family Housing Planned Development Districts.

a. A Multi-Family Housing Planned Development District shall be established only with respect to a parcel containing a structure suitable for conversion to multi-family housing which was in existence as of January 1, 2001, serviced by municipal sewer.

b. The permitted uses in the Multi-Family Housing Planned Development District shall include any use permitted in the underlying zone. In addition, attached multi-family development shall be allowed at such density as may be permitted without expansion or enlargement of the existing building beyond what is necessary to meet health, building and fire code requirements, and subject to the following:

(1) Units shall be limited to one or two bedrooms and there shall be an appropriate mixture of each;

(2) All units shall be winterized and heated;

(3) Each one bedroom unit shall have a minimum of 400 square feet of floor area;

(4) Each two bedroom unit shall have a minimum of 600 square feet of floor area;

(5) Due provision shall be made for an appropriate number of units for elderly or handicapped residents;

(6) Due provision shall be made for common recreation area(s) within the building and there shall be suitable availability of outdoor recreation area on the parcel or in the immediate vicinity thereof;

(7) No additional entries shall modify the street frontage of the building.

c. Documents shall be prepared, and recorded on the land evidence records, which will ensure that the sale prices, and resale prices of an appropriate percentage of the housing units will remain moderate such that the purpose and intent of this ordinance will be fulfilled. Notwithstanding any representation by an applicant, should the Town Council in its sole discretion not be satisfied as to the assurances required herein it shall be grounds for denial.

D. Procedures For All Planned Development Districts.

1. Submittals. In addition to any other submittals required under the Land Development and Subdivision Regulations or the Utility Standards the applicant shall also submit:

a. A map showing, for all properties within 200 feet of the proposed PD District, the locations of all zoning district boundaries, property lines, existing and proposed structures, sites of historic or archeological importance, land uses, and unique natural features of the landscape.

b. If the Planned Development is being proposed for phased development, a description and timing plan for the phasing must be provided as part of the checklist for Master Plan review. At Final Plan review, applicant must submit a construction sequence and time schedule for completion of each phase for buildings, parking, and landscaped areas.

c. Architectural plans for any new construction or exterior alterations to any existing structure.

d. If any modifications of any utility standards, dimensional standards or other regulations are being requested, a written request for such modifications specifying exactly the standard or regulation being modified,

the alternative proposed, the reasons why the standard or regulation cannot be met and the justification for the modification as required under § 319(B)(7)(c) (1 through 7).

e. A written narrative as to the reasons the proposal meets the Comprehensive Plan and the requirements of § 319(D)(3) (a through i).

f. As part of the Master Plan checklist, written comments from the Historic District Commission (HDC) indicating that the HDC has no jurisdiction over any elements of the PD District or Planned Development or, if it does have jurisdiction, the nature of that jurisdiction and its written comments and any recommendations it may have on the proposal.

2. Planning Board Action.

a. A Planned Development shall be a Major Land Development Plan and shall first follow the procedures of Article 8 of the Land Development and Subdivision Regulations through the Pre-Application and Master Plan stages.

b. Following its Master Plan Public Hearing, the Planning Board may recommend to the Town Council the establishment of a PD District, recommend establishment with such special conditions, stipulations or restrictions as it deems advisable, or recommend denial. The Board shall transmit its recommendations and findings to the Town Council within 45 days of its decision.

c. Upon the establishment of a PD District and Master Plan concept approval by the Town Council, submittals shall be made to the Planning Board for Preliminary Plan and Final Plan approval as provided in § 8 of the Land Development and Subdivision Regulations.

3. Town Council Action. Within 45 days of receipt of the recommendation of the Planning Board, the Town Council shall establish a public hearing date for the application for the establishment of a PD District. The Town Council, after the public hearing, shall make a final determination on a zone change, approving by ordinance the establishment of the proposed PD District, and approving, approving with conditions, stipulations or restrictions or denying the application for the Planned Development Master Plan approval. The Town Council shall render its decision within 45 days of the close of the public hearing. The Town Council may establish the proposed PD District and approve the Master Plan only if it finds, based upon the application submittals, Planning Board recommendation, and information received at the public hearing that:

a. The proposed PD District is in conformance with the Planned Development Ordinance objectives and purposes.

b. The uses proposed will not be detrimental to present and potential surrounding uses but will produce community benefits that could not be achieved under other zoning districts.

c. The streets and access ways proposed are suitable and adequate to carry anticipated traffic and traffic will not overload streets outside the PD District.

d. The design and the community benefit served by the PD District warrant any exception from standard ordinance requirements and the appropriate use and value of property adjacent to the area included in the plan will be safeguarded.

e. The proposed district is in conformance with the Comprehensive Plan of the Town of New Shoreham.

f. The proposal consists of a harmonious grouping of buildings or other structures, adequate utilities, parking and open space planned, as a single and common operating and maintenance unit, if applicable.

g. The existing or proposed utility services are adequate for the projected demand.

h. The proposal exhibits sensitivity to natural and cultural resources, including agricultural land and historic and archeological resources.

i. That, if the development is to be carried out in progressive stages, each stage shall be so planned that the foregoing conditions and intent of the ordinance shall be fully complied with at the completion of any stage.

E. Assurances. At the time of adopting any ordinance amendment establishing a PD District, the Council shall impose appropriate conditions and stipulations which will insure the accomplishment of the public improvements shown on the approved plan, including a performance bond for the entire project, or any phase of the project not contemplated to be completed prior to the request for Certificate of Occupancy.

F. Amendments, Modifications and Changes. Once approved, a Planned Development District, or the approved development plan, can be amended, modified or changed only as follows

1. Any additions or deletions of property, changes to the approved uses or additional requests for modifications of any requirements of the zoning ordinance or utility standards must follow the same procedure as the original request and can only be approved by final action of the Town Council.

2. Changes only affecting the approved development plan may be made by the Planning Board by following the procedure in § 8 of the Land Development and Subdivision Regulations for Preliminary Plan and Final Plan approval.

a. Minor changes to the plan, such as utility location, drainage revisions and landscaping changes may be made by following the provisions of the ordinance for development plan review. The determination of whether a change in the approved plan is minor is to be made by the Planning Board.

G. Inaction. If Start of Construction has not occurred within two years after a PD District is created, the Planning Board may review the action and determine whether or not the continuation of the PD District is in the public interest and so notify the Town Council of its findings. The Town Council, after public hearing and compliance with the provisions for a change in the zoning map as found in the Zoning Ordinances of the Town, may revoke the PD District designation giving consideration to the recommendation of the Planning Board. (Section Added May 16, 2001)

§ 320. Public Education Zone (PE Zone)

§ 320 Public Education Zone (PE Zone)

A. Purpose. The Public Education Zone comprises property which is to be limited in use to public education purposes. Recognizing the costs associated with providing quality education to the citizens of the Town, an integral part of which is the physical plant and the land costs inherent in any school construction, this Zoning District is designed to provide the maximum utilization of this Zone for the permitted purposes. This Zone permits educational and related facilities, including schools and office and clerical support, necessary to service the requirements of the Town.

B. Designation of Zone. The Zone shall consist of Lot 1 on Tax Assessor's Plat 10.

C. Dimensional Standards.

Minimum Lot Area	150,000 square feet
Minimum Lot Frontage	150 feet
Minimum Setbacks	
Front	10 feet
Side	10 feet
Rear	5 feet
Maximum Lot Building Coverage	50%
Maximum Lot Coverage	75%
Maximum Height	
Main Structure	50 feet
Accessory Structure	35 feet

D. Permitted Principal Uses. The permitted uses shall be schools.

E. Permitted Accessory Buildings, Structures and Uses. The following accessory buildings, structures and uses may be permitted as part of any Development Plan:

1. Off street parking and loading;

2. Any accessory building, structure or use customarily incidental and directly related to the operation of the principal use of the property;

3. Signs, subject to the provisions of this Zoning Ordinance;

4. Recreation fields and facilities used in conjunction with the principal use.

F. Utilities. The following regulations regarding utilities shall govern all Development Plans:

1. All structures and uses shall be served by public water and sewer if possible.

2. All utilities shall be underground and shall be in accordance with the Land Development and Subdivision Regulations and the Utility Standards of the Town.

3. Unless granted a modification or waiver by the Planning Board during Development Plan Review, all site improvements shall conform to any applicable provisions of the Land Development and Subdivision Regulations and the Utility Standards of the Town.

G. Procedure. Notwithstanding any other provisions of this Ordinance no construction or alterations to buildings, structures or other site improvements shall be permitted unless and until Development Plans shall have been reviewed and approved by the Planning Board as set forth in Sections 501, Development Plan Review Standards, and 704, Development Plan Review, of this Ordinance.

1. Submittals. In addition to any other submittals required under Development Plan Review or the Utility Standards the applicant shall also submit:

a. A map showing, for all properties within 400 feet of the property, the locations of all zoning district boundaries, property lines, existing and proposed structures, sites of historic or archeological importance, land uses, and unique natural features of the landscape, wells and other public water supplies.

b. If the project is being proposed for phased development, a description and timing plan for the phasing along with a construction sequence and time schedule for completion of each phase for buildings, parking, and landscaped areas must be provided as part of the Development Plan Review.

c. Architectural plans for any new construction or exterior alterations to any existing structure.

d. If any modifications of any utility standards are being requested, a written request for such waiver or modifications specifying exactly the standard or regulation being modified, the alternative proposed, the reasons why the standard or regulation cannot be met and the justification for the modification.

e. A written narrative as to the reasons the proposal meets the Comprehensive Plan.

2. Planning Board Action. No final approval of any Development Plan or modification requests may be given by the Planning Board unless and until it has received and considered written comments on the Plan and any requested modifications from the Town Engineer, the Conservation Commission, the Historic District Commission, the Building Official, the Police Chief, the Fire Chief, the Superintendent of Schools, the Town Manager, the Public Works Director, the Sewer Commission, the Land Use Administrative Officer, and the Town Solicitor. (Section Added May 1, 2000)

§ 321. Public Utility Zone (PU Zone)

§ 321 Public Utility Zone (PU Zone)

A. Purpose. The Public Utility Zone (PU Zone) comprises property which is limited in use to public works and public utility purposes, including the installation and operation of utility-sized wind turbines. In order to reduce the use of non-renewable fossil fuels, enhance and protect the environment, contain public utility rates, and maintain the public health, safety and welfare, the installation of utility wind energy conversion systems (WECS) (See § 202 - Definitions) shall be permitted at an appropriate site, or sites, on Block Island. The PU Zone shall permit such utility wind turbines, as well as other public utility and public works facilities and accessory uses.

B. Designation of Zone. The PU Zone shall consist of that portion of Tax Assessor's Plat Lot 39 and Lot 40 which does not lie within the Coastal Zone. This parcel, which is used as the Town of New Shoreham's solid waste transfer facility, also has the following characteristics:

1. High annual wind power density, making it viable for commercial wind energy installation;

2. A location and elevation such that erection of a wind turbine would not conflict with aviation height restrictions associated with the Block Island state airport; and

3. A location that allows for the efficient and cost effective transmission of generated power back to the Block Island power plant and main distribution system.

C. Dimensional Standards.

Minimum Lot Area	240,000 square feet
Minimum Lot Frontage	400 feet
Minimum Setbacks	
Front	50 feet
Side	50 feet
Rear	50 feet
Maximum Lot Building Coverage	15%*
Maximum Lot Coverage	30%*
Maximum Height for all Structures except Wind Turbines	
Main Structure	30 feet
Accessory Structure	25 feet
Maximum Height for Wind Turbines	265 feet**

* Lot coverages shall be measured as a percentage of developable lot area.

** Wind turbine height is measured from finished grade to the tip of the rotor blade at its highest point.

D. Permitted Principal Uses.

WECS subject to § 508 [Amended May 23, 2001]

E. Uses Allowed with Special Use Permit (See Article 4). Public Works Facilities

Recreational Facility
Solid Waste Transfer Facility
Utility Facilities (See § 417)
Waterfront Uses (See Sections 318, Waterfront Overlay and 415, Waterfront Uses)
WECS, Utility (See Sections 422, Utility WECS and 508G)

F. Permitted Accessory Structures and Uses. Off-street parking and loading

All support facilities related to the maintenance and operation of the facility or utility

G. Procedure. Notwithstanding any other provisions of this Ordinance, no construction of or alterations to buildings or structures, installation of a utility wind turbine, or other site improvements shall be permitted until development plans have been reviewed and approved by the Planning Board as set forth in § 704.

1. Plans Required. In addition to any applicable submittals required under Development Plan Review, the applicant shall submit:

a. An existing conditions plan prepared by a registered land surveyor or professional engineer which shows contours at two foot intervals; all structures, travel lanes and parking areas; all street and lot lines, dimensions and property setbacks; and the location of wetlands, water bodies and coastal features on the property and the distance to the nearest coastal feature outside the boundaries of the property.

b. A site plan which indicates the intended location of the proposed building, utility structure or wind turbine, and all accessory structures, including locations of upgraded transmission lines if applicable, with all dimensions and setbacks indicated, and all site improvements, including proposed grading, parking areas, fencing and landscaping.

2. Planning Board Action. Final approval of the development plans by the Planning Board shall be subject to the issuance of a Special Use Permit by the Zoning Board of Review for the use or uses proposed. The Planning Board shall give an advisory opinion to the Zoning Board regarding the granting of the Special Use Permit which may be undertaken concurrently with the development plan review. The Planning Board shall review the plans in accordance with the following:

a. All applicable general site standards contained in § 501 A.

b. A minimum setback for a utility wind turbine from any building which is equal to the total height of the turbine as measured in Section C above plus 10 feet, in which case the Planning Board shall determine that meeting this setback requirement does not restrict the potential for constructing a legal and conforming building on any adjoining privately-owned lot.

c. Potential of the site for public access and passive use, with provisions made for such access or use if determined to be feasible and desirable.

d. All other applicable parking, landscaping and utility standards contained in this Ordinance. (Section Added December 7, 2009)

§ 322. Medical Center Zone (MC Zone)

§ 322 Medical Center Zone (MC Zone)

[Ord. of 4-20-2011, art. 3, § 322]

A. Purpose. The Medical Center Zone (MC Zone) comprises town-owned property which is limited in use to medical offices and accessory uses, including residences to be used principally for medical personnel. The MC Zone permits such medical diagnostic and treatment facilities, and related accessory uses, necessary to provide and support routine medical care on Block Island.

B. Designation of Zone. The MC Zone shall consist of Lots 2 and 3 on Tax Assessor's Plat 10.

C. Dimensional Standards.

Minimum Lot Area	120,000 square feet
Minimum Lot Frontage	200 feet
Minimum Setbacks	
Front	25 feet
Side	10 feet
Rear	25 feet
Maximum Lot Building Coverage	25%
Maximum Lot Coverage	35%
Maximum Height	
Main Structure	32 feet
Accessory Structure	25 feet

D. Permitted Uses. [Amended May 23, 2001; 3-20-2024 by Ord. No. 2024-09]

Accessory Dwelling Units (Subject to § 513)
Accessory Residential Structure
Accessory Use - Home Occupation
Community Residences
Day Care Center
Elder Care Facility
Family Day Care Homes
Farming
Medical Facility
Rental Rooms
Single Family Dwelling Units
WECS subject to § 508

E. Uses Allowed with Special Use Permit (See Article 4).

Government Facility
Religious Facility
Utility Facility

F. Permitted Accessory Structures and Uses. [Amended 3-20-2024 by Ord. No. 2024-09]

Off-street parking and loading
All support facilities related to the operation of a medical facility, including emergency activities
Accessory Dwelling Units, provided such dwelling units are occupied by medical personnel employed at the medical center.

G. Procedure. Notwithstanding any other provisions of this Ordinance, no construction of or alterations to buildings or structures, or other site improvements within the MC Zone shall be permitted until development plans have been reviewed and approved by the Planning Board as set forth in § 704.

1. Plans Required. In addition to any applicable submittals required under Development Plan Review, the applicant shall submit:

a. An existing conditions plan prepared by a registered land surveyor or professional engineer which shows contours at two foot intervals; all structures, travel lanes and parking areas; all street and lot lines, dimensions and property setbacks; and the location of wetlands and water bodies on the property.

b. A site plan which indicates the intended location of the proposed building and all accessory structures, with all dimensions and setbacks indicated, and all site improvements, including proposed grading, parking areas, fencing, landscaping and lighting.

c. Architectural plans for any new construction or exterior alterations to any existing structure.

2. Standards of Review. No final approval of any development plan for building construction or alteration or other site improvements may be granted by the Planning Board until it has reviewed the plans in accordance with, but not limited to, the following:

a. All applicable general site standards contained in § 501 A.

b. The limitations on building footprint, living area, gross area and building volume as delineated in § 406 for a residential structure, beyond which the issuance of a Special Use Permit would be required.

c. All other applicable parking, landscaping, signage and utility standards contained in this Ordinance.

The ordinance will take effect upon completion of an administrative lot line change.

§ 4. Criteria for Special use Permits

Article 4 Criteria for Special use Permits

§ 401. Criteria for Special Use Permits

§ 401 Criteria for Special Use Permits

[Amended July 7, 1997; amended 2-21-2024 by Ord. No. 2024-04]

A. Special Use Permit Guidelines. The following guidelines shall be considered when reviewing and deciding on an application for a special use permit.

1. The proposed use or structure is appropriate for the specific site and is compatible with adjacent buildings in form, placement and design. The design and layout of buildings and other proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity. The scale, height, bulk and proportions of the proposed buildings, their design, including roof style, facade openings, architectural style and detailing and building materials, shall be visually and dimensionally compatible with the surrounding area.

2. The proposed use as developed will not adversely affect the established physical and visual pattern of land use and will not have negative effects on Island and neighborhood character. The landscape shall be developed in such a manner as to be in keeping with the character of the surrounding neighborhoods and in accordance with good development practice by minimizing vegetation and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. If a site includes a ridge or ridges above the surrounding areas and provides scenic vistas for surrounding areas, special attempts shall be made to preserve the natural environment of the skyline of the ridge.

3. The proposed use or structure will not cause a nuisance or serious hazard to pedestrians or landward and seaward vehicles and their users.

4. Adequate and appropriate infrastructure facilities, including but not limited to sewage disposal and drainage, will be provided to assure the proper operation of the proposed use or structure.

5. There will not be significant negative impact on important natural resources, including but not limited to habitats or species listed as endangered, threatened or of special concern to the Rhode Island Natural Heritage Program, or on historic or archeological resources identified in the Comprehensive Plan or a document referenced therein.

6. If involving employment, the use will be supportive of the goals and objectives for economic development in the Economic Development element of the New Shoreham Comprehensive Plan, as most recently amended.

7. The use is consistent with the purpose of this Zoning Ordinance, the purpose of the zoning district in which the use is proposed, and the goals and objectives of New Shoreham's Comprehensive Plan, as amended, the Old Harbor Plan, as amended, or any other adopted Town Plan.

8. To the degree reasonably possible, dependency on individual motor vehicles for access by users shall be reduced through site selection (e.g. relatively central, or proximate to users), development design and facilities (e.g. good pedestrian and bicycle provisions, site arrangement facilitating shuttle buses or other auto alternatives, on-site mixture of uses), and proposed operations (e.g. provision of employee transportation).

9. The proposed uses and structures will not cause a degradation of the quality of surface or groundwater.

B. Dimensional Standards. Unless otherwise specified in this Article, the dimensional standards set forth for each zone shall govern.

C. Additional Conditions. In granting a Special Use Permit, the Zoning Board of Review may impose such additional conditions on the proposed development as it deems necessary to conform to the requirements of this Article and the pertinent performance standards set forth in Article 5, Performance Standards.

D. Specific and Objective Criteria for Special Use Permits. The following criteria shall apply to Special Use Permits for the uses listed below.

Special Use Permits for each of the various categories shall be issued in accordance with the following conditions and procedures:

1. Assembly Halls.

a. A pedestrian circulation plan shall be provided that specifies a dedicated pedestrian pathway from any parking area to the building entrance(s).

b. A security plan that specifies entrance procedures, police details and video and lighting locations in case of an emergency 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.

c. Parking and landscaping along the sides of the building shall be designed so as to allow for passage and stationing of fire and rescue vehicles.

d. Parking shall be screened along interior side and rear lot lines with a solid fence or wall or landscaping buffer, when the proposed use abuts a residential use or district. Any vegetated buffer must be a minimum of 6 feet wide and at least 6 feet in height.

e. Exterior lighting shall be dark sky compliant.

2. Commercial Radio/TV.

a. There shall be a setback a minimum distance of 110% of the height of the telecommunications tower from the property line and, where towers abut residential properties, the minimum setback shall be two times the tower height or 300 feet, whichever is greater, from any residential property line.

b. Where wireless telecommunications are installed on buildings, a parapet shall be installed to minimize the adverse visual impact of the tower and/or antenna.

3. Commercial Day Care Center.

a. The applicant shall provide proof of state licensing upon receipt.

b. There shall be a designated drop-off area.

c. A pedestrian circulation plan shall be provided that specifies a dedicated pedestrian pathway from any parking area to the building entrance(s).

d. Parking and landscaping along the sides of the building shall be designed so as to allow for passage and stationing of fire and rescue vehicles.

e. Parking and outdoor play equipment shall be screened along interior side and rear lot lines with a solid fence or wall or landscaping buffer when the proposed use abuts a residential use or district. Any vegetated buffer must be a minimum of 6 feet wide and at least 6 feet in height.

4. Government Facility.

a. A pedestrian and vehicular circulation plan shall be provided that specifies a dedicated pedestrian pathway from any parking area to the building entrance(s). The circulation plan shall be reviewed and approved by local emergency officials.

b. Parking and landscaping along the sides of the building shall be designed so as to allow for passage and stationing of fire and rescue vehicles.

c. Parking shall be screened along interior side and rear lot lines with a solid fence or wall or landscaping buffer when the proposed use abuts a residential use or district. Any vegetated buffer must be a minimum of 6 feet wide and at least 6 feet in height.

5. Public Works Facility.

a. A pedestrian and vehicular circulation plan shall be provided that specifies a dedicated pedestrian pathway from any parking area to the building entrance(s). The circulation plan shall be reviewed and approved by local emergency officials.

b. Parking and landscaping along the sides of the building shall be designed so as to allow for passage and stationing of fire and rescue vehicles.

c. Screening along lot lines with a solid fence or wall or landscaping buffer when the proposed use abuts a residential use or district. Any landscaping buffer must be a minimum of 6 feet wide and at least 6 feet in height.

6. Religious Facility.

a. Parking shall be screened along interior side and rear lot lines with a solid fence or wall or landscaping buffer when the proposed use abuts a residential use or district. Any vegetated buffer must be a minimum of 6 feet wide and at least 6 feet in height.

b. A pedestrian circulation plan shall be provided that specifies a dedicated pedestrian pathway from any parking area to the building entrance(s).

c. A security plan that specifies entrance procedures, police details and video and lighting locations in case of an emergency 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.

d. Parking and landscaping along the sides of the building shall be designed so as to allow for passage and stationing of fire and rescue vehicles.

7. Commercial Stables.

a. Stable facilities shall include a roof, a floor, and four sides and shall provide enough space for each animal to sit, stand, lie in a normal manner, and to turn about freely with each stall containing ten square feet of space per 100 pounds of body weight for each animal. Floors must be kept clean and dry with appropriate drainage.

b. In addition to the stable structure, one or more separate outside areas of shade must be provided by means of trees, permanent awnings, or suspended shade cloth (to be well-maintained) firmly secured to a frame or structure, large enough to contain all the animals housed in the stable and protect them from direct sunlight.

c. All equestrian related structures, including, but not limited to, paddocks, corrals, barns, box stalls, and fly-tight manure bins, except pastures, grazing areas, and access roads, shall maintain a minimum of 100 feet from any lot line which is used or zoned for residential use and a minimum of 100 feet from any existing dwelling not occupied by the property owner.

d. All overnight boarding operations shall be located indoors.

e. A frost-free supply of potable water shall be available at or near the stable for feeding, cleaning, and fire protection purposes.

f. The Applicant shall provide a plan to maintain compliance with all applicable state and local regulations regarding sanitary conditions that includes the development and implementation of a manure management plan to prevent odor and runoff issues. Manure shall be stored in such a manner and location that there can be no drainage or runoff into any wetlands resource areas or abutting properties.

g. Effluent containing urine and/or fecal matter from horses shall not be discharged directly into runoff, or permitted to flow over the surface of the ground.

h. Stables shall be required to obtain a permit and undergo regular inspections that ensure compliance with all applicable local and state regulations.

8. Theaters.

a. A security plan outlining entrance procedures, police details and video and lighting locations in case of an emergency 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.

b. Parking and landscaping along the sides of the building shall be designed so as to allow for passage and stationing of fire and rescue vehicles.

c. A lighting plan must be submitted that shows that light will not trespass across property lines and that all lighting is dark sky compliant.

d. The levels of noise generated by any Theaters, measured at any property line, may not exceed the noise levels allowed under the New Shoreham Noise Ordinance. The Applicant must provide a plan showing how noise will be mitigated to remain in compliance.

e. Indoor theaters shall be designed with soundproofing.

f. A pedestrian circulation plan shall be provided that specifies a dedicated pedestrian pathway from any parking area to the building entrance(s).

g. Parking shall be screened along interior side and rear lot lines with a solid fence or wall or landscaping buffer when the proposed use abuts a residential use or district. Any vegetated buffer must be a minimum of 6 feet wide and at least 6 feet in height.

§ 402. Flexible Design Residential Development

§ 402 Flexible Design Residential Development

[Ord. of 8-17-2011, art. 4, § 402]

A. Purpose. The purpose of Flexible Design Residential Development is to allow greater flexibility and creativity in residential development in order to gain:

1. Permanent preservation of open space, particularly in large contiguous areas within the site or linked to off-site protected areas;

2. Protection of natural or cultural resources, including agricultural land and historic and archeological assets;

3. Protection of the character of Block Island through preservation of open space within view from public roads, preservation of stone walls and other historic landscape features, and siting of dwellings at low-visibility locations;

4. Protection of road appearance and capacity by avoiding development close to or egression directly onto such roads;

5. Location of development on sites best suited for development, and avoidance of development potentially damaging to environmentally fragile or historically important locations;

6. Low impact development by minimizing roadway length and width, making use of nonstructural drainage facilities, and siting dwellings to allow efficient use of alternative energy (solar and wind); and

7. Privacy for residents of individual lots.

B. Applicability. Flexible Design Residential Developments (see definition) are approved by the Planning Board under the review and approval procedures contained in the New Shoreham Land Development and Subdivision Regulations. Such developments are permitted in the RA and RB Zones, and can be proposed as an alternative design for either a minor or a major subdivision.

C. Procedures. Flexible Design Residential Developments shall be acted upon in accordance with the procedures established by the R.I. Land Development and Subdivision Review Act, governing the subdivision and development of land, and as contained in § 403 of the Subdivision Regulations.

D. Dimensional Requirements. Development within a Flexible Design Residential Development shall be subject to the following in lieu of the lot area, frontage and lot width requirements of Article 3.

1. Number of Lots. The total number of building lots created from any parcel shall be no greater than the number which could be expected to be built upon that parcel under a conventional subdivision plan. This must take into consideration how much of the land is actually buildable in compliance with all applicable town and state development requirements, based upon review of a concept plan submitted by the applicant showing division in compliance with the dimensional standards of Article 3.

2. Lot Area. While variations in lot size and configuration are encouraged in order to preserve open space and protect important site features, the following minimum lot areas are required:

a. RA Zone - 15,000 square feet

b. RB Zone - 10,000 square feet

In approving the creation of lots, the Planning Board shall ensure that sufficient land area is provided to allow an adequate building envelope, meet off-street parking needs, and locate on-site water supply and sewage disposal facilities.

3. Road Frontage. There is no categorical minimum frontage along either a public or private road required. The frontage provided need only be that necessary to meet building envelope location requirements and to provide for adequate access to the building site. Where shared driveways or other circumstances render frontage on a road to be not necessary for physical access to the lot, none is required.

4. Existing Road Protection. Lots having reduced area or frontage shall not have frontage on a road other than one created by the development involved, unless specifically authorized by the Planning Board where justified by peculiar site circumstances.

5. Building Envelope Dimensions. All existing and proposed buildings shall be located within a building envelope to be designated for each lot on the land development plan, approved by the Planning Board, subject to the following dimensional requirements:

a. The envelope shall include no land within any setback required by Article 3 at any boundary line at the perimeter of the Flexible Design Residential Development, including the existing street line.

b. The envelope shall comply with any minimum setback required under a provision of the Zoning Ordinance other than Article 3 that applies to the parcel or to the use of the parcel, or any setback required as a specific condition of a previous zoning approval.

c. At a minimum, the envelope shall have a fifteen-foot front, side and rear yard setback for a lot in the RA Zone, and a ten-foot front, side and rear yard setback for a lot in the RB Zone.

6. Building Envelope Standards. In addition to the dimensional requirements above, the designation of a building envelope shall be subject to the following site standards:

a. The envelope shall include no land within any wetland, flood plain, or slope in excess of 25%.

b. The envelope shall avoid areas of critical environmental importance, such as habitats of species listed as endangered, threatened, or of special concern by the Rhode Island Natural Heritage Program.

c. The envelope shall be located so as to avoid damage to areas of visual importance, such as ridge lines, open fields, or dense vegetation buffering development from existing roads.

d. The envelope shall be located so as to avoid damage to agricultural land or historic or archaeological assets.

E. Utilities. In order to meet the purposes of this section and to facilitate innovative and sustainable design, the use of shared on-site wastewater treatment systems and shared wells shall be allowed, and, where practicable, individual electrical meters shall be consolidated in one physical location and screened.

F. Open Space. The land permanently protected from development as part of a Flexible Design Residential Development shall be designated as open space. Identification of the open space land shall meet the purposes

of this section, and be approved by the Planning Board as part of the subdivision review and approval process.

1. Minimum Open Space Required. Although the amount of open space land may vary depending upon the characteristics of the parcel proposed for Flexible Design Residential Development, a minimum of 50% of the developable land area (See § 202) must be set aside as protected open space.

2. Open Space Design Standards.

a. Wherever possible, open space within a Flexible Design Residential Development should be integrated with and provide access to Block Island's open space network.

b. All open space not dedicated as conservation land shall be accessible to all dwellings in the development and shall be designed to provide passive recreational benefits to all residents of the development.

c. The site plan shall indicate any portion of open space intended as conservation land, the nature of the restrictions to be imposed, and the entity to which the conservation land is to be dedicated. All open space conservation land shall be so restricted in perpetuity.

d. Existing woods, stone walls, fields and wetlands shall be maintained as part of the open space design and plan.

e. Open space shall be of a size, shape and location suitable for the designated uses and shall be comprised of contiguous parcels whenever possible. Narrow parcels or strips of open space shall be allowed only as part of a pathway system open to the public or for residential pedestrian or vehicular access, or as buffer along site perimeters.

3. Allowable Uses in the Open Space. Uses within the open space shall be limited to the following, and must be approved by the Planning Board as part of an open space plan:

a. Conservation, i.e., land in its natural state set aside for wildlife habitat, species preservation or similar purposes, and which has limited access;

b. Passive recreation, i.e., land used for picnicking, or with trails for horse back riding or hiking, or similar non-intrusive uses;

c. Active recreation, i.e., land used as a playground, playing field or gathering spot with temporary facilities, or similar uses, provided such land does not utilize more than 15% of the total open space area;

d. Placement of on-site water supply and sewage disposal facilities, if determined by the Planning Board that such placement is necessary for protection of important site features elsewhere on the parcel or to achieve the best design for the subdivision;

e. On-site drainage facility, provided it meets the standards for Low Impact Design (see Article 10 of the Subdivision Regulations) and does not utilize more than 15% of the total open space area; and

f. Utility, drainage or access easements determined to be necessary to protect a public interest or to provide a clear public benefit.

4. Open Space Ownership and Management Standards.

a. Open space provided for under a Flexible Design Residential Development shall be owned by the owners of the lots or units in the development, appurtenant to their ownership interest, except however this shall not preclude ownership by the Town of New Shoreham, the Block Island Land Trust or a non-profit conservation organization in circumstances where such ownership, of all or part of the open space, is desirable due to the connectivity with land under the same ownership, or due to the presence of unique ecological, habitat or cultural features that make the land better served through ownership by a conservation organization. Ownership of open space by an entity other than the homeowners or the Town of New Shoreham shall be approved by the Planning Board. In the case of an easement restricting development, such easement may be held by either the Town or non-profit organization approved by the Planning Board.

b. When open space is to be privately owned, the following shall be required:

(1) Rights shall be appurtenant to the lots in the development and shall run with the land.

(2) A restriction enforceable by the Town shall be recorded providing that development of such open space, except as provided in this Section, shall be restricted in perpetuity.

(3) A covenant enforceable by the Town shall be recorded providing for maintenance of the open space in perpetuity to standards satisfactory to the Planning Board and further providing that the Town shall have the right to maintain the open space at the cost of the lot owners, payment of which shall be enforceable by liens on the lots.

G. Planning Board Decision. The Planning Board shall approve the Flexible Design Residential Development or approve it with conditions provided that it meets all applicable standards of the Zoning Ordinance and Land Development and Subdivision Regulations, and reflects a good faith effort to satisfy the purposes of this Section. The Planning Board shall not approve a Flexible Design Residential Development, if in their determination, the plan as proposed does not meet said purposes, is not a suitable design according to the desirable development patterns of the surrounding area, or is otherwise inconsistent with the Comprehensive Plan.

§ 403. Secondary Dwelling Development

§ 403 Secondary Dwelling Development

[Amended October 6, 2008; February 20, 2013 by Ord. No. 2013-03; 3-20-2024 by Ord. No. 2024-09]

A. Purpose. The purpose of this section is to allow the development of two separate dwelling units on a single lot of record where only a single family dwelling unit would otherwise be allowed. The secondary dwelling unit is intended to provide additional housing opportunities for New Shoreham families while ensuring that island character is maintained.

B. Process. A Secondary Dwelling Development is allowed only by Special Use Permit. In addition to an application for a Special Use Permit, the applicant shall be subject to Development Plan Review.

C. Procedures.

1. In addition to any relevant submittal requirements for a Special Use Permit application, the applicant shall submit the following:

a. Site plan consisting of an accurate survey of the parcel showing topography, wetlands, trees, view sheds and scenic views, stone walls, and the location and dimensions of all existing and proposed structures;

b. Building elevations indicating all exterior materials, and floor plans, including total square footage of living space, of both dwellings. Photographs of an existing dwelling may be accepted in place of drawings of the building exterior.

c. A radius map showing all properties within 500 feet of the lot and the location of all structures with 500 feet of the property lines.

2. The Zoning Board shall refer the application to the Planning Board for an advisory recommendation regarding the special use permit application, and to the Historic District Commission for an advisory on building siting and massing.

3. An approval of a Secondary Dwelling Development may include additional conditions as deemed appropriate to achieve the purpose of this section, and shall be conditioned upon completion of the review and approval of site plans by the Planning Board.

D. Planning Board Procedures. The Planning Board shall review the application for a Secondary Dwelling Development pursuant to the provisions of Development Plan Review,

1. In reviewing the plans and materials, the relevant development plan review standards shall be applied, as well as the design intent and standards contained in this section.

2. The Planning Board shall determine the consistency of the application for a Secondary Dwelling Unit with the purpose of this section and with the Comprehensive Plan.

3. An approval of a site plan for a Secondary Dwelling Development may include additional conditions as deemed appropriate by the Planning Board to achieve the design intent of this section, provided such conditions do not serve to deny the applicant the right to construct a secondary dwelling unit as allowed by the permitting authority.

E. Design Intention. A Secondary Dwelling Development shall be designed to preserve open space and other natural and cultural features on the lot. The development shall be compatible with the character of the community by locating and orienting structures so as to protect existing large trees, stone walls, open fields and scenic views. The use of a shared driveway to access the parcel and the adaptation of existing lanes in the interior of the parcel is required. The secondary dwelling shall be smaller in scale than, but similar in design to, the existing or principal dwelling, so as to give the appearance of an accessory structure.

F. Density and Dimensional Standards. The development shall conform to the density and dimensional standards contained in Article 3, or to the following standards, whichever is the most restrictive. No variances for dimensional relief shall be granted, except however, if the secondary dwelling unit is proposed to be an affordable unit under the provisions of § 405, in which case reduction in minimum lot area, and relief from minimum setbacks and maximum lot coverages, as provided for under Sections 405C and 405D, respectively, may be allowed by the Board.

1. The floor area used for living space (See § 202, Definitions, "Floor Area, Living") of the dwellings within a Secondary Dwelling Development shall be limited as follows:

a. The total living area of the Secondary Dwelling Unit shall not exceed 2,000 square feet.

b. The total living area of both units combined shall not exceed 5,500 square feet.

2. The building height of the Secondary Dwelling Unit, or of both units if neither is constructed at the time of the application, shall not exceed 30 feet.

3. The total lot building coverage in the Residential A Zone shall not exceed 2.5%, except however, if the building height of the secondary dwelling unit is 28 feet or less, the lot coverage may be increased to 3%. The total lot building coverage in the Residential B Zone shall not exceed 4.5%, except however, if the building height of the secondary dwelling unit is 28 feet or less, the lot coverage may be increased to 5%.

4. The two dwellings shall be separated by not more than 50 feet unless the permitting authority determines that site circumstances require a wider separation in order to achieve consistency with the design intention of the ordinance or for public safety purposes.

G. Restriction Against Subdivision. A lot containing a Secondary Dwelling Unit may not be subdivided unless each proposed lot meets the minimum area requirements for a new lot created in the zoning district in which it is located. A restriction against subdivision shall be recorded as a deed restriction in the Land Evidence Records of the Town of New Shoreham prior to the issuance of any building permit. (Section Amended July 2, 2007)

H. Secondary Dwelling Units shall be offered for year-round rental only.

§ 404. Attached Multi-Family Development

§ 404 Attached Multi-Family Development

[Ord. of 8-17-2011; amended February 20, 2013; by Ord. No. 2013-03; 3-20-2024 by Ord. No. 2024-09]

A. Standards for Units in Existing Buildings. Multi-Family Development in existing buildings, subject to the provisions of § 113, Non-Conformance, shall meet the following standards:

1. Units in existing structures not served by municipal sewer shall be developed at a density based on no less than 20,000 square feet of lot area per unit.

2. Each unit shall have a minimum of 800 square feet of floor area, year round insulation, and a full heating system.

3. Only such additions to an existing building shall be allowed as are necessary to meet health, building and fire code requirements.

4. No additional entries shall modify the street frontage of the building.

B. Standards for New Units. New Multi-Family Development is allowed only within the area served by municipal sewer and water and shall meet the following standards:

1. Dimensional Requirements. Developments shall conform to the following dimensional requirements:

	OHC Zone	**N**
Density and Dimensional Requirements		
Dev. Land Per Unit	20,000 square feet	2
Max. Lot Bldg Coverage	5%	5
Max. Lot Coverage	8%	8
Min. Floor Area	800 square feet	8
Minimum Lot Frontage	250 feet per 5 units OR 75 feet per unit on a private, or unpaved Town road	2
Setbacks		
Front	35 feet or aligned with adjacent structures	3
Side	25 feet	5
Rear	25 feet	5
Planted Buffer Along Perimeter (Depth)	15 feet	2

a. Other dimensional standards as set forth for each Zone shall apply.

2. Unit Configuration Standards. The following layout standards shall be met:

a. The project design shall provide for structures of differing sizes combined so as to provide clearly defined separate entries, both private and semi-public outdoor areas, integrated parking and walkways, and general open space. (See Diagram A)

3. Other Standards. New Multi-Family Developments shall also meet the following standards:

a. No open storage shall be permitted; storage and trash receptacles shall be provided within the building or in enclosed accessory buildings.

b. Every dwelling unit shall be properly served with sewer, water and drainage facilities installed at the developer's expense, the construction of which shall be properly guaranteed by bond, escrow account, or such similar arrangement as approved by the Zoning Board of Review.

4. Open Space. The provisions of § 402, Flexible Design Residential Development, shall apply.

Diagram A: MULTI-FAMILY UNITS

[Image]
Intention: To organize multiple units so that groupings reflect shapes and sizes of Island architecture. Building groupings to vary in size so that complex appears to have major and minor buildings grouped so as to differentiate entries, private spaces, parking and common areas.

C. Standards for Affordable Units. If a proposed attached multi-family development is to include or consist of affordable housing units, the lot area and other dimensional requirements contained in Sections 404A and B above may be modified by the Zoning Board under the applicable provisions of § 405 Affordable Housing.

§ 405. Affordable Housing

§ 405 Affordable Housing

A. Purpose. The purpose of this section is to promote the creation of suitable, sustainable affordable housing units in all zoning districts by allowing additional residential density in a manner that balances the need for such housing with concerns for the environment, the carrying capacity of land, and the health, safety and welfare of current and future residents.

B. Procedures. A Special Use Permit to allow an increase in residential density may be granted by the Zoning Board of Review to allow the creation of affordable housing, as defined in § 202. Before action is taken by the Zoning Board on any such application for affordable housing, it shall be submitted to the Block Island Housing Board for their review and recommendation. Such use shall also require Development Plan Review by the Planning Board under the provisions of § 704, whether or not the application also involves the subdivision of land. The Planning Board may undertake the development plan review and the advisory request to the Zoning Board of Review concurrently. In cases involving a subdivision, the final plan shall not be approved by the Planning Board until the Zoning Board grants the Special Use Permit for the density increase.

C. Reduction in Minimum Lot Areas. The residential density permitted in any zoning district, as determined by Article 3, or any other applicable section of this ordinance, may be increased by the Zoning Board of Review to accommodate the construction of an affordable housing unit or units. Such density increases are allowed as follows:

1. For each affordable unit provided, or in the case of a subdivision, for each lot to be set aside for the construction of an affordable housing unit, the minimum lot area (including minimum developable land area) required for each dwelling unit in the zoning district may be reduced by up to 50%.

2. The residential density allowed on a parcel of land, or the number of lots in a subdivision, shall be determined by the total of:

a. The minimum area requirements for each non-affordable (market rate) unit or lot, and

b. The reduced minimum area requirements for each affordable unit or lot.

3. The provision of an affordable housing unit or units under this section may allow the development of up to two dwelling units (one market rate and one affordable or two affordable) on a single lot in those zoning districts which otherwise limit residential use to one dwelling unit per lot. Such units may also be attached (two-family structure).

D. Additional Dimensional Relief. In order to further accommodate the construction of affordable units, the minimum building setbacks, maximum lot building coverage and maximum lot coverage required in the zoning district, as applied to each lot on which an affordable housing unit or units are to be built, may also be modified by the Zoning Board. All such dimensional relief shall be considered part of the approved Special Use Permit.

E. Greater Reductions in Minimum Lot Areas. The Zoning Board of Review may allow an additional increase in residential density than that provided for in § 405(C) above in order to achieve stated goals in the provision of affordable rental and home ownership units on the island, provided, however, that the project is sponsored by the Block Island Housing Board or another not-for-profit housing entity. Such density increases are allowed as follows:

1. For each affordable unit provided, or for each lot to be set aside for an affordable housing unit, the minimum lot area (including minimum developable land area) required for each dwelling unit in the zoning district may be reduced by up to 75%.

2. The provision of affordable housing under this section may allow attached multi-family development in those zoning districts where such use is otherwise prohibited:

a. In the RA and RB Zones, a project may consist of one or more multi-family structures provided each such structure is limited to two dwelling units.

b. In the RC, RC/M and M Zones, a project may consist of one or more multi-family structures provided each such structure is limited to four dwelling units. A multi-family development consisting of affordable rental units can include one owner-occupied unit that does not qualify as an affordable unit, provided that the total number of dwelling units in the development is four or more.

3. The provisions of this § 405E shall automatically expire upon the first of the following to occur: [Amended 4-2-2018 by Ord. No. 2018-13]

a. December 31, 2028; OR

b. When the Town's deed-restricted affordable housing inventory of up to 140% AMI includes(80 ownership units and 100 rental units. At such time as the number of units stated herein have been obtained in either category, the Town shall not entertain any more applications for affordable housing units in that category under the provisions of this § 405E.

F. Review Standards. In reviewing an application for an affordable housing project under this section, the Block Island Housing Board, and the Planning Board, shall, in their advisory capacities to the Zoning Board of Review, consider the Goals and Policies of the Housing Element Supplement to the Town of New Shoreham Comprehensive Plan, with particular emphasis on the following factors:

1. Type of units proposed, with preference given to projects that address the greater affordable housing need, whether rental units or home ownership units;

2. Whether or not the project involves new development or redevelopment, with preference given to adaptive reuse of existing structures, and conversion of existing units to long-term affordable units; and

3. Location of proposed project relative to the location of other affordable housing units, with consideration given to the distribution of affordable housing throughout the island.

G. Performance Standards. In addition to compliance with the applicable general standards set forth in § 501, a Special Use Permit for affordable housing shall require a finding by the Zoning Board of Review that each of the following standards is satisfied:

1. The housing conforms to the definition of affordable housing in § 202.

2. The project is environmentally sustainable in view of the carrying capacity of the land and the availability of utilities, and concerns regarding drainage, water quality, traffic, access and parking, as applicable, have been adequately addressed.

3. Concerns regarding drainage, water quality, traffic and access, as applicable, have been adequately addressed, and parking commensurate with projected need has been provided on-site, including the minimum of two spaces per dwelling unit as well as that for additional expected vehicle ownership, and with consideration of guest parking needs. As a condition of approval, the Zoning Board may require parking spaces in excess of that required under § 502.

4. The project is compatible with neighboring land uses, or has been designed to mitigate the impacts of any necessary incompatibilities.

5. The affordable housing units are to be duly deed-restricted so as to remain permanently affordable to the extent permitted by applicable law, but in no event less than 99 years, including a suitable mechanism for monitoring the long term affordability of the units.

6. The sponsoring person or entity has the qualifications, resources and due capability to complete the project and to duly arrange for its financing and construction.

7. The affordable housing project does not exceed 16 units.

8. For multi-family affordable rental units provided under § 405E,2.b above, each one bedroom unit does not exceed 800 square feet of habitable space, each two bedroom unit does not exceed 1,200 square feet of habitable space, each three bedroom unit does not exceed 1,400 square feet of habitable space, and each four bedroom unit does not exceed 1,600 square feet of habitable space.

9. The project, if involving a subdivision of three or more lots, has been designed as a Flexible Design Residential Development under the provisions of § 402, unless a waiver is granted by the Planning Board. In order to accommodate the increased density while providing for the protection of open space, the minimum lot area within a Flexible Design Residential Development in the RA and RB Zones may be reduced to 5,000 square feet.

H. Reserved.

[Repealed 10-19-2022 by Ord. No. 2022-06]

§ 406. Residential Structures Meeting Certain Thresholds

§ 406 Residential Structures Meeting Certain Thresholds

A. Purpose. The purpose of this section is to provide for an additional level of review, with specific architectural and siting standards, for residential structures that are proposed over a certain size, based on variable thresholds, listed under paragraph B. below. It is the finding of this section that excessively large houses designed without regard to their setting are visually intrusive and in conflict with traditional New Shoreham development patterns that are critical to the unique island character. The intent of this section is to ensure that new residential development is designed and sited in a way that complements, and does not detract from, the island's natural, historic, cultural and scenic character, the preservation of which is to the benefit of all residents and visitors.

B. Applicability. A Special Use Permit shall be required prior to the issuance of a building permit for any single family dwelling unit, accessory residential structure or accessory structure proposed within the RA Zone or RB Zone meeting any of the following thresholds, either new construction or as a result of an addition to, or rehabilitation of, an existing structure:

1. Individual building footprint in excess of 2,000 square feet, exclusive of ground level or first floor decks, or one story (no floor area above) unenclosed porches;

2. Total living area in excess of 4,000 square feet; [Amended 12-5-2022 by Ord. No. 2022-07]

3. Total gross area in excess of 5,000 square feet, exclusive of ground level or first floor decks or one story unenclosed porches;

4. Total building volume in excess of 45,000 cubic feet; and/or

5. Any retaining wall constructed of concrete, metal, fiberglass or other similar manufactured material that is in excess of five feet in height and/or 15 feet in length necessary for the siting and construction of the building. Retaining walls constructed only of stone or timber, or associated with a walk-out basement for a total length not to exceed 20 feet on either side of the walk-out, are excluded from this category.

In addition to an application to the Zoning Board of Review for a Special Use Permit, the applicant shall be subject to Development Plan Review by the Planning Board.

C. Effective Date and Exemptions. This section shall apply to all building permits issued after the effective date of October 6, 2008. However, any principal or accessory residential structure for which a building permit was issued prior to this effective date, and which meets any of the thresholds listed under Subsection B. above, shall be exempt from the provisions of this section, if a subsequent building permit is issued only for:

1. Interior work, including the conversion of existing floor area, such as an attic or unfinished basement, into living area;

2. Replacement of building materials (siding, windows, doors, roofing, etc.);

3. Structural repairs involving in-kind replacement (such as foundations, walls, porches, columns and the like); and/or

4. Changes in building footprint that involve addition of a ground level or first floor deck, or a one story unenclosed porch.

All other changes involving an increase in building footprint, gross floor area or building volume, or any site alteration involving the new construction of a concrete or similarly constructed retaining wall exceeding either five feet in height or 15 feet in length, shall be subject to the special use permit provisions contained in this section.

D. Building Exemptions. The existence of a residential structure which meets any of the thresholds listed under Subsection B. above shall have no bearing on the construction requirements of any other structure, principal or accessory, on or proposed to be on, the same lot and not meeting any of said thresholds. Such structures shall be subject only to the appropriate dimensional and use standards contained elsewhere in this ordinance.

E. Zoning Board of Review Procedures.

1. In addition to any relevant submittal requirements for a Special Use Permit application, the applicant shall submit the following:

a. An existing site plan consisting of an accurate survey of the parcel showing the natural grade in one foot contours, the locations of water bodies and wetlands, vegetative cover and trees, view sheds and scenic views, stone walls, and the location and dimensions of all existing structures, prepared by a Rhode Island registered professional land surveyor.

b. Architectural plans, including elevations with building height measurements of all sides of the dwelling, and floor plans.

c. A calculation of total living area, gross area, and building volume (see § 202, Definitions), as provided by a Rhode Island registered architect.

d. A three-dimensional representation of the building as it is to appear on the site, either through computer enhancement or scale model; see § 703 C(14).

e. A proposed site plan showing the location and dimensions of the dwelling and all accessory buildings and structures (including non-habitable structures such as swimming pools and tennis courts), and a grading plan showing existing and proposed grades, including any retaining walls, prepared by either a Rhode Island registered professional land surveyor or Rhode Island registered professional engineer.

2. The Zoning Board shall refer the application to the Planning Board for an advisory opinion regarding the Special Use Permit application.

3. An approval of an application for a Special Use Permit for a residential structure under the provisions of this section, may include conditions deemed appropriate by the Zoning Board to achieve the purposes of this section, including changes in architectural elements, and shall be conditioned upon completion of the review and approval of building and site plans by the Planning Board.

F. Planning Board Procedures. The Planning Board shall review the application for a residential structure under this section pursuant to the provisions of Development Plan Review, and shall give an opinion to the Zoning Board of Review regarding the granting of a Special Use Permit. The Planning Board may undertake the development plan review and the advisory request concurrently as provided for in the ordinance, under § 704F.

1. In reviewing the plans and materials, the Planning Board shall apply the relevant development plan review standards contained in the ordinance (see § 501A.).

2. The Planning Board shall determine the consistency of the application with the purposes of this section and with the Comprehensive Plan.

3. The Planning Board may attach conditions or restrictions as part of their advisory recommendation.

G. Standards. Prior to the approval of an application submitted under this section, the Zoning Board of Review shall determine that the application meets the general criteria for a Special Use Permit contained in § 401, particularly those described in paragraphs A.(1) and (2). In addition, the Zoning Board shall determine that the application meets the following standards:

1. The construction of the residential structure does not require a variance for any dimensional standard including lot building coverage, lot coverage or building height, with the exception of a variance for a yard setback as recommended by the Planning Board to provide for more appropriate siting of the structure on the lot.

2. All performance standards contained in § 514, Residential Structures, in the RA and RB Zones, are met.

3. A structure with a building footprint greater than 3,000 square feet in area, exclusive of ground level or first floor deck, or one story unenclosed porch, is mitigated as follows:

a. The height of the entire building does not exceed 25 feet, or

b. The footprint is broken up by use of one or more wings or ells connected to the main building footprint by a common dimension not to exceed 20 feet in length. See Appendix I, Figures 6A and 6B.

4. Any elevated deck above the first floor is anchored so that there are at least two walls of the building bordering the deck. In no case shall the total area of an elevated deck exceed 1,200 SF.

(Entire Section Added October 6, 2008)

§ 407. Hotels

§ 407 Hotels

A. General Standards. The following standards govern both new construction of and renovation of existing hotels:

1. No kitchen or food preparation facilities are allowed in individual units regardless of form of ownership and use pattern.

2. Individual accommodations shall not be less than 240 square feet including closets but not bathrooms.

3. Dimensional Requirements. The dimensional requirements set forth in the following table shall apply:

	Existing Structure	**New Structure**
Min. Developable Land	40,000 square feet	80,000 square feet
Max. Lot Bldg. Coverage		
Main Bldg.	25%	15%
Accessory Bldgs	10%	10%
Max. Lot Coverage	50%	30%
Frontage	N/A	300 feet per 25 units plus 100 additional feet per additional 10 units
Setbacks		
Front	N/A	50 feet OR same as adjacent buildings within 500 feet
Side	N/A	25 feet
Rear	N/A	25 feet
Orientation	N/A	Major facade parallel to road
Height Limit	N/A	35 feet OR same as adjacent structures within 500 feet

a. Other dimensional standards are as set forth for each zone.

4. Standards for Renovation of Existing Buildings. The development of hotels within existing structures shall conform to the following standards governing renovations, additions and occupancy:

a. The lines, bulk, materials, appended elements (i.e., porches, etc.) and architectural details shall be in character with and subordinate to the original building; this applies to all additions and external modifications and concerns the preservation of trim, fenestration and ornamentation characteristics.

b. Accommodation uses within structures previously used for such purposes shall, at the discretion of the Planning Board, be allowed exemption from specific dimensional requirements.

c. Any facility so permitted shall be ineligible for any consideration of expansion for at least five years following the issuance of a building permit.

B. Standards for Restaurants in the Residential C/Mixed Use Zone (RC/M). Restaurants may be allowed by special use permit in the Residential C/Mixed Use Zone. In addition to any conditions imposed by the Zoning Board of Review and/or the Planning Board in connection with the granting of a special use permit and with the review of plans under Development Plan Review, respectively, the following standards shall apply to all restaurants proposed within this zoning district: [Added 4-2-2018 by Ord. No. 2018-12]

1. Accessory to a hotel: A restaurant in the RC/M Zone shall be allowed only as an accessory use to a hotel which is actively operating on the property, and shall be contained on the same parcel as the hotel.

2. Conforming lot: The hotel for which a restaurant is proposed as an accessory use shall be on a parcel meeting the dimensional requirements of § 407, Hotels.

3. Liquor service limitations: The liquor license granted to a hotel restaurant shall be restricted to a BV license with service hours as established by the licensing authority.

4. Capacity limit: The capacity of the restaurant shall be in accordance with applicable Town rules and regulations, but in no case exceed fire safety requirements. The Zoning Board may further limit seating based upon site and neighborhood characteristics.

5. Outside seating: Outside seating may be allowed as part of a restaurant accessory to a hotel, provided that the total number of restaurant seats does not exceed that allowed under the provisions of this section. Any outside seating arrangement shall be included in the site plans approved by the Planning Board and specifically granted by the Zoning Board as part of the special use permit. Outside seating shall be designed so as to mitigate visual, noise and lighting impacts on adjoining properties through proper screening and placement.

6. Hours of operation: All restaurants located on the same parcel as a hotel as approved under the provisions of this section shall be limited to operating between the hours of 6:00 a.m. and 10:00 p.m.

7. Parking: In addition to the required parking for the hotel, there shall be one parking space provided per 10 restaurant seats. The Zoning Board of Review may allow a reduction in the required parking, however there shall be no fewer than one parking space per 15 seats.

8. Special provisions. The development plans for a restaurant proposed as an accessory use to a hotel shall show, in addition to all other Development Plan Review requirements of this Ordinance, the following:

a. Building floor plans indicating total seating capacity for the restaurant and service area.

b. Proposed site plan indicating on-site parking, and if proposed, the locations (porches, decks and patios) and dimensions of outdoor dining areas, including number of tables and total seating capacity, use of walls and vegetative screening, outdoor lighting details and other site amenities.

9. Discontinuance of use. If such restaurant should cease to operate for a period of two years, the special use permit shall expire. Reinstatement of the restaurant use shall require submittal of a new application and appropriate approvals by the Zoning Board of Review and the Planning Board.

C. Standards in the Old Harbor Commercial District. The following standards govern both new construction of and renovation of existing hotels in the Old Harbor Commercial District. [Added 7-6-2020 by Ord. No. 2020-02]

1. No kitchen or food preparation facilities are allowed in individual units regardless of form of ownership and use pattern.

2. Individual accommodations shall not be less than 240 square feet including closets but not bathrooms.

3. Specific Dimensional Requirements. The dimensional requirements set forth in the following table shall apply:

Minimum Lot Area:	40,000 square feet
Minimum Setback:	
Front	5 feet, or consistent with adjacent buildings
Side	5 feet, or consistent with adjacent buildings
Rear	25 feet
Minimum Setbacks Accessory Structures and Uses:	
Front	5 feet
Side	5 feet
Rear	25 feet
Maximum Lot Building Coverage:	
Main Building	25%
Accessory Buildings	10%
Maximum Lot Coverage:	50%
Maximum Height:	
Main Structure	40 feet
Accessory Structure	25 feet

a. Other dimensional standards are as set forth in § 311(C).

4. Accessory hotel rooms are allowed. The total number of accessory hotel rooms in any hotel shall not exceed one accessory hotel room for every four hotel rooms in the main hotel building. In no event shall there be more than six accessory hotel rooms for any hotel.

5. Standards for Renovation of Existing Buildings. The development of hotels within existing structures shall conform to the following standards governing renovations, additions and occupancy:

a. The lines, bulk, materials, appended elements (i.e., porches, etc.) and architectural details shall be in character with and subordinate to the original building; this applies to all additions and external modifications and concerns the preservation of trim, fenestration and ornamentation.

§ 408. Inns

§ 408 Inns

A. General Standards. The following standards govern both new construction and renovation or reconstruction of existing buildings:

1. No kitchen or food preparation facilities are allowed in individual units regardless of form of ownership and use pattern.

2. Dimensional Requirements. The dimensional requirements set forth in the following table shall apply:

Dimensional Requirements		
	Existing Structure	**New Structure**
Min. Developable Land	20,000 square feet	20,000 square feet
Max. Lot Bldg. Coverage		
Main Bldg.	25	15%
Accessory Bldgs.	10%	10%
Max. Lot Coverage	50%	30%
Frontage	N/A	200 feet
Setbacks		
Front	N/A	35 feet
Side		25 feet
Rear		25 feet
Orientation	N/A	Major facade parallel to road

Dimensional Requirements	Existing Structure	New Structure
Height Limit	N/A	35 ft OR same as adjacent structures within 500 feet

Other dimensional standards are as set forth for each zone.

§ 409. Restaurants in the Mixed Use Zone (M Zone)

§ 409 Restaurants in the Mixed Use Zone (M Zone)

A. Standards. Restaurants may be allowed by special use permit in the Mixed Use Zone. In addition to any conditions imposed by the Zoning Board of Review and/or the Planning Board in connection with the granting of a special use permit and with the review of plans under Development Plan Review, respectively, the following standards shall apply to all restaurants proposed within this zoning district:

1. Accessory to an Inn. A restaurant in the M Zone shall be allowed only as an accessory use to an inn which is actively operating on the property, and shall be contained within the same building as the inn.

2. Conforming Lot. The inn for which a restaurant is proposed as an accessory use shall be on a parcel meeting the dimensional requirements of § 408, Inns.

3. Liquor Service Limitations. Such restaurant shall not include any bar seating and the liquor license granted to an inn shall be restricted to a BVL license with service hours not to extend beyond 10:00 p.m.

4. Capacity Limit. The capacity of the restaurant shall be limited to no more than four seats per room or suite, but in no case exceed 40 seats. The Zoning Board may further limit seating based upon site and neighborhood characteristics.

5. Outside Seating. Outside seating may be allowed as part of a restaurant accessory to an inn, provided that the total number of restaurant seats does not exceed that allowed under the provisions of this section. Any outside seating arrangement shall be included in the site plans approved by the Planning Board and specifically granted by the Zoning Board as part of the special use permit. Outside seating shall be designed so as to mitigate visual, noise and lighting impacts on adjoining properties through proper screening and placement.

6. Hours of Operation. All restaurants located within an inn as approved under the provisions of this section shall be limited to operating between the hours of 6:00 a.m. and 10:00 p.m.

7. Parking. In addition to the required parking for the inn, there shall be one parking space provided per 10 restaurants seats. The Zoning Board of Review may allow a reduction in the required parking, however there shall be no fewer than one parking space per 15 seats.

B. Special Provisions. The development plans for a restaurant proposed as an accessory use to an inn shall show, in addition to all other Development Plan Review requirements of this Ordinance, the following:

1. Building floor plans indicating total seating capacity for the restaurant and service area.

2. Proposed site plan indicating on-site parking, and if proposed, the locations (porches, decks and patios) and dimensions of outdoor dining areas, including number of tables and total seating capacity, use of walls and vegetative screening, outdoor lighting details and other site amenities.

C. Discontinuance of Use. If such restaurant should cease to operate for a period of two years, the special use permit shall expire. Reinstatement of the restaurant use shall require submittal of a new application and appropriate approvals by the Zoning Board of Review and the Planning Board.

(Entire Section added June 7, 2010)

(Section 409 was once titled Rental Rooms. Rental Rooms was amended and moved to § 509 August 16, 2000)

§ 410. Recreational Facilities

§ 410 Recreational Facilities

A. General Standards. The following standards shall apply to all recreational facilities:

1. Buildings. Any building associated with a recreational facility shall have allocated to it a minimum lot area of 5,000 square feet in addition to the playing field or court and associated buffers; such building shall have a footprint not to exceed 800 square feet and shall be no more than 20 feet in height. Such building shall be used only for purposes directly related to the recreational use that it serves.

2. Lighting. General nighttime illumination of a recreational facility shall be permitted only if it has no adverse impact on neighboring properties.

B. Standards for Particular Facilities. The following standards shall apply to particular recreational facilities:

1. Field Sports. Field sports shall have a fifty-foot wide planted buffer at the borders of the playing area and a 100-foot wide buffer from any wetlands and bluffs.

2. Golf Courses. Golf courses shall conform to the following dimensional, buffering and grading requirements:

a. Regulation golf courses shall have a 100-foot wide buffer from all abutting residential areas including areas suitable for residential development. The golf course shall conform to the natural contours of the land wherever feasible. Turf area shall be minimized.

b. Miniature golf requires a fifty-foot wide buffer along the side and rear lot lines.

3. Tennis Courts. Tennis courts shall be constructed in groups of not more than four contiguous courts, each such group to be bordered by a fifty-foot wide open buffer. Fences shall be no more than 10 feet high and shall be screened by a contiguous hedge at least eight feet high.

§ 411. Commercial/Residential Mixed Use

§ 411 Commercial/Residential Mixed Use

A. Purpose. The purpose of this section is to allow the establishment of mixed use buildings in the commercial and mixed use districts in order to assist in the development of a more compact, pedestrian oriented and vibrant town center, while reducing demand for new housing elsewhere, and providing additional seasonal and year round housing for employees of businesses in town.

B. Uses. A Commercial/Residential Mixed Use building consists of the following uses:

1. Commercial. The first floor at street level shall be used for commercial purposes, except that the rear portion of the building not fronting on a street may be used for residential purposes. Commercial uses include retail trade, professional and business services, and restaurants, provided such uses are allowed in the zoning district in which the Commercial/Residential Mixed Use is located.

2. Residential. A portion of, or the entire second floor, or upper floors if the building is more than two stories in height, shall be used for residential purposes consisting of separate dwelling units. A total of 40% of the dwelling units, but a minimum of one dwelling unit per building, shall be dedicated for occupancy by persons deriving income from seasonal or year-round employment from the operation of a business in the town through a deed restriction running with the property in favor of the Town of New Shoreham in accordance with the provisions of § 513E, or by qualifying as low or moderate income housing under the RI Low and Moderate Income Housing Act. The 40% requirement may be applied on a parcel basis if more than one building on a lot or lots under common ownership consists of a Commercial/Residential Mixed Use building, provided there is one such dedicated or affordable apartment per building regardless of the total number of residential units included as part of the Commercial/Residential Mixed Use.

C. Procedures. A Commercial/Residential Mixed Use is allowed by Special Use Permit in the RC/M and MU Zones and by right in the OHC, NHC and SC Zones. Such use shall also require Development Plan

Review by the Planning Board under the provisions of § 704. When a Special Use Permit is required, the Planning Board may undertake the development plan review and the advisory request to the Zoning Board of Review concurrently.

D. Standards. Commercial/Residential Mixed Use shall meet the following requirements and standards:

1. Public Sewer and Water. A Commercial/Residential Mixed Use shall be required to be connected to the municipal sewer system and where feasible, to the municipal water system.

2. Density. Dwelling units that are part of a Commercial/Residential Mixed Use are permitted on the lot or parcel in question without regard to the residential density that would otherwise be required for the zoning district under Article 3. Density shall be determined by availability of parking for all uses and limits on lot building coverage, lot coverage and building height.

3. Minimum Dwelling Size. Dwelling units in a Commercial/Residential Mixed Use shall not be less than 340 square feet of living area.

4. Parking, Landscaping and Lighting Provisions. The minimum parking requirements for all uses contained in § 502, the specific landscape and buffer requirements of § 503, and the outdoor lighting standards of § 512, as applied to a Commercial/Residential Mixed Use project, shall be adhered to. (Section amended in its entirety July 6, 2009)

§ 412. Bicycle Rental

§ 412 Bicycle Rental

Bicycle rental shall conform to the following:

A. Location. Bicycle rental facilities shall be located entirely on private property and shall be operated so as not to interfere with pedestrian or vehicular traffic.

B. Size. No bicycle rental facility shall have more than 50 bicycles available for rental per 5,000 square feet of lot area, except that, this number of bicycles may be doubled where such facility completely replaces a non-conforming motorized vehicle rental facility.

§ 413. Transportation Facilities

§ 413 Transportation Facilities

A. Standards. The proposed use must be demonstrably necessary to serve the needs of the Island and, in the OHC Zone, shall be consistent with the Old Harbor Plan, as amended.

B. Special Procedures. The site development plan for a marine transportation facility or an airport, in addition to all other Development Plan Review requirements of this Ordinance, shall include the following:

1. Marine Transport Facility. Docks, ramps, servicing, storage and passenger facilities.

2. Airport. Runways, airplane repair and servicing facilities, storage and passenger facilities.

3. Evidence of compliance with all state and federal regulations for such transportation facility.

§ 414. Marinas

§ 414 Marinas

A. Standards. New construction or the expansion of existing marinas shall conform to the following standards:

1. Location. Marinas shall be located adjacent to water suitable for use by pleasure and cruise boats.

2. Size. The size of the marina shall be determined by the carrying capacity of the land, the adjacent water, and adjacent roads. The capacity of the site shall be based on the number and configuration of boat slips in the water and shall not include dry storage on land.

3. Dimensional Requirements. The dimensional requirements set forth in the following table shall apply:

Dimensional Requirements	
Minimum Developable Land	80,000 square feet
Maximum Lot Building Coverage	10%
Maximum Lot Coverage	30%
Frontage	300 feet
Setbacks	
Street	Same as adjacent buildings or 50 feet
Waterfront	N/A
Other	25 feet
Orientation	Building parallel to road with long side perpendicular to the water
Height	25 feet

4. Use. Docks are to be used by transient boats and temporarily docked small cruise boats. Docks and adjacent areas shall not be used for dry-stacking facilities. The marina shall not provide residence facilities nor shall any boat docked at the marina be used as a residence.

5. Required Facilities. Pump out stations and/or holding tanks are to be provided in accordance with municipal and state standards, as are facilities for adequate garbage disposal.

B. Special Procedures. The site development plan for a marina shall show, in addition to all other Development Plan Review requirements of this Ordinance, locations of boat storage, boat repair, and launch area.

§ 415. Waterfront Uses

§ 415 Waterfront Uses

A. Purpose. The purpose of this Section and the specification of waterfront uses set forth in each zone is to provide regulations and standards for waterfront uses which are parallel to those set forth in "The State of Rhode Island Coastal Resources Management Program," as amended, and which identify uses associated with tidal and coastal pond waters by type, as associated with shoreland features and areas of historic and archaeological significance.

B. Standards for Particular Waterfront Uses.

1. Recreational Paths and Passive Recreational Uses. Paths shall not be constructed or used so as to cause breaching of dunes or disruption of wildlife habitats.

2. Rights-of-Way to Water. Existing access ways shall be maintained and new access ways constructed so as to control erosion and cause minimal change to the natural environment.

3. Shoreline Alterations. Shoreline alterations involving filling or modifying of the shore and/or shoreline features shall be carried out only for increased protection from storm winds and water or enhancement of beaches and other natural conditions.

4. Aquaculture. Aquaculture facilities and their use shall conform to accepted standards and procedures, the application of which shall be evidenced as part of Development Plan Review.

5. Docks, Ramps, and Accessory Use Structures. Docks, ramps, moorings and related marine service structures shall conform to accepted siting and engineering standards, the application of which shall be evidenced as part of Development Plan Review.

6. Marinas. (See § 414, Marinas.)

7. Warehouse and Storage Facilities. (See § 416, Warehouse and Storage Facilities.)

8. Parking Lots. (See § 420, Parking Lots.).

9. Other Waterfront Uses. (See § 401, General Criteria for Special Use Permits.)

C. Special Provision for Type 3 District. A municipally owned or controlled passenger boat facility to be used only under emergency conditions when the facilities of Old Harbor are inaccessible as a result of stormy weather or other dangerous circumstances as reasonably determined by the person directly responsible for operating the vessel using the emergency facility.

§ 416. Warehouse and Storage Facilities

§ 416 Warehouse and Storage Facilities

A. Standards. Warehouse and storage facilities shall conform to the following:

1. Enclosure. Warehouses and storage facilities shall be fully enclosed.

2. Dimensional Requirements. Warehouses and storage facilities shall conform to the following:

a. Maximum Lot Coverage.

(1) Lot Building Coverage, 10%.

(2) Lot Coverage, 30%.

b. Orientation. The building shall be located so as to minimize the visual impact.

3. Visual Screening. Siting of any warehouse and storage facility shall minimize adverse visual impact and the facility shall be screened by planting to the extent feasible.

§ 417. Utility Facilities

§ 417 Utility Facilities

A. Visual Screening. Siting of any utility facility shall minimize adverse visual impact and the facility shall be screened by planting to the extent feasible.

B. Special Procedures. The development plan for any utility facility shall include evidence of compliance with all state and federal regulations for such facility.

C. Special Procedures in the Residential A and Residential B Zones.

1. Any utility facility located in the Residential A Zone or in a Residential B Zone shall to the extent feasible be designed to resemble a single-family residence or accessory building. To this end, the general special use criteria set forth in § 401(A)(1) of this Zoning Ordinance shall be strictly construed and applied to such facility.

2. No utility facility located in the Residential A Zone or the Residential B Zone shall be allowed to attach an antenna or any other device related to the operation of the utility facility to a wind energy conversion system. (Section Amended October 3, 1994)

§ 418. Earth Removal

§ 418 Earth Removal

[Amended 2-21-2024 by Ord. No. 2024-04]

A. Standards. Earth removal shall be conducted in conformance with the following:

1. No earth removal shall be conducted within 50 feet from any lot line except one formed by a street, 150 feet from any dwelling, or 200 feet from any coastal feature.

2. Drainage systems shall be installed to prevent the permanent collection of surface water and the flooding and erosion of surrounding property. A drainage plan must be reviewed and approved by the Town Engineer.

3. Upon cessation of earth removal operations on any portion of an earth removal site, all slopes and grades shall be regraded to near-natural forms and no grade shall be left at an angle greater than the natural angle of repose of the material. The regrading area shall then be seeded with native plants listed in the URI Native Plant Guide to establish a firm cover of grass or other vegetation sufficient to prevent erosion.

4. A reclamation plan shall be submitted to be approved by the Town Engineer with detailed information on site uses, construction and operation details, post-operation, and long-term maintenance protocols.

5. A survey plan must be submitted showing the parcel of land upon which earth removal is to take place, showing all landscape features, topographical contours at two-foot intervals, and areas of previous, existing, and/or proposed future earth removal.

6. Hours of earth removal operation shall be no greater than 7:00 a.m. to 6:00 p.m. on Mondays through Saturdays. Earth removal operations may not be conducted on Sundays or any legal holiday or any other time without prior written authorization from the Town's Zoning Official.

7. Fencing shall be provided where portions of the boundary of the tract of land upon which earth removal is being conducted are adjacent to developed residential property. Such fencing shall be six feet in height and effective to control access to the area in which such earth removal is being conducted.

8. Water shall be applied to all non-hard-surfaced roads within land in which earth removal is being conducted to minimize dust distribution.

9. A historic and archaeological inventory of the site shall be conducted prior to construction to ensure that the site is not of historic or cultural importance and that no artifacts are located on the site.

10. The levels of noise generated by any earth removal services, measured at any property line, may not exceed the noise levels allowed under the New Shoreham Noise Ordinance. Applicants must provide a plan showing how noise will be mitigated to remain in compliance.

§ 419. Automotive Sales, Services and Repairs

§ 419 Automotive Sales, Services and Repairs

A. Standards. The following standards shall apply to all automotive service facilities:

1. Each facility shall have a minimum lot area of 5,000 square feet of developable land with no gasoline storage, work areas, parking of cars or storage of any kind permitted within 200 feet of any coastal or inland wetland or waterbody.

2. All procedures for use of toxic or hazardous materials including procedures for collecting, storing and disposal of waste oil off-Island shall conform to § 505, Uses Involving Toxic or Hazardous Materials.

3. No facility shall store or park cars within the front setback other than transient cars for which gas and related services are being purchased; the total number of cars on site, in any condition, shall be limited to 10.

4. Buffer planting shall be required on all sides except in the immediate sales and service area.

§ 420. Parking Lots

§ 420 Parking Lots

A. Standards. The following standards shall apply to any parking lot for holding five or more cars or other vehicles:

1. The layout of any lot shall conform to the standards of § 502, Off-Street Parking/Sidewalks, and shall, if containing 25 or more parking spaces, have an access and circulation system which meets with the approval of the police and shall receive a recommendation for approval by the Planning Board following the Development Plan Review process. If such circulation is needed for access to the water, other services or similar uses, the lot shall be designed to serve these needs.

2. Parking areas, if possible, shall not be of impervious materials. Where asphalt or similar surfacing is used, the grading of the lot shall minimize run-off into ponds, wetlands or into the ground, mitigation measures shall be implemented.

§ 421. Cellular Antenna Towers

§ 421 Cellular Antenna Towers

[Amended June 21, 2000]

A. The purpose of this Section is to ensure that the development of cellular communications to service the current and future needs of the Town is done in a manner which will conserve the value of land and buildings, minimize the visual impact of antennae and support structures, and minimize the number of towers which will be required to support the development of the system.

B. Cellular antennae, and towers supporting them, shall be allowed only in the Service Commercial Zoning District, and then only upon the granting of a Special Use Permit by the Zoning Board of Review. Any proposed modification to an approved telecommunications tower facility, including the antenna arrays, must be reviewed and approved by the Planning Board, Historic District Commission (if required), and the Building Official. Approval of a telecommunication tower facility shall mean approval of a Special Use Permit by the Zoning Board under § 421 herein.

C. An applicant for such a Special Use Permit shall satisfy the following conditions:

1. The applicant shall demonstrate that all possible avenues for sharing space on an existing tower have been exhausted.

2. The maximum power output and maximum exposure limits, at ground level, must fully comply with the applicable Federal Communications Commission (FCC) standards.

3. All antennae shall be mounted higher than 90 feet above ground level, and only at a lower height if permitted by a specific FCC standard.

4. The tower shall not exceed a height of 250 feet above ground level. The applicant shall provide evidence that the Federal Aviation Administration has determined that the location and height of the tower upon which the antennae are to be installed do not constitute a hazard to air navigation.

5. The tower shall not be located within 250 feet of any existing residential structure, or within 250 feet of the building envelope of an undeveloped lot zoned for residential use. The Zoning Board of Review may reduce this setback to a minimum of 100 feet upon a showing that the 250 feet is unnecessary for the location and design of the tower proposed.

6. Any change in the nature, type, or design of the antennae tower, or other elements of the system, including the number of channels initially approved, shall require another Special Use Permit.

7. The applicant must demonstrate that the proposed system is the minimum necessary to provide cellular service to New Shoreham customers.

8. The owner must agree to provide the Zoning Enforcement Official with a copy of any notice to the Federal Communications Commission of intent to cease operations. The owner must agree that if operations are ceased, the owner will remove the antenna or antennae, and any accessory structures, including the tower if such tower is no longer in use, within 90 days. A bond shall be provided, in a form acceptable to the Town's Finance Director, ensuring the compliance by the owner with the requirements of this subsection.

9. The owner must agree to provide the Town with a certificate of insurance coverage for any injury or damage resulting from the facility so long as it is in place. The certificates shall be in a form acceptable to the Town's Finance Director and provide for notice of cancellation to the Town.

D. In addition to any other information or material that shall be required of an applicant for a Special Use Permit, an applicant under this Section shall provide, with its application, the following:

1. A site plan, drawn to scale, showing existing and proposed features, including topography at not greater than ten-foot contours and complete landscaping plans.

2. A written narrative report containing:

a. A description of the antennae and the tower with technical details and an explanation of the reasons for its particular design;

b. Data demonstrating that the structure supporting the antennae will be adequate to support its existing, proposed and anticipated use(s);

c. A description of the general capacity of the tower;

d. Data demonstrating that all applicable ANSI standards are met;

e. A statement concerning the availability of excess space and whether it will be rented;

f. Proof of ownership of the proposed site or legal right to its use.

3. A study using photographs, narrative or both, that describes where, and to what extent, any portion of the antennae or tower will be visible within a three mile radius of its location. (Section Amended December 17, 1997)

§ 422. Utility WECS

§ 422 Utility WECS

A. Process. Utility Wind Energy Conversion Systems (WECS) as defined in this Ordinance with specifications as contained in § 508G shall be allowed only in the Public Utility Zone and then only upon the granting of a Special Use Permit by the Zoning Board of Review. Such use shall also require Development Plan Review by the Planning Board under the provisions of § 704.

B. Application Requirements. In addition to the existing conditions plan and the site plan required for any development within the PU Zone, an application for a Utility WECS shall include the following:

1. A complete set of plans for the proposed wind turbine, including all manufacturer specifications and details;

2. An analysis of soils from the site of the proposed turbine that evaluates bearing capacity, and which includes a core sample tested for the presence of any environmental contaminants;

3. Structural design and installation plans prepared by a Rhode Island registered professional engineer;

4. Manufacturer's documentation of noise impacts of the turbine under various wind conditions, including a chart or map indicating the expected decibel levels at given distances from the turbine;

5. A visual representation of the proposed wind turbine as viewed from surrounding properties as well as from other areas of the island from which the turbine will be visible, including from roadways, areas of higher elevation and publicly owned or protected scenic and conservation areas;

6. An evaluation of the shutter or flicker effect (shadows caused by sunlight passing through the moving blades) of the turbine as it is sited on the parcel, including the seasonal times and duration, and a delineation of the areas impacted; and

7. An evaluation of the potential impact of the turbine on birds and other wildlife, including review of dominant bird species, and migratory, nesting and feeding patterns.

C. Standards of Review. Prior to the approval of an application for a Utility WECS, the Zoning Board of Review shall determine that the application meets the general criteria for a Special Use Permit contained in § 401. In addition, the Zoning Board shall determine that the following standards are met:

1. The limitations on wind turbine size, noise levels and lighting impacts contained in § 508G;

2. Potential adverse impacts on birdlife and wildlife are minimized through appropriate siting and design of the facility; and

3. The public convenience and welfare will be substantially served and there will not be resulting conditions inimical to the public health and safety. (Section Added December 7, 2009)

§ 423. Light Assembly

§ 423 Light Assembly

A. Purpose. The purpose of this section is to allow the establishment of low impact production enterprises or "light assembly" uses (See § 202, Definitions) in order to diversify the Town's economic base, provide year-round employment, provide opportunities for islander-owned businesses that can be linked with other parts of the local economy, and encourage environmentally sustainable economic development. The intent of this section is to ensure that the establishment of economic activity that otherwise meets this purpose is done in a manner that protects the health, safety and welfare of the neighborhood in which it is located, and the quality of life and the environment of the island as a whole.

B. Process. Such light assembly uses shall be allowed only in the Residential C/Mixed Use Zone, the Old Harbor Commercial Zone, the New Harbor Commercial Zone, and the Service Commercial Zone, and then only upon the granting of a special use permit by the Zoning Board of Review.

C. Application Requirements. In addition to any relevant submittal requirements contained in § 703 for a special use permit application, the applicant shall submit the following:

1. An existing conditions site plan consisting of an accurate survey of the parcel showing topography, water bodies and wetlands, vegetative cover and trees, site features and the location and dimensions of all existing structures;

2. A radius map showing all properties within 500 feet of the lot or parcel, with notice sent to all such property owners under the provisions of § 702, and the location of all structures within 500 feet of the property lines;

3. Building elevations and floor plans, including total square footage of gross floor space, of the building(s) to be used for light assembly purposes. Photographs of an existing building may be accepted in place of drawings of the building exterior;

4. A proposed site plan which indicates the location and dimension of all buildings and structures, existing and proposed, and all site improvements including proposed grading at two-foot contours, designated parking and loading areas, areas for storage of raw materials and by-products, and proposed fencing, landscaping and lighting; and

5. A plan that describes the types and quantities of any solid or liquid waste or by-products of the light assembly activity, and procedures for temporary storage and final disposition.

D. Planning Board Procedures. The Planning Board shall review the application for a light assembly use pursuant to the provisions of § 704, Development Plan Review, and shall give an advisory opinion to the Zoning Board of Review regarding the granting of a special use permit for the proposed use. The Planning Board may undertake the advisory request and the site plan review concurrently as provided for in this Ordinance under § 704(F).

1. In reviewing the plans and materials, the Planning Board shall apply the relevant development plan review standards contained in § 501, and the relevant requirements contained in § 505 involving the use of any toxic or hazardous material.

2. The Planning Board shall determine the consistency of the application for a light assembly use with the purpose of this section and with the Comprehensive Plan.

3. The Planning Board may attach conditions or restrictions as part of their advisory recommendation.

E. General Standards. The following standards shall apply to all proposed light assembly uses regardless of the zoning district in which the lot or parcel is located:

1. Space. A light assembly use shall be limited to 2,500 square feet of gross floor area and shall be completely enclosed within a building;

2. Employees. The production shall involve a work force (excluding business owners) of no more than five full-time employees, or a total of 10 full-time and seasonal employees, at any given time;

3. Infrastructure. The lot on which a light assembly use is proposed shall have adequate water and waste disposal to support the production, and shall meet all town and state standards for wastewater disposal, including appropriate approvals from the New Shoreham Water and Sewer Commission;

4. Parking/Loading. The minimum parking and loading requirements as contained in § 502 shall be provided on-site; and

5. Conforming Lot. The lot for which a light assembly use is proposed shall meet the minimum lot area requirements of the zoning district in which it is located.

F. Standards for Associated Retail. The Zoning Board of Review may allow retail use in association with a light assembly use within a zoning district in which retail is otherwise not permitted if the following standards are met:

1. The retail use is clearly accessory to the principal use on the lot;

2. The sale of products includes only those items produced on-site as part of the light assembly operation;

3. Sales activities take place within a building or within a specifically defined location on the lot;

4. The additional number of parking spaces required for the retail use is provided onsite (based only on the amount of gross area specifically used for retail purposes); and

5. Signage and advertisement related to retail sales are in accordance with the provisions of this ordinance and other applicable town ordinances.

G. Additional Requirements. Prior to the granting of a special use permit for a light assembly use or light assembly use with associated retail, the Zoning Board of Review may establish limits on the operation, including but not limited to, hours of operation, noise levels, lighting, water use and traffic. (Section Added December 16, 2009)

§ 424. Other Uses Requiring Special Use Permit

§ 424 Other Uses Requiring Special Use Permit

A. Uses requiring a Special Use Permit without specific standards under this Article shall conform to § 401, General Standards for Special Use Permits.

B. Uses involving toxic or hazardous materials shall conform to § 401, General Standards for Special Use Permits, and § 505, Uses Involving Toxic or Hazardous Materials. (Section renumbered December 17, 1997, December 7, 2009, and December 16, 2009)

§ 425. Solar Energy Systems

§ 425 Solar Energy Systems

[Amended 3-1-2021 by Ord. No. 2021-01; 2-5-2024 by Ord. No. 2024-02; 3-20-2024 by Ord. No. 2024-10]

(Prior history: March 19, 2014 by Ord. No. 2014-03)

A. Applicability: Solar energy systems are considered accessory uses, and are permitted in all zoning districts, as provided in § 517.

A ground-mounted solar energy system, or solar canopy, but not a solar pool heater system, consisting of one or more installations with a total array size greater than 400 square feet, is allowed only upon the granting of a special use permit. Such use shall also undergo development plan review. In no case shall a solar array size greater than 750 square feet be permitted if the primary use of the lot is residential.

B. Standards: Prior to the approval of an application submitted under this section, the applicant shall establish that it meets the criteria for a special use permit. The standards below listed in § 517, as applicable, and the following standards shall also apply.

1. Power and communication lines running between sub arrays of solar panels and to the off- site electric distribution system or interconnections with buildings onsite shall be buried underground.

2. Solar energy systems shall be designed and located to prevent reflective glare towards any inhabited building or roadway.

3. Solar energy systems shall be constructed and maintained in a way that minimizes the use of herbicides and pesticides. Vegetative cover, consisting of native plants, shall be maintained to prevent soil erosion.

4. Solar energy systems shall be sited and designed to minimize any negative aesthetic impact on viewsheds and abutting properties. The siting of solar energy systems should prioritize limiting visibility from public roadways. The design shall incorporate landscaping and design elements to visually screen the SES from public roadways and abutting properties.

§ 426. Power Generators Greater Than 20 kW Rated Capacity

§ 426 Power Generators Greater Than 20 kW Rated Capacity

A. Applicability. Power generators which have a rated capacity of greater than 20 kW, with the exception of generators that are used as a back-up power source at a municipally owned or operated building; a public utility; a medical facility; a commercial business; or any other facility required by State Building Code to provide back-up power, are allowed only upon the granting of a special use permit by the Zoning Board of Review. Such use shall also undergo development plan review by the Planning Board under the provisions of § 704.

B. Application Requirements. Any application submitted under this section shall include the following:

1. A site plan showing the location and dimensions of the proposed generator and distances to all property lines and existing structures, including those on adjoining lots.

2. Manufacturer's specifications including rated capacity and noise levels, specifically the anticipated dBA levels at given distances from the generator. These must include the dBA levels at the nearest property line and, if applicable, at the location of the nearest residence on an adjoining property.

3. A description of the applicant's intended use schedule, both seasonally and daily.

C. Standards. Prior to the approval of an application for a power generator with a rated capacity greater than 20 kW, the Zoning Board of Review shall determine that it meets the general criteria for a special use permit. The standards below shall also apply:

1. Screening. The generator must be adequately screened from view from nearby roads and properties by means of fencing or vegetative screening, as approved by the Planning Board. In no case shall a generator be located within the front setback of a property, as defined in § 202.

2. Noise Impacts. The generator shall not exceed the Town of New Shoreham Noise Ordinance at the nearest property line, or otherwise have an adverse noise impact on adjoining properties, based on evidence presented at the public hearing. (Section added June 18, 2014 by Ord. No. 2014-07)

§ 5. Performance Standards

Article 5 Performance Standards

§ 501. Development Plan Review Standards

§ 501 Development Plan Review Standards

[Amended July 7, 1997; November 21, 1998; added October 6, 2008]

A. General Standards. To approve a site development plan pursuant to § 703, Procedures for Special Use Permit, the Planning Board must find that each of the following standards shall have been met:

1. Traffic. The development will not cause unreasonable traffic congestion or unsafe conditions and will comply with the Town's standards for parking, access, road design and construction. Adequate provisions shall be made for pedestrian and bicycle access. Unless explicitly provided otherwise in the Special Use Permit authorizing the use, for uses projected to have summer season trip generation exceeding 10 vehicle trips in the peak hour, sight distance at the point of egress shall meet American Association of State Highway and Traffic Officials (AASHTO) standards, based on observed (not posted) travel speeds, and the volume/capacity ratio shall not be increased by more than 0.1 above baseline on any lane of any street or intersection as a result of projected traffic, with ”baseline” being the ratio resulting from the traffic forecast in five years, given development of the premises for single-family residences as allowed under the Zoning Ordinance with no density bonuses.

2. Emergency Access. The development will provide for and maintain convenient and safe emergency vehicle access to all buildings and structures at all times.

3. Soil Suitability. The locations, design and construction of all structures, including but not limited to, buildings, roadways, and surface water drainage systems, and their intended use shall be suitable to the soils and subsoils of the property.

4. Drainage, Stormwater Run-off. Anticipated stormwater run-off from the developed site shall not exceed peak run-off from the site prior to development.

5. Waste Disposal. The development will provide for adequate disposal of sewage, refuse and other wastes, consistent with any stipulations of the Special Use Permit authorizing the use.

6. Nutrient Loading. The nutrient contribution from the proposed development, when added to the existing and potential nutrient level of developments within the recharge area of a private or municipal water supply and/or within the drainage area of a coastal embayment, will not generate nutrient levels that exceed the receiving water's critical eutrophic level, based on submittals, standards and analysis methods consistent with § 316, Pond Quality Overlay.

7. Soil Erosion. Proper soil erosion and sedimentation control measures, as prescribed in the Town's Soil Erosion and Sediment Control Ordinance, shall be employed to minimize sedimentation and siltation of existing surface waterbodies and wetlands. In areas where the land slopes downward towards any surface waterbody or wetland, proposed filling, cutting, clearing or grading shall be minimized and natural vegetation and topography shall be retained wherever possible.

8. Utilities. All utilities included in the development plan shall be designed to minimize adverse impact on the subject property and surrounding properties. Whenever feasible, all electric, telephone and other utility lines shall be installed underground.

a. Development subject to Development Plan Review may be authorized only upon the Planning Board determining that sewer and water allocation have been granted by the Town and paid for by the applicant.

b. Town water supply shall be considered adequate only if water service as existing or as committed to be improved or installed by the applicant provides pressure of at least 40 pounds per square inch at street grade, and water for fire protection is available at 20 pounds per square inch residual pressure at 500 gallons

per minute flow, sustainable for two hours, or such higher flows as needed to meet Insurance Services Office (ISO) requirements for uses other than single-family dwellings.

c. Development subject to Development Plan Review, if proposed at a location not meeting these standards, may be authorized only upon the Planning Board determining that special circumstances of the development or the site assure that supply will be adequate for anticipated consumption and fire protection.

9. Natural Resources. The development will not have an adverse impact on areas of critical environmental importance such as habitats or species listed as endangered, threatened or of special concern by the Rhode Island Natural Heritage program, consistent with any stipulations of the Special Use Permit authorizing the use.

10. Cultural Assets. Any requirements of the Historic Overlay have been satisfied; constraints on displacement for parking area development specified in § 502(B)(6) are complied with, and there will be no avoidable displacement of historic or archeological resources identified in the Comprehensive Plan or a document referenced therein, consistent with any stipulations of the Special Use Permit authorizing the use.

11. Water Protection. The plan considers, and protects against, any degradation of surface or groundwater quality.

12. ISDS. All ISDS must comply with the requirements of § 506, Individual Sewage Disposal System, of this ordinance.

B. Standards for Residential Structures Meeting Certain Thresholds. For those applications submitted under § 406 requiring a Special Use Permit for the construction of a dwelling unit or accessory structure meeting certain thresholds as defined in § 406B, the Planning Board shall, in addition to the standards listed in Subsection A above, apply the following in their review of site and building plans:

1. The proposed residential structure is sited so as to minimize impact on viewsheds, including, where possible, location below the crest of a hill or ridgeline, and/or away from the centers of open fields.

2. The proposed residential structure is designed and sited so as to be compatible with its historic and cultural setting, particularly in relationship to any nearby notable historic structures.

3. The area of site disturbance and the alteration of natural grade are the minimum necessary for construction of the building.

4. All existing stone walls on the site are preserved or reconstructed as part of the site plan.

5. Screening of the proposed building is achieved by use of existing mature vegetation, with additional plantings as required by the Planning Board.

6. Attached garages are located below first floor grade or attached by a breezeway so as to not add to the dwelling's bulk, and are oriented so that the front is not visible from a town or state road (i.e. designed with side or rear entrances in relation to the dwelling).

As part of their review, the Planning Board may recommend reductions in the required front, rear or side yard setbacks, as provided for under Subsection 406F.(2), recommend lowering the building height, and require a full landscape plan prepared by a registered landscape architect.

C. Procedure. Development plans shall be reviewed and approved as set forth in § 704, Development Plan Review.

§ 502. Off-Street Parking/Sidewalks

§ 502 Off-Street Parking/Sidewalks

[Amended January 21, 2004; added December 16, 2009; 3-20-2024 by Ord. No. 2024-09]

A. Off-Street Parking Minimum Standards. Off-street parking in conformance with the following minimum requirements shall be provided and maintained for new construction, expansion of existing uses or structures, and changes of use. Where several uses occupy a single structure or lot, the total required parking shall be

the sum of requirements of the individual uses. These minimum requirements will not be satisfied by street parking. Except as specifically allowable with a Special Use Permit, parking shall not be a primary use on any lot.

1. Accessory Dwelling Unit. One parking space in addition to any other off-street parking requirement for other structures and uses on the property.

2. Assembly Hall: One parking space per three seats of total available capacity. In Old Harbor Commercial Zone (OHC): One parking space per five seats.

3. Commercial/Residential Mixed Use: One parking space per dwelling unit plus the requirements contained herein for the commercial use or uses.

4. Dwelling Units: Two parking spaces per dwelling unit. In Old Harbor Commercial Zone (OHC): One parking space per dwelling unit.

5. Governmental Facilities: Anticipated need, to be located in defined areas within at least 50 feet from abutting uses.

6. Hotels and Inns: One parking space per three guest rooms; plus one employee parking space for every 10 rooms. In Old Harbor Commercial Zone (OHC): One parking space per four guest rooms, plus one employee parking space for every 10 rooms.

7. Light Assembly: One parking space per two employees based on the largest number of employees to be working at any given time. In Old Harbor Commercial Zone (OHZ): One parking space per three employees based on the largest number of employees at any given time.

8. Marina: One parking space per 10 boats plus one space per 1.5 employees; plus additional parking as required for any other facilities, uses or accessory or associated uses.

9. Professional and Business Services: One parking space per 1000 square feet of gross floor area, plus one space per 1.5 employees.

10. Restaurant, Carry-Out: Three parking spaces. In Old Harbor Commercial Zone (OHC): Two parking spaces.

11. Restaurant, General: One parking space per 10 seats. Restaurant included in Hotel or Inn: One parking space per 15 seats.

12. Retail Trade: One parking space per 500 square feet of gross floor area plus adequate employee parking. In Old Harbor Commercial Zone (OHC): One parking space per store.

13. Transportation Facility: Short term and long term parking spaces as determined by anticipated need, to be located in defined areas within at least 50 feet from abutting uses.

14. Utility Facility; Warehouse and Storage Facility: one parking space per three employees.

15. Uses Not Otherwise Specified: In the event the proposed use is not one of those specifically enumerated above, the determination of the required off-street parking shall be made by the Zoning Official using the enumerated uses as a guide and considering, as appropriate, the square footage of the use, the occupancy, capacity and number of employees associated with any structure or use, the state fire and building codes and any other sources the Zoning Official may deem appropriate to make a determination. [Amended 5-3-2022 by Ord. No. 2022-04]

B. Loading Space.

1. In connection with every commercial property requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained, on the same property, at least one off-street loading space.

2. Each loading space shall be not less than 10 feet in width, 25 feet in length, and 14 feet in height. Such space may occupy all or any part of any required yard or court space, subject to the following limitations.

C. Dimensional and Construction Requirements. Required off-street parking shall be in lots with spaces organized in right angle configurations where feasible in accordance with the following dimensional table of standards:

Parking Dimensions in Feet*			
Parking Angle	**Stall Width Parallel to Aisle**	**Stall Depth**	**Aisle Width**
90°	9.0	18.5	22
45°	12.7	17.5	12

* Exception for marinas: 300 square feet is required for each parking space in a marina.

1. Aisle width shall be measured between ends of stall lines. For back-in parking aisle width may be reduced by four feet.

2. Angle parking at 45° with adjacent one-way aisles in the same direction shall be used only with sufficient barriers to prevent vehicular contact across the interlock.

3. Off-street parking shall be located on the same lot as the primary use except that the Zoning Board of Review may by Special Use Permit allow the use of off-site premises for parking when the public benefit of the proposed use so warrants.

4. Egress shall be designed to provide a safe and unobstructed 100-foot sight line to traffic in each direction.

5. Parking areas shall be designed so as not to require the backing of vehicles onto any public street.

6. In so far as practicable, parking areas shall be recessed from the road with planting that screens parked cars from the road.

7. No building, stonewall or tree row may be removed for the construction of parking spaces except where this is unavoidable.

8. Lighting of parking areas shall be located no higher than 10 feet from the ground and shall cast light downward. No spill light is permitted which causes glare on an abutting lot or to vehicles traveling on an abutting road.

D. Large Lot Parking. For parking areas of 20 spaces or more the following additional requirements shall apply:

1. Large lot parking areas must receive development plan approval pursuant to the standards set forth in § 501, Development Plan Review Standards, and the procedures set forth in § 704, Development Plan Review.

2. No large lot shall be operated as a rental facility except by a Special Use Permit pursuant to § 420, Parking Lots.

3. Large lots, except for those serving transportation facilities or located in the Old Harbor Commercial Zone shall be screened on each side facing a street or abutting property by a wall, fence or compact hedge no less than three nor more than five feet high. Parking areas serving up to 20 cars each shall be separated by planted buffers at least 10 feet wide.

E. Sidewalks. Within the OHC, NHC, and SC Zones, sidewalks shall be provided as part of site development along all principal roads to provide pedestrian access to and between public and private facilities.

F. No part of an off-street parking area or off-street loading area required for any building or use for the purpose of complying with the provisions of this chapter, shall be included as a part of an off-street parking area or off-street loading area similarly required for another building or use unless the type of structure indicates, in the opinion of the Planning Board, that the periods of usage of such buildings or uses will not be simultaneous with each other.

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

§ 503. Landscape and Buffers

§ 503 Landscape and Buffers

A. General Standards. Landscaping shall be designed and installed to define, soften, or screen the appearance of off-street parking areas and storage areas from public rights-of-way and abutting properties, to enhance the physical design of buildings and site, and to minimize the encroachment of the proposed use on neighboring land uses. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas.

B. Specific Requirements.

1. Plantings shall be used to screen and break up parking areas and plantings or fences shall be used to screen trash receptacles and unsightly storage areas from roadways and abutting properties.

2. Stone walls, tree rows and low-lying thickets shall be retained whenever feasible and kept in good repair. Breaks for roads, utility easements or fire lanes shall be the minimum necessary, but sufficient to provide emergency vehicles clear access to ponds, cisterns or other water sources.

3. Agricultural uses shall retain a buffer of natural growth at least 50 feet wide around all wetlands and waterbodies except that access ways to the water may remain cleared.

4. Where plantings are required, existing materials shall be used whenever possible; plants susceptible to windburn shall not be used as screen hedges.

5. Ground covers or grasses not requiring fertilizers or frequent watering shall be used whenever feasible.

§ 504. Signs

§ 504 Signs

[Amended June 18, 2008; Ord. of 6-15-2011; 5-1-2018 by Ord. No. 2018-17]

A. Purpose. The purpose of this article is to promote and protect the public health, welfare and safety by regulating the use of existing and proposed signs and other outdoor advertising devices. This article is intended to protect and enhance the physical appearance and natural beauty of the community, protect property values and contribute to an attractive business climate by allowing sufficient freedom to identify and promote the availability of goods and services while, at the same time, protecting the unique character of the Town and the Island. It is further intended to promote and protect the public safety by reducing sign and advertising distractions, obstructions and hazards that may contribute to traffic accidents or personal injury.

B. General.

1. A sign permit shall be required for all signs hereafter erected, installed or replaced, unless specifically exempted by this section. Such permits shall be issued by the Building Official and shall be in addition to any other permits or approvals required by this or any other ordinance of the Town or the State.

2. Permitted signs. Only signs which refer to a permitted use, as set forth in the New Shoreham Zoning Ordinance, or by the New Shoreham Zoning Board of Review are permitted, provided such signs conform to the provisions of this section.

3. The following are prohibited:

a. Signs or lighting which incorporate any flashing, moving or changing illumination or animation, and touch-screen automated machines; located on the exterior of the structure or on the inside faces of the windows;

b. Internally illuminated awnings and internally illuminated signs, including without limitation, unscreened exterior vending machines;

c. Signs that produce generated variable messages or another electronic means of changing sign copy including, without limitation, displays using LEDs, LCDs or a flipper matrix;

d. An unconcealed light source for external sign, building or premises illumination;

e. Any sign which, in the determination of the Building Official or Police Chief, constitutes a hazard to public safety or health, or which impedes vision or access to or from public streets, sidewalks or other places of ingress or egress, including signs which by reason of size, location, content or manner of illumination, obstruct the vision of a driver, or detract from the effectiveness of traffic-control devices;

f. Searchlights, spinners, inflatable devices;

g. Commercial flags or banners displaying a word, symbol, or design or a combination of words, symbols or designs;

h. Umbrellas or tents displaying a word, symbol or design or a combination of words, symbols or designs;

i. Billboards and off-premises signs;

j. Signs projecting over a street;

k. Any sign not otherwise permitted under this Ordinance.

4. Determination of sign area.

a. Free-standing or attached signs. The area shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background whether open spaced or enclosed, on which they are displayed but not including any supporting framework and bracing which are incidental to the display itself.

b. Where the sign consists of individual letters attached to a building, wall or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all the letters.

c. Theater advertising shall be considered to be all area within the basic marquee or face.

5. Trademarks and logos. The registered trademark or logos of a specific product may occupy no more than 25% of the allowable area of a sign. This shall not be construed to discourage the use of logos on signs.

6. Symbols. The use of three dimensional or representative symbols independent of the sign area is encouraged, however, the area of which shall be included in the determination of total sign area.

7. Letter size and style. If all of the letters are upper case (capitals), their height shall not exceed 10 inches. If both upper and lower case letters are used, the maximum upper-case letter height shall not exceed 12 inches. The letter style must be recognized printer's typeface unless otherwise approved by the Historic District Commission, except where specifically exempted in this Ordinance.

8. Materials. Signs shall be constructed of varnished, natural, weathered or painted wood, metal or stone or other similar material with applied, painted or carved letters unless otherwise approved by the Historic District Commission.

9. Lighting. Signs may be lighted only with continuous, non-flashing, white incandescent lighting not to exceed a total of 75 watts, or equivalent warm-white fluorescent or LED lighting. Lighting must be directed away from vehicular and pedestrian traffic so that it is non-interfering and poses no threat to public safety. Neon in any form which is visible from the exterior of the building is prohibited. Light sources must be concealed from view. Exposed wiring and conduit is prohibited. Light sources must be concealed from view.

Exposed wiring and conduit is prohibited. Strings of bulbs may be allowed on an approved location-by-location basis provided such display does not interfere with or have an adverse impact upon neighboring land uses. Bulbs shall be warm-white in color, shielded from direct view, and shall not be flashing or visually moving in a 'marquee' fashion. Placement locations shall be low to the ground at pedestrian levels to provide ambient lighting. In no case shall the lighting be used to horizontally, vertically, or diagonally outline building edges, roofs, canopies, porches, cornices, or other elevated surfaces. All lighting must comply with the Town's Lighting Ordinance. Building illumination shall be restricted to entries and porches except when designated as part of an overall lighting scheme approved by the permitting agent. There shall be no illumination between the hours of 11:00 p.m. and 6:00 a.m., unless the premises on which it is located is lawfully open for business during the time of illumination.

10. Supports. No support for a sign may extend above the cornice or eave line of the building to which it is attached. No exposed wires or turnbuckles are allowed. Due to the extreme and sometimes sudden wind conditions on the Island, attachments must be securely fixed to prohibit hanging signs from swinging.

11. Maintenance. All signs, including all supports, braces, guys and anchors, shall be kept in good repair and shall be kept clean, neatly painted and free from all hazards so as to not endanger the public health or safety.

12. Obsolete signs. Any sign which advertises an area, use, property, business or product no longer actively sold or promoted on the site upon which the sign is located, shall be considered to be obsolete and shall be removed within 30 days after the date that it becomes obsolete. If an obsolete sign is not removed within 30 days, the Zoning Official shall give written notice of the violation to the owner of the property on which the sign is located, ordering the owner to remove any such sign within 10 days from the date of the notice. Upon failure to comply with the provisions of the notice, the Zoning Official, in addition to other action allowed by law, may remove the sign at the expense of the owner of the property from which the sign is removed. This paragraph 12 does not apply to any historic sign or image or 'symbol' that, in the opinion of the Historic District Commission, represents the history of Block Island and/or the building onto which it is applied. [Amended 5-3-2022 by Ord. No. 2022-04]

13. Unlawful signs. Where the sign becomes unsecured, is in danger of falling, or is otherwise unsafe, or if a sign is unlawfully installed, erected, or maintained in violation of any provisions of this code then, upon written notice of the Building Official or Zoning Official to the owner of the property on which the sign is located, the sign shall be removed or made to conform to the provisions of this section forthwith in the case of immediate danger and in any case within not more than 10 days from the date of notice. If within 10 days the order is not complied with, the Building Official or Zoning Official shall remove such sign at the expense of the owner of the property on which the sign is located. [Amended 5-3-2022 by Ord. No. 2022-04]

14. Unsafe signs. The Building Official may require any sign or advertising structure which is an immediate peril to persons or property to be removed summarily and without notice.

C. Specific requirements.

1. Types. Permitted types of signs include wall, projecting or free-standing, or moveable A-frame signs, provided they are approved pursuant to this Section, and provided they meet all requirements of these regulations, the Town and State Building Codes, and all other ordinances and regulations of the Town. All other types are prohibited.

a. No sign shall be erected which is affixed to a sidewalk, curbstone, lamp post, hydrant, fence, utility pole or structure, tree, shrub, rock or other natural object;

b. Signs shall not extend above the roofline (unless mounted on a parapet wall which extends above the roofline, in which case the sign may not extend above the top of said parapet);

c. No sign, together with any supporting framework, shall extend to a height above the maximum building height allowed in the district;

d. Signs, together with any supporting framework, may, with approval, cover architectural details such as, but not limited to, arches, sills, balusters, moldings, cornices, columns, and transom windows.

2. Size and number.

a. Free-standing signs. One free-standing sign per commercial building may be allowed, provided that the sign contains no more than two sides, the aggregate square footage of all signs on each side shall not exceed 12 square feet per side, and that the total height and width of the sign structure shall each not exceed five feet.

b. Wall signs. Wall signs may be used in any number or combination on the front of the building, provided that the aggregate square footage of all signs does not exceed the maximum allowable area of permanent signage, said area to be directly proportional on a one-to-one basis to the ground floor linear building frontage of the building footprint in which the business is located.

c. Projecting signs. Projecting signs shall have no more than two faces and may extend no more than six feet beyond the surface to which it is affixed. No more than one projecting sign is allowed for each entrance door to a business establishment, regardless of the number of businesses that the establishment serves. The bottom of the sign shall be at least eight feet above ground level, and shall conform to all other applicable provisions of this Section.

d. Portable A-frame signs. A maximum of one is permitted per business, provided that it does not constitute a safety hazard or impede vehicular or pedestrian traffic and that it is not located within a sidewalk or other public right-of-way. Portable A-frame signs or sandwich boards must be taken in at closing time and cannot exceed six square feet in area on a side, and shall contain a maximum of two sides. All A-frame signs must conform to the provisions of these regulations, except menu boards, which may be made from slate or similar material with free-hand lettering in chalk describing daily specials are permitted.

e. Restaurant menu boards:

(1) Only one per establishment;

(2) Can be building/wall mounted, or free-standing;

(3) Maximum frame size is 30 inches high, and

(a) Three menu width - 40 inches maximum width, or

(b) Two menu width - 30 inches maximum width, or

(c) One menu width - 20 inches maximum width.

(4) Can be internally illuminated with fully concealed lighting;

(5) Can include the name of the establishment at the top of the frame; and

(6) Would not be required to be included in sign area calculations.

3. Combination. Property owners may, if approved, use a combination of a free-standing sign, a projecting sign, and/or a wall sign, provided that the total square footage of the signs does not exceed the maximum allowable area described in the previous paragraph, and provided that the signs meet all other requirements set forth in this Section.

4. Corner sites. On a building with secondary frontage on a corner or that has a side that faces an open area, signage is allowed on those secondary sides, and the total signage may be computed separately for each side.

5. Setback requirements. The location of any free-standing sign shall be on the establishment property and shall be shown on a site plan, drawn to scale, which shall be submitted as part of the application process. The site plan will be reviewed to ensure that the sign will not materially impede vision or obstruct access to or from any public street, sidewalk, driveway, off-street parking or loading facility or any other access required by these regulations, due to the sign's placement, illumination, direction, or other relevant considerations.

D. Non-conforming signs. Any sign lawfully existing at the time of this Ordinance shall be considered a legal non-conforming sign. Such legal non-conforming signs may continue provided that no legal non-conforming sign shall be enlarged, reworded (other than in the case of cinema or theater signs, redesigned or altered in

any way except to conform to the provision of this Section. Re-painting of a Non-Conforming sign is allowed as long as the sign design and color does not change. Changing a sign's logo does constitute a change in the sign design, and in the case of an existing Non-Conforming sign, will require compliance with this Ordinance.

E. Alterations or relocation of signs. No sign, whether previously approved or considered a legal nonconforming use, shall be altered in any manner to include changes in graphics, font, color, brackets or posts without obtaining a permit therefore, in compliance with this Ordinance. Changes in wording may be made without application provided changes are in keeping with the existing design and graphics.

F. Permit procedure. Any persons intending to erect, relocate or alter any sign shall, except as otherwise provided in this Section, make application to the Building Official.

1. The Historic District Commission shall review all applications for all sign permits within the Historic District. For those signs outside the Historic District, the Building Official may request an advisory opinion from the Historic District Commission. The Zoning Board of Review may request an advisory opinion from the Historic District Commission on all applications concerning signs. It shall be one of the purposes of the Historic District Commission to work with an applicant in an effort to encourage signs that will be:

a. In conformance with these regulations;

b. Compatible with the buildings, their surroundings and the area where the sign is to be located;

c. Informative, legible and that will serve to preserve and improve the appearance of the Island and unique historic character of the Town as a whole; and

d. Consistent with generally accepted professional standards governing the practice of historic preservation, graphic design, architecture and advertising.

G. Exemption. The following signs shall be allowed within the Town without the necessity of obtaining a Certificate of Appropriateness or a sign permit. Non-compliance with the terms set forth below shall cause such a sign to forfeit its exempt status and require the owner to follow the permit procedure set forth in this Ordinance. Exempt signs must conform to all other provisions of the Section.

1. One non-illuminated sign which shall not exceed four square feet in area and which shall be located no closer than 10 feet from the property line.

2. The following signage customary and necessary to the operation of filling and service stations: lettering or other insignia which are a structural part of a gasoline pump or lighting fixture consisting only of a brand name, lead-warning sign and other signs as required by law;

3. Window signs that denote hours of operation, dress requirements and temporary signs that do not violate any lettering or lighting methods contained in this Section and that do not cover more than 10% of the total window space;

4. Professional nameplate on a door or directory signs adjacent to the entrance door which does not exceed eight inches by 20 inches per business;

5. Flags of all nations, states, counties, towns and cities when flown in compliance with the United State flag code;

6. Historical marker signs, which comply to the provisions of this Ordinance and to provisions adopted by the Historic District Commission;

7. Signs identifying property owner or name of property or road, provided sign is no larger than two square feet.

8. Signs and Flags that spell "OPEN", are limited to one per business, as long as they are visible only during business hours.

9. Directional signs or tourist informational signs placed by the Town of New Shoreham.

10. Temporary banners promoting community events provided they are not displayed more than 10 days prior to the event and are removed within two days after the event and are temporarily affixed to a permanent structure.

H. No limitation based on content. Notwithstanding anything contained in this § 504 to the contrary, no sign or sign structure shall be subject to any limitation based on the content or viewpoint of the message contained on such sign or displayed on such sign structure. This limitation does not apply to: signs that are defamatory; signs that contain obscenity; pornographic signs; signs that convey fighting words; and signs that contain deceptive commercial messages.

I. Severability. The provisions of this § 504 are severable. In the event that any part of this Section is declared invalid, unlawful or unconstitutional by a court of competent jurisdiction, any such declaration shall not affect the remainder of this Section.

§ 505. Uses Involving Toxic or Hazardous Materials

§ 505 Uses Involving Toxic or Hazardous Materials

A. Purpose. These regulations are intended to protect the groundwater underlying the Island since it is the sole source of the Town's existing and future drinking water and is integrally connected with and flows into the surface waters, ponds, streams and coastal estuaries which constitute significant recreational and economic resources of the Town, and since accidental spills and discharges of petroleum products, other toxic and hazardous materials, and sewage threaten the quality of such groundwater and related water resources. The sole source aquifer condition of the Island calls for stringent means to insure the purity of the water system and its watershed.

B. Use Regulations.

1. Any use otherwise permitted as of right which involves the manufacture, storage, use, transportation or disposal of toxic or hazardous materials as well as any use permissible by Special Use Permit which involves toxic or hazardous materials, shall conform to the applicable provisions of Article 4, Standards for Uses Allowed by Special Use Permit, and to the requirements of this Section. Such uses include but are not limited to: municipal sewage treatment facilities with on-site disposal of primary or secondary treated effluent, road salt stockpiles, and any other use which involves the manufacture, storage, use, transportation or disposal of toxic or hazardous materials including but not limited to automotive service and repair, dry cleaning, electronic circuit assembly, metal plating, painting, wood preserving and furniture stripping, pesticide and herbicide application, photographic processing, printing.

2. Applicability. This Section shall not apply to uses involving toxic or hazardous materials in quantities associated with normal household use, maintenance or repair, and shall be exempt from this Section.

C. Requirements.

1. Water Quality. Groundwater quality resulting from on-site waste disposal and other on-site operations shall not fall below state or federal standards for drinking water at the down gradient property boundary (5 ppm concentration of nitrate-nitrogen and other relevant chemicals under the Federal Safe Drinking Water Standards).

2. Safeguards. Provision shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage or vandalism through measures such as: prohibition of underground fuel storage tanks; spill control pro-visions in the vicinity of chemical or fuel delivery points; secured storage areas for toxic or hazardous materials; and indoor storage provisions for corrodible or dissolvable materials. For operations which allow the evaporations of toxic or hazardous materials into interiors of any structures, a closed vapor recovery system shall be provided for each such structure to prevent discharge of contaminated condensate into the groundwater.

3. Disposal. For any toxic or hazardous wastes to be produced in quantities greater than those associated with normal household use, the applicant must demonstrate the availability and feasibility of disposal methods which are in conformance with accepted state/federal standards.

4. Drainage. All run-off from impervious surfaces shall be recharged on the site, diverted towards areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are not feasible and shall be preceded by oil, grease, and sediment traps to facilitate removal of all contaminants.

5. Risk Analysis. No use shall be approved which creates a risk to groundwater quality. Risk shall be determined by weighing the simplicity, reliability and feasibility of the control measures proposed against the degree of threat to water quality which would result if the control measures failed.

D. Special Procedures.

1. Review. All proposals governed by this Section shall be subject to Development Plan Review by the Planning Board. The Planning Board shall transmit application material to the Conservation Commission for its review and comment, and such comment shall be considered by the Planning Board if submitted to it in writing within 45 days of receipt by the Conservation Commission.

2. Submittals. In applying for a Special Use Permit required by this Section, the information listed below shall be submitted:

a. A complete list of all chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use, accompanied by a description of measures proposed to protect all storage containers/facilities from vandalism, corrosion and leakage, and to provide for control of spills.

b. A description of potentially toxic or hazardous wastes to be generated, indicating storage and disposal methods.

c. Projections of down-gradient concentrations of nitrogen and other relevant chemicals (e.g., Federal Safe Drinking Water Standards chemicals) at property boundaries and other locations deemed pertinent by the Zoning Board of Review. Projections shall be based upon appropriate groundwater models and guidelines available at the Town Hall and from the Conservation Commission.

§ 506. Onsite Wastewater Treatment Systems (OWTSs)

§ 506 Onsite Wastewater Treatment Systems (OWTSs)

[Ord. of 8-17-2011]

A. Findings and Purpose.

1. Findings. The provisions of this Ordinance are based upon the following findings.

a. New Shoreham's groundwater and surface water provide important natural and recreational resources, the protection of which is vital to the Island's economic and environmental well-being.

b. In 1984, The United States Environmental Protection Agency (USEPA) designated all of New Shoreham a Sole Source Aquifer (SSA) under the authority of the Safe Drinking Water Act. Certain land uses, and improperly functioning Onsite Wastewater Treatment System (OWTS) poses a threat to the quality and quantity of the Sole Source Aquifer.

c. Block Island's aquifer is integrally connected with surface waters, streams, wetlands, the coastal ponds and the Island's limited potable water supply. Groundwater generally flows towards and discharges to streams and ponds. Damage to any one component of this system could result in damage to another.

d. Location of an OWTS in close proximity to wetlands and waterbodies or in constrained soils such as those with high water tables, seasonal flooding, and excessive or restrictive permeability, negatively affects the ability of an OWTS to treat wastewater.

e. An OWTS, when improperly designed, installed, maintained or located may contaminate surface water and groundwater.

f. Contamination of the aquifer and related surface water poses a serious threat to the health, safety and financial well being of the Town.

g. According to the United States Geological Survey (USGS) report 94-4096 as amended, Hydrogeology and Water Resources of Block Island, RI, water conservation and protection on the Island is of vital importance. Availability of fresh drinking water depends on:

(1) Number, location, depth and pumping rate of wells;

(2) Volume of groundwater discharged to the ocean by the wastewater treatment facility;

(3) Volume and distribution of water discharged by an OWTS;

(4) Effect of OWTSs and other land uses on groundwater and surface water quality.

h. Water treated by the wastewater treatment facility is discharged offshore and is presently unavailable for recharging the Island's water supplies.

i. The Comprehensive Plan states that any capacity expansions of the Town's wastewater treatment facility should be used to support the land use objective of a compact town center. Outside of the town center OWTSs will continue to be the principal means of wastewater management.

j. The Town Comprehensive Plan establishes a water quality protection goal of maintaining existing high water quality for maximum protection of the Island's limited water supplies and vulnerable unique natural habitat.

k. In areas outside of the designated sewer area, OWTS maintenance, repair or replacement of a failing OWTS, water conservation, waste flow reduction measures, use of site appropriate, enhanced on-site wastewater treatment and land use and buffer requirements, all help to make OWTSs an efficient and environmentally sound method of wastewater treatment. Enhanced on-site wastewater treatment also results in less site disturbance, a goal of the New Shoreham Comprehensive Plan.

l. Even properly functioning OWTSs, in soils typical of Block Island, remove only an estimated 10 to 20% of associated nitrogen. Excess nitrates contaminate drinking water and may indicate the presence of other contaminants. In salt water nitrogen results in habitat loss through the destruction of eel grass beds and eutrophication. Poorly flushed estuarine coves exacerbate the nitrogen problem.

m. Water Quality Impacts of Changing Land Use on Block Island (URI Cooperative Extension, 1996), assesses potential changes in pollutant inputs given projected growth. This study also demonstrates the beneficial impact of various wastewater management options. It demonstrates that existing water quality can be maintained only if there is enhanced treatment of the OWTS effluent for certain areas of existing and future construction.

n. In recent years, OWTS technology for enhanced treatment of wastewater has progressed rapidly, providing for improved and cost-effective nutrient and pathogen removal. Enhanced treatment is needed to reduce nitrogen in wastewater and to enhance pathogen removal, particularly in high water table areas and areas with either excessively permeable or slowly permeable soils.

o. Innovative dispersal trench options such as shallow, pressurized dispersal trenches into which treated wastewater is discharged provide additional cost-effective opportunities for nutrient and pathogen removal in biologically active near-surface soils and require minimal site disturbance.

2. Purpose. The uses and regulations contained in this section of the Ordinance are intended to protect the health, safety and general welfare of the of the Town's residents and visitors and to prevent any degradation to New Shoreham's surface water or groundwater. This will help to ensure adequate effluent treatment by controlling pathogen and nutrient inputs to public and individual wells, shellfish beds, groundwater and surface water. It establishes minimum standards for the proper location, design, construction and maintenance of onsite wastewater treatment systems (OWTSs) used for the treatment and dispersal of wastewater. Together with the Wastewater Management Ordinance it will facilitate proper OWTS design, location and maintenance, help to prevent OWTS failure, extend system longevity and reduce long-term repair costs. As per G.L. 1956, § 45-24-30 the methods of protection recognize:

a. The natural characteristics of the land, including its suitability for use based on soil characteristics, topography and susceptibly to surface water and groundwater pollution;

b. The values of unique or valuable natural resources and features;

c. The availability and capacity of existing and planned public and/or private services and facilities;

d. The goals and patterns of land use contained in the New Shoreham Comprehensive Plan.

B. Authority. The Town of New Shoreham, in recognizing its authority to adopt requirements that are more restrictive than the Rhode Island Department of Environmental Management (RIDEM or Department) "Rules Establishing Minimum Standards Relating to Location, Design, Construction and Maintenance of Onsite Wastewater Treatment Systems" (OWTS Rules) as promulgated by the RIDEM, in accordance with G.L. 1956, § 42-17.1-2 and The Rhode Island Zoning Enabling Act, G.L. 1956, § 45-24, hereby establishes the following requirements. These requirements shall be considered an addition to, and not a replacement for, the referenced OWTS Rules and any subsequent amendments thereto.

C. Definitions. Any term not defined herein, shall be governed by the definition as it appears in the current OWTS Rules.

ALTERNATIVE OWTS COMPONENT

Any part of an OWTS that does not meet the design or construction requirements as provided by the OWTSs Rules, but has been demonstrated through field testing, calculations and other engineering evaluations to be equal to, or provide the equivalent performance of any part of an OWTS within the OWTSs Rules or to enhance or facilitate treatment, maintenance, longevity or efficiency of an OWTS, and for which a certification from RIDEM has been issued.

ALTERNATIVE TECHNOLOGY

Any OWTS technology for which design parameters are not specified in the OWTSs Rules, but has been demonstrated through field testing, calculations and other engineering evaluations to comply with performance standards consistent with the OWTSs Rules, and for which a certification from RIDEM has been issued.

APPLICANT

The owner or owners of the property or easement that is the subject of the application, or the person who holds a valid purchase and sales agreement for said property.

AREA SUBJECT TO STORM FLOWAGE

Drainage swales and channels which lead into, out of, pass through, or connect other watercourses, and which carry flows resulting from storm events but may remain relatively dry at other times.

BEDROCK

Rock, commonly called ledge, that forms the earth's crust. Bedrock includes rotten rock.

BEDROOM

Any room in a residential structure which is greater than 70 square feet in area, which is susceptible to present or future use as a private sleeping area and which satisfies all of the following requirements:

(1) Has at least one window that meets the 4.4 square foot minimum size and all other requirements of the "Rhode Island State Building Code SBC-1 or SBC-2";

(2) Has at least one interior method of entry and egress, excluding closets and bathrooms, allowing the room to be closed off from the remainder of the residence for privacy; and

(3) Is a heated living space that is unrestricted for year-round use. Rooms located below grade that are not recognized as bedrooms by the "Rhode Island State Building Code SBC-1 or SBC-2" are not recognized as bedrooms under this ordinance.

BLACKWATER

Liquid and solid human body waste and the carriage waters generated through toilet usage.

BUILDING SEWER

The pipe that begins outside the building foundation wall and extends to the septic tank, the pipe that begins outside the building foundation wall and extends to the grease tank, the pipe from a grease tank to a septic tank, or the pipe carrying laundry wastes directly to a leachfield.

CESSPOOL

Any buried chamber, including, but not limited to, any perforated metal tank, perforated concrete vault or covered hollow or excavation, which receives discharges of wastewater from a building sewer for the purpose of collecting solids and discharging liquids to the surrounding soil. As of December 31, 2005, the use of a cesspool is prohibited.

CHANGE OF USE

Any change in use or occupancy of any structure or part thereof which would violate any provision of the Rhode Island State Building Code, G.L. 1956, ch. 23-27.3, as amended, or any regulation promulgated thereto without first obtaining a certificate of occupancy indicating that the structure complies with the provisions of the state building code for the proposed new use. Change of use shall also be held to mean a conversion of a seasonally used structure to a structure for year-round use.

COASTAL SHORELINE FEATURE

A part of the shore as categorized by the State of Rhode Island Coastal Resources Management Program using the following categories: coastal beaches; barrier islands and spits; coastal wetlands; coastal headlands, bluffs and cliffs; rocky shores; manmade shorelines; and dunes.

COMPOST TOILET

Any self-contained toilet from which no liquid or solid waste materials are regularly discharged and from which a humus-like end product is produced.

DEPARTMENT OR RIDEM

The Rhode Island Department of Environmental Management.

DIRECTOR

The Director of the Rhode Island Department of Environmental Management or any subordinate(s) to whom the Director has delegated the powers and duties vested in him/her pursuant to G.L. 1956, chs. 46-12 and 42-17.1, as amended, or any other duly authorized Agent.

DISPERSAL TRENCH

A shallow ditch with vertical sides, filled with stone, in which a single perforated distribution line or other suitable distribution device is laid and over which a cover of earth is placed.

DISTRIBUTION BOX

A watertight compartment that receives effluent and distributes it in approximately equal portions to two or more distribution lines leading to some type of leachfield.

DISTRIBUTION LINE

The imperforated and perforated pipe or other suitable distribution device used to disperse effluent that extends from the distribution box.

DOSING

The pumped or regulated flow of wastewater.

EXPERIMENTAL TECHNOLOGY

Any OWTS technology that does not meet the location, design or construction requirements as provided by these Rules, but has been demonstrated in theory to meet the requirements of these Rules and may not be in use in Rhode Island or elsewhere as an approved technology for wastewater treatment.

FAILED OWTS

Any OWTS that does not adequately treat and disperse wastewater so as to create a public or private nuisance or threat to public health or environmental quality, as evidenced by, but not limited to, one or more of the following conditions:

(1) Cesspools are not an approved method of wastewater disposal under the OWTSs Rules and this Ordinance. All existing cesspools are considered to be substandard wastewater treatment systems. As of December 31, 2005, the use of a cesspool is prohibited, and shall be considered a failed system.

(2) Failure to accept wastewater into the building sewer;

(3) Discharge of wastewater to a basement; subsurface drain; stormwater collection, conveyance, or treatment device; or watercourse unless expressly permitted by the Department;

(4) Wastewater rising to the surface of the ground over or near any part of an OWTS or seeping from the absorption area at any change in grade, bank or road cut;

(5) The invert of the inlet or the invert of the outlet for a septic tank, distribution box, or pump tank is submerged;

(6) Pumping of the septic tank is required more than two times per year;

(7) OWTS is shown to have contaminated a drinking water well or watercourse;

(8) If a septic tank, pump tank, or distribution box is pumped and groundwater seeps into it; or

(9) Any deterioration, damage, or malfunction relating to any OWTS that would preclude adequate treatment and dispersal of wastewater.

(10) Excessive solids are evident in the distribution box or distribution lines.

FINANCIAL SURETY

A general obligation bond, revenue bond, performance bond, or any other type of financial guaranty, in fully marketable form, as evidence to the commitment of the construction of a sewer project.

FLOODPLAIN

That land area adjacent to a river or stream or other body of flowing water which is, on the average, likely to be covered with flood waters resulting from a 100-year frequency storm. A 100-year frequency storm is one that is to be expected to be equaled or exceeded once in 100 years; or may be said to have a 1% probability of being equaled or exceeded in any given year. Rainfall intensity data for a 100-year frequency storm are those established for New England locations by the National Weather Service.

FOUNDATION DRAIN

Any mechanical or gravity drainage system, including all porous media installed to facilitate drainage, that lowers the groundwater elevation beneath a building foundation and which has an outlet for the collected groundwater.

FRESHWATER WETLAND

Is defined as set forth in G.L. 1956, § 2-1-20(4), as amended, and as further defined by the Department's "Rules and Regulations Governing the Administration and Enforcement of the Fresh Water Wetlands Act." The term shall further be held to include those wetland types defined by the remainder of G.L. 1956, § 2-1-20 and the wetland regulations, including, but not limited to: marshes, swamps, bogs, ponds, rivers, river and stream floodplains and banks, areas subject to flooding or stream water, including rivers and streams, and that area of land within 50 feet of the edge of any bog, marsh, swamp or pond or that area within 100 feet

of a flowing body of water less than 10 feet wide or that area within 200 feet of a flowing body of water greater than 10 feet in width.

GRAYWATER

Wastewater drained from sinks, tubs, showers, dishwashers, clothes washers, and other non-toilet sources.

GROUNDWATER TABLE

The upper surface of the zone of saturation in an unconfined aquifer; includes a perched groundwater table.

HOLDING TANK

A closed watertight structure used to contain wastewater prior to being removed from the premises. A holding tank does not discharge wastewater to the surface of the ground or to the subsurface.

HUMAN TRANSPORTED MATERIAL

Any materials, other than those emplaced pursuant to the OWTS Rules, including but not limited to artifacts, organic materials, soil, rock, or sediment moved horizontally by directed human activity.

INVERT

The lowest portion of the interior of a pipe or fitting.

LARGE CAPACITY CESSPOOL

A cesspool that serves any non-residential facility that has the capacity to serve more than 20 people per day or serves any multi-family residence or apartment building. As of December 31, 2005, the use of a large capacity cesspool is prohibited.

LARGE ONSITE WASTEWATER TREATMENT SYSTEM

An OWTS that meets any of the following:

(1) Any single OWTS designed to treat 5,000 gallons or more per day;

(2) Multiple OWTSs for any project on one or more parcels of land, excluding residential subdivisions, where the total design flow for the project is 5,000 gallons or more per day; or

(3) All OWTSs serving more than one unit in a residential subdivision, provided that the total design flow of these OWTSs, each serving more than one unit, is 5,000 gallons or more per day.

LEACHFIELD

A group of one or more dispersal chambers or trenches designed for the final treatment and dispersal of wastewater into the underlying soil. The leachfield shall be held to mean the horizontal and vertical lines circumscribing the outermost edges including the area between the chambers or trenches and the depth to the bottom of stone.

LINEAR LOADING RATE

The loading rate per linear foot of leachfield (gallons per day per linear foot) along the land's contour.

MAINTENANCE

The regular cleaning of any concrete chamber, cesspool, septic tank, building sewer, distribution lines or any other component of an OWTS for the purpose of removing accumulated liquid, scum or sludge. The term, ”maintenance,” shall also be held to include regularly required servicing or replacement of any related mechanical, electrical, or other component equipment.

NITROGEN REDUCING TECHNOLOGY

A wastewater treatment technology that is accepted by the Department as capable of reducing the total nitrogen concentrations by at least 50% and meeting an effluent concentration of less than or equal to 19 mg/l.

ONSITE WASTEWATER TREATMENT SYSTEM (OWTS)

Any system of piping, tanks, dispersal areas, alternative toilets or other facilities designed to function as a unit to convey, store, treat or disperse wastewater by means other than discharge into a public sewer system.

ORIGINAL GROUND

Those soils that have been deposited or developed by natural processes, excluding storm deposited sand in the backdune environment.

OWNER

Any person who holds legal title to any real property; or has possession or control of any real property through any agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of a holder of a legal title. Each such person is bound to comply with the provisions of these Rules.

PERSON

Any individual, group of individuals, firm, corporation, association, partnership or any federal, state or municipal governmental entity.

PRIVATE DRINKING WATER WELL

Any manmade opening into the ground developed for the purpose of meeting a person's current potable drinking water needs provided said well does not supply a public water system. This definition shall include proposed private drinking water wells on an applicant's property and on other properties with an approved OWTS permit. Wells serving non-potable or non-drinking water needs are not considered private drinking water wells under either this Ordinance or the OWTS Rule. A well on a property that is served by a public water system is not considered a private drinking water well under the OWTSs Rule.

PROBE

Any exploratory test employing a driving rod, tool or other device to establish the depth of bedrock.

PUBLIC DRINKING WATER SUPPLY WELL OR PUBLIC WELL

Any manmade opening into the ground developed for the purpose of meeting all or part of a public water system needs.

PUBLIC WATER SYSTEM

Any water system that provides piped water to the public for human consumption, provided that such system has at least 15 service connections or serves an average of 25 individuals daily at least 60 days out of the year. A public water system shall include all sources and facilities involved in collecting, treating, storing and distributing the water.

PUMP TANK

A watertight structure equipped with one or more pumps designed to discharge wastewater intermittently into a leachfield.

REPAIR

Any work performed on an OWTS in order to mend or renovate a specific defect or deficiency after the failure, injury, deterioration or partial destruction of a previously existing OWTS or component thereof. A repair shall include any upgrade or modernize of an OWTS (e.g., replacement of cesspool). A repair shall not include any work performed on an existing OWTS that increases the flow capacity of the system.

RESIDENCE

Any structure used for housing purposes, including, but not limited to, single or multiple family dwellings, duplexes, tenements, apartment buildings, residential condominiums, mobile homes, recreational vehicles or trailers.

RESTRICTIVE LAYER

A soil horizon that is assigned to a soil category 10 as defined in Rule 15.11 of the OWTS Rules.

ROTTEN ROCK

Any decomposed but still coherent rock. Rotten Rock is greater than 50% coherent rock and lies above equal or more coherent rock.

SEASONAL HIGH GROUNDWATER TABLE

The elevation of the groundwater table during that time of the year at which it is highest as determined by direct observation or by interpretation of hydromorphic features in the soil profile.

SEPTAGE

Any solid, liquid or semi-solid removed from septic tanks, cesspools, privies, domestic wastewater holding tanks or other similar onsite wastewater treatment systems.

SEPTIC TANK

A watertight receptacle which receives the discharge of wastewater from a building sewer, and is designed and constructed to permit the deposition of settled solids, the digestion of the matter deposited, and the discharge of the liquid portion into the next treatment component or distribution box.

SEPTIC TANK EFFLUENT PIPE

The gravity-flow pipe that begins at the outlet of the septic tank or other treatment tank and extends to the next treatment component or distribution box.

SINGLE-SERVICE ARTICLES

Tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for use one time by one individual.

STORM DRAIN

Any pipe or structure designed to collect, carry and divert surface water runoff.

STRUCTURE

Any residence (as defined herein), building, garage, shack, trailer or other permanent or semi-permanent facility, whether commercial or non-commercial in use, which is proposed to be placed or has been built or otherwise placed on a parcel of real property.

SUBSURFACE DRAINS

Any system of below surface piping or highly permeable material intended to lower the groundwater table of an area, and which has an outlet to the surface for the collected groundwater.

TEST HOLE

Any excavation in the proposed leachfield area to collect information on the soil profile, depth to a restrictive layer or bedrock, depth to seasonal high groundwater table or any other applicable field information.

TIPPING DISTRIBUTION BOX

A type of distribution box where the effluent from the septic tank flows into a tipping pan, which when full, empties into the leachfield lines, thereby facilitating a more uniform distribution of effluent over the entire leach field.

TRIBUTARY

Any flowing body of water or watercourse that provides intermittent or perennial flow to down-gradient watercourses that eventually discharge to the waters of concern (e.g., reservoir impoundment or salt pond).

TRIBUTARY WETLAND

Freshwater wetlands within a watershed that are connected via a watercourse to the waters of concern (e.g., drinking water supply impoundment or coastal wetland or tidal waters).

WASTEWATER

Human or animal excremental liquid or substance, putrescible animal or vegetable matter or garbage and filth, including, but not limited to, water discharged from toilets, bath tubs, showers, laundry tubs, washing machines, sinks, and dishwashers. Both blackwater and graywater are considered wastewater under these Rules.

WATERCOURSE

Any river, stream, brook, pond, lake, swamp, marsh, bog, fen, wet meadow, area subject to storm flowage, or any other standing or flowing body of water, including such watercourses that may be affected by the tides.

WELLHEAD PROTECTION AREA

The area as designated by the Director in the RIDEM "Rules and Regulations for Groundwater Quality" surrounding a public well or wellfield through which water will move toward and reach such well or wellfield.

D. Regulations.

1. Given the findings in Subsection A above, in particular Block Island's SA water quality designation, the benefits and cost-effectiveness of enhanced wastewater treatment, and the fact that Block Island's groundwater and surface water are integrally connected with each other, the following shall apply:

a. It is the applicant's responsibility to ensure that the OWTS application to the Department is in compliance with this Ordinance regarding the location, design, construction and maintenance of an OWTS prior to submission to the Department. The OWTS application to the Department must be reviewed by the Building Official or their designee and/or the Sewer Commission for compliance with this Ordinance prior to RIDEM initiating its review. Applicants must submit documentation to RIDEM on forms approved by RIDEM that the Town of New Shoreham has certified that the OWTS application is in compliance with this Ordinance. [Amended 5-3-2022 by Ord. No. 2022-04]

b. The use of on-site wastewater treatment that meets or exceeds the design and performance standards in Subsections E and F of this Section shall be required for all new OWTS installations, OWTS alterations and major repairs, except as noted in Subsection C.

c. To help locate and facilitate the inspection, maintenance and pumping of a septic tank and ultimately to increase the longevity of the OWTS, all septic tanks installed, repaired or altered after the effective date of this Ordinance, shall be equipped with access risers to grade located at the inlet and outlet ends of the septic tank and an effluent filter located at the outlet end of the septic tank. These access risers shall be a minimum of 20 inches in diameter. These items shall be installed in accordance with specifications available from the Building Official or their designee and/or the Sewer Commission. [Amended 5-3-2022 by Ord. No. 2022-04]

d. For all septic tanks installed after the effective date of this Ordinance, the manufacturer must provide a written warranty that the tank to be installed has been constructed and tested in accordance with the American Society for Testing and Materials (ASTM) standard C-1227-02. In addition, tanks must be tested on-site and a written guarantee provided by the installer that the tank is water-tight. The accepted procedure for site-testing tanks as water-tight shall be performed in accordance with Rule 26.11 of the OWTS Rules.

e. To help locate and facilitate the inspection and maintenance of a tipping distribution box and ultimately to increase the longevity of the OWTS, all tipping distribution boxes installed, repaired or altered after the effective date of this Ordinance, shall be equipped with an access riser brought to finished grade. The access riser shall be a minimum of ten-inch diameter. The access riser shall be installed in accordance with specifications available from the Building Official or their designee and/or the Sewer Commission. [Amended 5-3-2022 by Ord. No. 2022-04]

2. Effluent Filters and Inspection Ports. To help locate and facilitate the inspection, maintenance and pumping of a septic tank and ultimately the longevity of the OWTS, all septic tanks installed prior to the effective date of this Ordinance shall, when determined technically feasible by the Building Official or their designee, be retrofitted with an effluent filter and access risers. The effluent filter shall be located at the outlet end of the septic tank and the access risers shall be located at grade at the inlet and outlet ends of the septic tank. These items shall be installed in accordance with the specifications available through the Building Official or their designee and/or the Sewer Commission. [Amended 5-3-2022 by Ord. No. 2022-04]

a. To help locate and facilitate the inspection and maintenance of a tipping distribution box and ultimately the longevity of the OWTS, all tipping distribution boxes installed prior to the effective date of this Ordinance shall, when determined technically feasible by the Building Official or their designee, be retrofitted with an access riser. The access riser shall be installed in accordance with the specifications available through the Building Official or their designee and/or the Sewer Commission. [Amended 5-3-2022 by Ord. No. 2022-04]

3. Cesspools. Cesspools are not an approved method of wastewater disposal under the OWTSs Rules and this Ordinance. All existing cesspools are considered to be substandard wastewater treatment systems. As of December 31, 2005, the use of a cesspool is prohibited, and shall be considered a failed system.

4. Deep concrete chambers (galleys), as described in Rule 34.4 of the OWTS Rule, are prohibited for OWTS Applications for New Building Construction and OWTS applications for Alterations to a Structure. Deep concrete chambers will not be permitted except for OWTS applications for Repair when no other type of leachfield can be utilized. The licensed designer must demonstrate that the repair alternatives to a deep concrete chamber are not feasible.

5. Alternative toilets, such as composting toilets, as described in Rule 36 of the OWTS Rules are prohibited, for use at a private dwelling, commercial facility, or any other structure; except, composting toilets may be permitted at a facility which is operated by the Town of New Shoreham, or a non-profit environmental, conservation, historical, or youth oriented organization when water is not regularly used at the facility.

6. All OWTS shall be maintained in accordance with the provisions of the Town of New Shoreham Wastewater Management Ordinance. Maintenance contracts shall be required on any system with mechanical components such as pumps, timers and alarms.

7. An OWTS shall be located on the same lot as the structure it serves, except when a system approved by the RIDEM is (1) also approved in a Flexible Design Residential Development or Land Development Project where approved by the Planning Board as part of the utilities plan for the development; or (2) where a wastewater treatment system serving two or more houses is proven necessary to remediate failed systems.)

8. When existing sewer lines are available and when connection to the sewers is in conformance with the Land Use and Facility Goals of the New Shoreham Comprehensive Plan, all new development shall be serviced by the municipal sewer system.

9. In order to ensure proper treatment of wastewater, an OWTS must be sized to handle the number of persons living in the house as calculated using RIDEM OWTS Rules and standards. This includes properties that are rented in excess of one week per year.

10. Wherever lot size and configuration permit, there shall be maintained a 150-foot setback from any new OWTS to any freshwater wetland as defined in Rule 7 of the OWTS Rules. The term wetland excludes from the definition, the land area within 50 feet of any freshwater wetland, defined by RIDEM as the perimeter wetland and commonly referred to as the wetland buffer zone. Likewise, there shall be maintained a 150-foot setback from any new OWTS to the inland edge of coastal feature of any salt marsh or other tidal wetland or waterbody.

11. Wherever lot size and configuration permit there shall be maintained a 200-foot setback from an OWTS to Sands Pond, Fresh Pond and Peckham Pond or any contiguous freshwater wetland (excluding from the definition, the land area within 50 feet of any freshwater wetland, defined by RIDEM as the perimeter wetland and commonly referred to as the wetland buffer zone). These ponds are identified in the Town of New Shoreham's map of the "Water Supply Reservoir Watersheds" as delineated by RIDEM for the RI Geographical Information Systems.

12. Buffer and/or setback requirements, at a minimum, shall be those established by RIDEM or CRMC as applicable.

13. On those parcels where the setbacks required in 10 and 11 above would preclude the construction of the dwelling or other principal structure and associated OWTS, the licensed OWTS designer must prepare a "Cumulative Impact Assessment" of the deviations from this Ordinance and submit it to the Building Official along with the deviation request. The Cumulative Impact Assessment shall include, but not be limited to: a description of all abutting properties identifying the location of all OWTSs, surface waters, wetlands, and private or public drinking water wells, a concise description of all variances and/or deviations granted in the permitting of these abutting OWTSs and any additional information which the Building Official may deem appropriate. The Cumulative Impact Assessment shall include a certification by the licensed OWTS designer that the OWTS has been located as far as possible from the wetland. The Building Official may submit the Cumulative Impact Assessment for review and advisory opinion to the Conservation Commission, the RI On-Site Wastewater Training Center, RIDEM, Town Engineer or other experts as deemed necessary. If the Building Official or their designee believes that there are no alternative and less detrimental locations for the OWTS, he shall approve it. Even if the Building Official or their designee believes that there are alternative and less detrimental locations for the OWTS, even if it means changing the proposed location of the house or other principal structure, the plan shall be amended to accommodate those suggestions or the applicant shall seek relief through a Special Use Permit. [Amended 5-3-2022 by Ord. No. 2022-04]

14. For all new OWTSs with a maximum daily flow over 690 gallons or for subdivisions or land development projects where there is concern regarding the potential adverse impact of an OWTS on surface water and groundwater, the Zoning Board or Planning Board or Wastewater Management Inspector may require the applicant to submit an engineering report prepared by a professional engineer registered in the State of Rhode Island. The objective of the engineering report is to assess the potential impact of the proposed development on groundwater and surface water quality and to detail mitigative measures regarding the specific siting and design of an OWTS. The engineering report shall be required to demonstrate the capability of the proposed OWTS to accept and transmit effluent at the proposed application rate without failure or adverse effect to groundwater or surface water. Such analysis shall include the following:

a. Complete site evaluation, including results of soil morphological analysis, of percolation tests, record of groundwater monitoring, and location of any water course, wetlands, and any existing or proposed private well or drain within 500 feet and any existing or proposed public well within 3,000 feet of the proposed OWTS; and

b. Hydrogeologic assessment of the disposal area considering potential of pollutant loading to groundwater below the OWTS; and

c. Adequate scientific and technical evidence on how the proposed design will mitigate potential adverse impacts on the following:

(1) Public health;

(2) Any surface water; including the cumulative impacts of the system to the surrounding area;

(3) Groundwater;

(4) The ability of groundwater and surface water to support or maintain plant and wildlife as well as any designated water uses;

(5) Public use and enjoyment of any recreational resource; and

(6) Surrounding persons or property as potential cause of any public or private nuisance.

E. Performance Standards. All new OWTS installations, OWTS repairs and upgrades to an OWTS must conform to the following minimum performance standards. When necessary to further the purpose and intent of this Section, the Zoning Board of Review may require more stringent standards when granting a Special Use Permit.

1. All new OWTS installations, OWTS repairs and upgrades to an OWTS must conform, to OWTS Treatment Level 1 (T1) or to OWTS Treatment Level 2 (T2) standards, except as noted in Subsection c below.

a. T1. A conventional OWTS with the addition of a certified water-tight tank, an effluent filter at the outlet end of the septic tank, at finish grade access risers over the septic tank inlet and outlet. If a tipping distribution box is installed, the distribution box shall have a minimum ten-inch diameter access opening brought to finished grade.

b. T2. A level of OWTS that includes the improvements of T1 and reduced biochemical oxygen demand and total suspended solids, and removal of total nitrogen and/or fecal coliform as specified below:

(1) T2N. A type of T2 system that achieves a minimum total nitrogen removal of 50% or a reduction to 19 mg/l, and biochemical oxygen demand and total suspended solids each reduced to less than or equal to 30 mg/l; all as measured at the outlet of the treatment unit prior to discharge to a dispersal trench.

(2) T2C. A type of T2 system that reduces fecal coliform to less than or equal to 1,000 fecal coliform counts/100 ml and reduces biochemical oxygen demand and total suspended solids to less than or equal to 10 mg/l as measured at the outlet of the treatment unit prior to discharge to a dispersal trench.

c. Shallow Dispersal Trenches. In addition to the system improvements and wastewater specifications above, shallow dispersal trenches may be required on a case by case basis in T2 treatment areas, where the soil rating is high or extreme, where the system is in a wetland buffer or where other site constraints exist.

2. The required level of wastewater treatment shall be determined based on site-specific data using TABLE 1 and TABLE 2. TABLE 1 shall be used to assign a site vulnerability rating. TABLE 2 shall be used to assign an OWTS treatment level to a site (T1 or T2) by combining the vulnerability rating with the site's location in a given resource protection area.

a. When a site requires both T2N and T2C treatment levels, the OWTS designer shall, after consulting with the Town Wastewater Management Inspector, recommend either T2N or T2C as the more appropriate choice. This decision is to be approved by Town Wastewater Management Inspector or Building Official. As of January 17, 2001, if a variance is still required for a T2C system, then the Wastewater Management Inspector shall authorize a T2N.

3. There shall be no net increase in off-site run-off.

Table 1

Site Vulnerability for an Onsite Wastewater Disposal System

Town Of New Shoreham

Site Characteristics	
Critical Depth1	
Depth to Seasonal High Water Table	
Depth to Restrictive Layer and/or bedrock2	
Depth to Water Table AND One of the Following: Restrictive Layer Or OWTS Soil Category 1 soils3	
< 2 feet	Extreme, Repairs Only
Extreme, Repairs Only	
Extreme, Repairs Only	
2 feet to < 4 feet	

High

Extreme, Repairs Only

Extreme, Repairs and New Construction

4 feet to 6 feet

Moderate

High

High

> 6 feet

Low

Moderate

Moderate

1.

All depths are measured from the original ground surface. Maps developed from the RI Geographic Information System (RIGIS) are available to show approximate depths to water table at 0 to 1.5 feet and 1.5 to 3.5 feet. Mapping is not available to show water table depths greater than 3.5 feet. These maps are to be used only as a planning tool. Actual measurements must be obtained from on-site date. In the event that critical depths for the various site characteristics overlap, the most restrictive shall apply.

2.

Restrictive layer and or bedrock are identified as category 10 soils in the RIDEM OWTS Rule.

3.

Excessively permeable soils and have the potential to contaminate groundwater due to limited pollutant removal capability with rapid drainage. Excessively permeable soils includes all highly permeable well drained soils (hydro group A) and other excessively permeable soil groups, as identified in the OWTS Rules as category 1 soils.

Table 2

OWTS Treatment for Resource Protection Areas

Critical Resources Island Resources

Town of New Shoreham1

Critical Resources

Island Resources2

Site Vulnerability Rating

Peckham, Sands & Fresh Pond Reservoir Watersheds & Associated WHPA's

Other WHPA

Great Salt Pond Watershed

Wetland Buffers to Critical Resources3

Island Aquifers

Wetland Buffers

Extreme, Repairs Only

T2C

T2C

T2N

T2

T2

T2

High to Extrem

T2C

T2C

T2N

T2 & $\leq$ 450 gpd & $<$ 1880 square feet Dwelling

T1 or T24

T2

Moderate

T2C

T1

T1

T2 & $\leq$ 450 gpd

T1

T15

Low

T2C

T1

T1

T2 & $\leq$ 450 gpd

T1

T16

1.

Shallow dispersal trenches may be required in certain T2 areas where the soil rating is high or extreme, where the OWTS is in a wetland buffer or where other site constraints exist.

2.

In Island Resource Areas, where T2 treatment levels are stipulated either T2C or T2N system may be required, based on specific site characteristics.

3.

All T2 systems in wetland buffers to critical resources shall meet either a T2N or T2C treatment as specified for the watershed or wellhead area in which they are located.

4.

Where the water table depth is 4-6 feet and soil is excessively permeable and no other constraint exists to result in High Site Vulnerability Rating, T1 treatment may be allowed.

5.

A T1 treatment system may be permitted where the wetlands is only associated with open ocean waters.

6.

A T1 treatment system may be permitted where the wetlands is only associated with open ocean waters.

F. Design Standards. The following standards are designed to minimize soil compaction and vegetative disturbance, reduce run-off, maintain groundwater infiltration and ensure a high level of on-site wastewater treatment.

1. All OWTS must follow the design criteria for the treatment zone in which they are to be located. Acceptable technologies for OWTS Treatment Level 1 and Treatment Level 2 areas are on file with the Building Official or their designee and/or the Sewer Commission. This listing provides standards relative to the acceptability and suitability of various enhanced wastewater treatment technologies for various environmental conditions and geographical locations. It also provides criteria as to which subcategory of T1 or T2 treatment level shall be used. The Building Official or their designee and/or the Sewer Commission, in consultation with the Town Engineer, RIDEM and the Rhode Island On-Site Wastewater Training Center may periodically update this list to allow for advances in on-site wastewater technology. [Amended 5-3-2022 by Ord. No. 2022-04]

a. An associated map of OWTS Treatment Level Zones for New Shoreham indicates whether Treatment Level 1 or Treatment Level 2 is likely to be required. The map, on file with the Building Official or their designee and/or the Sewer Commission, is for planning purposes only and is not a substitute for site specific information. The final decision relative to the required level of treatment will be based on location within a given watershed and site specific soil and water table information. [Amended 5-3-2022 by Ord. No. 2022-04]

2. Limit of construction and disturbance shall be designated on all plans and marked in the field with staked hay bales or silt fencing.

3. In coastal areas, buffer management and/or design shall, at a minimum, follow the Coastal Resource Management Council's technical regulations as per § 150 of the RI Coastal Resource Management Plan, Adopted October 9, 2003.

4. To reduce the impacts of non-point source run-off and potential impacts to OWTS, driveways shall be constructed of permeable material. Run-off from all impermeable surfaces shall be discharged to grassed or wooded areas or landscaped retention areas for temporary storage and infiltration.

G. Special Use Permit.

1. The Zoning Board of Review may grant a Special Use Permit for the installation of an OWTS which cannot meet the regulations and standards of this § 506.

2. Any new OWTS or OWTS alteration to be located in an OWTS Treatment Level 2 Area which has a water table less than or equal to 2.5 feet or an restrictive layer at less than or equal to four feet shall obtain a Special Use Permit.

3. In order to obtain a Special Use Permit, the applicant must demonstrate to the Zoning Board's satisfaction, compliance with the criteria contained in § 401(A)(1-9)-General Standards for Special-Use Permits, the performance and design standards located in sections E and F of this Subsection, and submit an engineering report as described in § 14 of this Ordinance to address the following criteria:

a. The design of the OWTS, associated buffer and building site in general shall minimize the problems and hazards associated with proximity to a critical resource area, excessively permeable soils, high water tables and impermeable or highly compacted soil. Such problems and hazards include, but are not limited to, surface break out of effluent, inadequately treated wastewater being discharged into the groundwater, contaminants

such as viruses, bacteria and nutrients migrating above compacted layers or in the groundwater towards water supplies and sensitive surface waters.

b. The system, once in use, will not pose a threat to the public health and safety nor cause any degradation of groundwater and/or surface water quality, including adverse effects due to cumulative impact.

c. In order to obtain relief from Subsections D and E, the applicant must also demonstrate that complying with the requirements of these Subsections would render the construction of the requested permitted use impossible.

d. The fact that the granting of a Special Use Permit would result in less expense to the applicant in implementing a permitted use shall not be used by the Zoning Board as a justification for granting the permit.

H. Technical Review. The Town may forward plans and related information submitted pursuant to this Section for review and comment to the Town Engineer, the RI On-Site Wastewater Training Center, or other experts as deemed necessary.

I. Severability. If any provision of this ordinance or any rule or determination made hereunder, or application hereof to any person, agency, or circumstances is held invalid by a court of competent jurisdiction, the remainder of this ordinance and its application to any person, agency, or circumstance shall not be affected thereby. The invalidity of any section or sections of this ordinance shall not affect the validity of the remainder of this ordinance.

(Entire § 506 was amended September 17, 2008)

§ 507. Archaeological Sites

§ 507 Archaeological Sites

Archaeological sites, already identified or discovered in the course of development, shall be brought to the attention of the Rhode Island Historical Preservation Commission as follows:

A. Pre-Identified Sites. When archaeological sites are known to exist on a proposed development site, the Commission shall be notified prior to the commencement of any development on the site, which shall commence no sooner than 15 days from such notification. (See Great Salt Pond Archaeological District Map)

B. Discovered Sites. When archaeological sites are discovered in the course of development, the Commission shall be notified promptly and development shall cease for 15 days from the time of such notification.

§ 508. Wind Energy Conversion Systems (WECS)

§ 508 Wind Energy Conversion Systems (WECS)

[Amended December 7, 2009; added December 7, 2009]

A. Purpose. The purpose of this section is to provide for the development and use of wind power as an alternative energy source while protecting scenic values, protecting public safety, controlling noise levels, preventing electromagnetic interference, and interfacing effectively with the Island's electric utility.

B. Jurisdiction. WECS are allowed as follows:

1. As a permitted use in the RA Zone, RB Zone, RC Zone, RC/M Zone, M Zone, OHC Zone, NHC Zone and SC Zone, and as a permitted use only on Assessor's Plat 1 Lot 1-2 in the C Zone, provided all applicable location and general standards contained in this section are met.

2. As a Special Use Permit, under the provisions of subsection 508F below, in the RA Zone, RB Zone, RC Zone, RC/M Zone, M Zone, OHC Zone, NHC Zone, SC Zone whenever location and general standards as applicable cannot be met given the characteristics of the parcel in question.

3. As a Special Use Permit under the provisions of § 508G below (utility-sized WECS) in the PU Zone, and as a Special Use Permit only on (that portion of) Assessor's Plat 2 Lot 48-1 and Lot 39 in the C Zone.

C. Location Standards.

1. If the closest property line to the proposed WECS is within 225 feet, as measured from the central base of the proposed WECS, one WECS is permitted on the lot with a height from the existing grade to the center of the blade of no more than 30 feet each and with a blade diameter not exceeding nine feet each. The total rated generating power of the system may not exceed 1 kW as per manufacturer's specifications.

2. If the closest property line to the proposed WECS is more than 225 feet, as measured from the central base of the proposed WECS, a WECS is permitted on the lot with a height from the existing grade to the center of the blade of no more than 45 feet and with a blade diameter not exceeding 15 feet. The total rated generating power of the system may not exceed 3 kW as per manufacturer's specifications.

3. If the closest property line to the proposed WECS is more than 300 feet, as measured from the central base of the proposed WECS, a WECS is permitted on the lot with a height from the existing grade to the center of the blade of no more than 62 feet each and with a blade diameter not exceeding 25 feet each. The total rated generating power of the system may not exceed 10 kW as per manufacturer's specifications.

D. General Standards.

1. The applicant shall employ all reasonable means, including landscaping and alternative locations, to minimize the visual impact of all WECS components. All components of the WECS and its support structure shall be painted in plain muted colors (i.e. light gray-blue) without any graphics or other decoration.

2. The minimum tower setback from any abutting property line, or off-site above ground utility line, shall be a distance equal to the height of the tower from its base to the tip of a blade in the uppermost position, plus five feet, or 50 feet, whichever is greater.

3. The minimum distance from any guy wire to any property line shall be 15 feet.

4. If an application for a single proposed WECS includes a notarized letter, in a form acceptable to the Building Official, from any abutting property owner (all owners of a property must sign the letter) that abutting property may be included for the purpose of determining compliance with the Location Standards as well as the tower and guy wire setbacks and other standards for the siting of a WECS.

5. Where two or more abutting property owners propose to share one WECS, all of the property owners must sign the application and all of those properties may be included for the purpose of determining compliance with the Location Standards as well as the tower and guy wire setbacks and other standards for the siting of a WECS.

6. The participating abutters in Subsections D(4) and D(5) above shall agree that they will record an instrument on the land evidence record, in a form to be provided by the Town Solicitor, which gives notice of the land's inclusion for the purpose of a WECS installation.

7. The levels of noise generated by any WECS, measured at any property line may not exceed the noise levels allowed under the New Shoreham Noise Ordinance. However, if base recordings done as referenced below exceed Town levels, the noise level is not to exceed 6 dBA above said base readings.

8. The tower, or other supporting structure, shall be made inaccessible to unauthorized personnel.

9. No WECS installation shall cause electromagnetic interference.

E. Procedures. The following procedures shall be followed in any application for a WECS:

1. Application for a WECS installation shall be made to the Building Official on a form to be provided to the applicant by the Building Official, and shall include proof of homeowner's insurance.

2. The application shall be prepared by a person or firm experienced in WECS installation, qualified to explain the installation, maintenance, safety and performance of the proposed WECS, including data with regard to noise levels and electromagnetic interference and provisions for year-round maintenance.

3. In addition to any other information the Building Official may require with an application, every application will include:

a. Structural design and installation drawings stamped by a registered professional engineer;

b. Manufacturer's documentation demonstrating compliance with the noise and electromagnetic interference requirements of this Ordinance;

c. A site plan indicating the location of the proposed WECS, distances to all property lines, existing and proposed structures, above ground utility lines and any other significant features or appurtenances;

(1) For any application, the Building Official may require that the site plan be prepared and stamped by a registered land surveyor or civil engineer if the distances are close to the Ordinance limits, difficult to verify or for other reasons the Building Official may determine that it is necessary.

d. Measurements of ambient noise at the property lines, prior to any WECS installation proposed. Said measurements shall include the date, time of day, weather and wind conditions present when taken.

4. After the WECS has been approved and installed, measurements will be performed by the Building Official of ambient and operating decibel levels at abutters' property lines to insure compliance with the provisions of the Ordinance which are to be maintained in the file for future reference. Said measurements shall be taken and recorded under similar conditions as were present when E(3)(d) were recorded.

5. Upon a complaint of excessive noise, ambient and operating decibel measurements shall be taken by the Building Official at the complainant's property line.

6. If the noise levels allowed under the Ordinance are exceeded, the Building Official shall cite the owner. The violation shall be deemed to be a public nuisance and must be corrected within 30 days from the date of notification. If the noise violation is not remedied the WECS shall be removed or relocated or shall remain inactive until the noise violation is remedied.

7. The Building Official may direct the owner of any WECS to remove the installation, including all appurtenances thereto, if the facility is not fully maintained, endangers neighboring property, or if it is abandoned. A WECS will be deemed to have been abandoned if it fails to generate power for one year or more.

F. Special Use Permit.

1. The Zoning Board of Review may grant a Special Use Permit for the installation of a WECS which cannot meet the regulations and standards of this Section.

2. In order to obtain a Special Use Permit, the applicant must demonstrate to the Zoning Board's satisfaction, compliance with the General Standards for Special Use Permits.

3. The standards for noise and electromagnetic will be met by the proposal.

4. Any adverse effects of the proposal are outweighed by countervailing public benefits, after considering the following:

a. Acoustic impacts on other properties, given a wind turbine having the noise characteristics specified in the Ordinance, and having considered the following:

(1) The wind exposure of the site;

(2) The proximity of the turbine to existing or potential sensitive noise receptors off-site;

(3) The acoustic buffering provided by intervening topography or buildings, and acoustic masking from trees or other elements that, like wind turbines, generate substantially increased noise under increased wind conditions;

(4) Potential interference with positive elements of the sonic environment, such as that from coastal wave action;

(5) Impacts on the visual environment as seen from other properties and from public roads, having considered the following:

(a) Visual prominence of the facility in light of its relationship to such things as topographic crests, sight lines from heavily traveled roads, or visually absorptive background landscape.

(b) The extent and nature of locations from which the facility would intrude into otherwise scenic views.

(c) Visual relationship to nearby elements that might provide visual impact buffering, or with which visual incongruity might be a likely result.

(6) Contribution of the facility to reducing Island energy dependence on fossil fuels, either through the quantity of energy produced or through testing an approach, providing an exemplar, or being one element in a larger energy program.

G. Utility Sized WECS. The Town of New Shoreham is uniquely well suited for the production of electrical energy from utility sized wind turbines. It has abundant wind resources, the best in the State of Rhode Island, in addition to very high electricity rates principally due to the expense of importing diesel fuel to operate its power plant. The installation of commercial or utility wind energy conversion systems shall be allowed by Special Use Permit within the Public Utility Zone (see § 321). For the purposes of this subsection, a utility wind turbine (See § 202, Definitions) shall meet the following standards:

1. A tower height which does not exceed 55 meters (180 feet) and a total height, with blades in motion, which does not exceed 80 meters, or 265 feet;

2. A noise level which, under manufacturer's specifications, does not exceed 100 dBa at the hub, nor 45 dBa at a distance of 330 feet; and

3. An exterior color which is non-reflective and designed to blend with the surrounding environment and minimal state-of-the-art lighting.

(Section Amended May 23, 2001)

§ 509. Rental Rooms

§ 509 Rental Rooms

[Amended 3-20-2024 by Ord. No. 2024-09]

A. Standards. Rental Rooms shall conform to the following:

1. Rental Rooms shall be within a legally existing owner-occupied Residence.

2. A maximum of two Rental Rooms may be rented.

3. An adequate sewage disposal system must be in place with proper documentation by RIDEM or by a certified OWTS designer or installer. Alternatively, the Sewer Commission shall certify that adequate sewer capacity has been allotted for the proposed use and that all fees and bills have been paid.

4. Residences containing Rental Rooms shall contain an adequate escape route and a functioning smoke detector of a type and location which complies with the R.I. Fire Safety Code.

5. Rental Rooms may accommodate a maximum of two persons.

6. A license must be obtained from the Town of New Shoreham prior to any Rental Rooms being rented without a license from the Town. The term and fees for Rental Room licenses shall be set by the Town Council.

B. Procedures.

1. Before any license can be issued by the Town for any Rental Rooms, an application, including all necessary documentation, shall be made to the Building Official.

2. Within 30 days of receipt of a completed application, following inspection by the Minimum Housing Inspector, if all the provisions of this section have been met, the Building Official shall issue a Certificate of Use and Occupancy for the Rental Rooms. If the provisions have not been fully satisfied or if the Minimum Housing Inspector has been unable to access the property, the application shall be rejected and the Building

Official will send a written statement to the applicant detailing the reasons for rejection. When the reasons for denial have been corrected, the applicant may submit a new application at any time.

3. Fees for the Certificate of Use and Occupancy are payable at the time an application is made.

4. Any property owner, holding a Certificate of Use and Occupancy for rental rooms, may apply for a license to rent those rooms.

5. The Rental Room License shall be good for one year and may be renewed by application and payment of the appropriate fee. Dwelling units with Rental Rooms shall be subject to re-inspection by the Minimum Housing Inspector every year.

6. Rental of rooms without a valid Certificate of Use and Occupancy and License, as provided in this Ordinance, shall constitute a violation of this Ordinance. (Section Amended August 16, 2000)

§ 510. Accessory Uses/Home Occupation

§ 510 Accessory Uses/Home Occupation

[Amended 3-20-2024 by Ord. No. 2024-09]

A. Standards. The following are required for accessory uses not allowed at that location as a principal use:

1. The use shall not be advertised or identified on site.

2. The use shall be carried on by a resident of the property and no more than one non-resident employee.

3. The use shall be conducted in a workshop, studio or office entirely contained within a lawfully existing structure and shall not occupy more than 25% of the building footprint.

4. The parking or storage of equipment shall be confined to an area not exceeding 10% of the developable land area of the lot, located at least 50 feet from the primary access road, and screened by a six-foot hedge or fence.

5. The on-site sale of anything other than products produced on site is not an accessory use.

6. The use shall not be permitted without the principal use to which it is related, and shall conform to the standards set forth in this Section.

7. Renting of an Accessory Dwelling Unit is not a Home Occupation.

§ 511. Accessory Residential Structure

§ 511 Accessory Residential Structure

[Amended 3-20-2024 by Ord. No. 2024-09]

A. Standards. All Accessory Residential Structures shall conform to the following:

1. Kitchens. No kitchen, cooking facilities or kitchen appliances including but not limited to a stove, oven, microwave, hot plate or other cooking devices, cabinets or kitchen islands shall be permitted. Refrigerators are permitted.

2. Rent. No rent, or other compensation, shall be paid by any occupant for use of an Accessory Residential Structure independent of the primary residence.

3. Dimensional Standards. All dimensional standards shall be met for the zone in which it is located.

4. Sanitary Facilities. Provision(s) for sanitary facilities for all of the uses on the lot shall be provided. Any OWTS system serving the property shall have been certified by applicable state and local authorities to be adequate and suitable for the additional anticipated usage. If the property is served by municipal sewer the Sewer Commission shall certify that adequate sewer capacity has been allocated to the property and that all fees and bills have been paid.

5. Parking. Adequate on-site, off street, parking shall be provided for all uses on the property.

6. Life Safety. Adequate escape route(s), functioning smoke detectors, carbon monoxide detectors and any other local or state required safety device of a type and location provided in the State Fire Code shall be provided for all uses on the property.

7. Ownership. The property together with the principal use or structure, shall be held in single, joint, common or otherwise undivided ownership. No condominiums are permitted. (Section Amended 6-21-2000)

§ 512. Outdoor Lighting

§ 512 Outdoor Lighting

A. Purpose. The residents of New Shoreham value the Town's rural qualities, including the ability to view the stars against a dark sky. Inappropriate and poorly designed or installed outdoor lighting causes unsafe and unpleasant conditions and limits their ability to enjoy nighttime sky. Good outdoor lighting at night benefits everyone. It increases safety, enhances the Town's nighttime character, and helps provide security. New lighting technologies have produced lights that are extremely powerful, and these types of lights may be improperly installed so that they create problems of excessive glare, light trespass, and higher energy use. Excessive glare can be annoying and may cause safety problems. Light trespass reduces everyone's privacy, and higher energy use results in increased costs for everyone. Appropriately regulated, and properly installed, outdoor lighting will contribute to the safety and welfare of the residents of the Town. It is intended to eliminate problems of glare, minimize light trespass, and help reduce the energy and financial costs of outdoor lighting, by establishing regulations which limit the area that certain kinds of outdoor-lighting fixtures can illuminate, and by limiting the total allowable illumination of properties in the Town. Luminaires on all properties, in all zoning districts, shall be installed with the idea of being a "good neighbor," with attempts to keep unnecessary direct light from shining onto abutting properties or streets.

B. General. All public and private outdoor lighting installed in the Town of New Shoreham shall be in conformance with the requirements established by this Ordinance.

C. Control of Glare; Luminaire Design Factors.

1. Any luminaire with a lamp or lamps rated at a total of more than 1800 lumens and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens shall not emit any direct light above a horizontal plane through the lowest direct light emitting part of the luminaire.

2. Any luminaire with a lamp or lamps rated at a total of more than 1800 lumens and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens shall be mounted at a height equal to or less than the value 3 + (D/3) where D is the distance in feet to the nearest property boundary. The maximum height of the luminaire may not exceed 15 feet. (See APPENDIX H included as an attachment to this chapter)

3. Any luminaire used for the purpose of uplighting shall not exceed 232 lumens.

D. Exceptions.

1. Any luminaire with a lamp or lamps rated at a total of 1800 lumens or less and all flood or spot luminaires with a lamp or lamps rated at 900 lumens or less may be used without restriction to light distribution or mounting height except that if any spot or flood luminaire rated 900 lumens or less is aimed, directed or focused such as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions. (See APPENDIX G included as an attachment to this chapter)

2. Luminaires used for public roadway illumination, installed on a public utility pole, may be installed at a maximum height of 25 feet and may be positioned at that height up to the edge of any bordering property.

3. All temporary emergency lighting needed by the Police, the Fire Departments or other emergency services as well as all vehicular luminaires shall be exempt from the requirements of this Ordinance.

4. All hazard warning luminaires required by governmental regulatory agencies are exempt from the requirements of this ordinance except that all luminaires used must be shown to be as close as possible to the minimum lumen output required for the specific task.

5. Luminaires used primarily for sign illumination may be mounted at any height to a maximum of 15 feet regardless of lumen rating.

6. Seasonal holiday decoration lights.

E. Temporary Outdoor Lighting.

1. Any temporary outdoor lighting that conforms to the requirements of this Ordinance shall be allowed.

2. Nonconforming temporary outdoor lighting may be permitted by the Town Council by special temporary permit. The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the Council with the request. A failure of the Council to act on a request shall constitute a denial of the request. In granting any permit the Council shall consider:

a. The public and/or private benefits which will result from the temporary lighting;

b. Any annoyance or safety problems that may result from the use of the temporary lighting; and

c. The duration of the temporary nonconforming lighting.

F. Waterfront Lighting. Outdoor lighting in, and around the ponds, lakes, harbors and other waters of the Town, shall not be installed or maintained so as to create a hazard or nuisance to other property owners, navigation or boaters and shall comply with the following:

1. Lights on docks or piers shall be no more than three feet above the docks or piers, shall be downward directed, and shall be no more than 550 lumens or less.

2. Lights illuminating paths, stairs, decks, etc. shall not be directed toward the waters and shall be no more than 1800 lumens or less.

3. All exterior lighting shall be located, mounted and shielded so that direct illumination is not directed on the water surface more than 20 feet from shore.

G. Nonconforming Luminaires.

1. All luminaires lawfully in place prior to the date of the adoption of this Section of the Zoning Ordinance shall be exempt from the provisions of this Ordinance for a period of five years.

2. Disability Glare. Legal nonconforming luminaires that direct light toward streets, parking lots or the water, that cause disability glare to motorists, cyclists, pedestrians or boaters shall either be shielded or redirected within 90 days of notification, so that the luminaires do not cause a potential hazard.

3. Any luminaire that replaces a legal nonconforming luminaire or any nonconforming luminaire that is moved must meet the standards of this Ordinance.

H. Notification.

1. Any building permit application and issued building permit shall include a copy of this Ordinance.

2. Within 30 days of the enactment of this Ordinance the Building Official shall send a copy of the ordinance to all local electricians, general contractors and the local electric utility.

3. Failure to comply with sections 1 and 2 above, or to personally notify anyone, is not grounds to invalidate the provisions of this Ordinance. The notification provisions are intended to serve as a courtesy only to those notified. (Section Added December 4, 2000)

§ 513. Accessory Dwelling Units

§ 513 Accessory Dwelling Units

[Amended June 19, 2002, August 21, 2006, and October 6, 2008; September 27, 2006; September 27, 2006; 3-5-2018 by Ord. No. 2018-03; 9-19-2018 by Ord. No. 2018-18; 5-3-2022 by Ord. No. 2022-03; 5-3-2022 by Ord. No. 2022-04; 10-19-2022 by Ord. No. 2022-06; 8-16-2023 by Ord. No. 2023-05; 3-20-2024 by Ord. No. 2024-09]

A. Purpose. The purpose of this section is to create housing opportunities through the provision of rental housing for year-round residents while affording the owner of the primary residence with the opportunity to generate supplemental income. The purpose of this section is also to support local businesses by allowing for employee housing in permitted zones for those deriving income from seasonal employment on the island.

B. Standards for Accessory Dwelling Units-General Standards. All Accessory Dwelling Units shall conform to the following:

1. Rental. May be rented in accordance with Section C1 Standards for Residential Zones, Section C2: Standards for Commercial Zones and Section F, Maintaining Accessory Dwelling Units, below.

2. Location. Such use may be connected to and accessible from the principal use or building or a separate unit on the same lot.

3. Ownership. The property together with the principal use or structure and Accessory Dwelling Unit shall be held in single, joint, common or otherwise undivided ownership. No condominiums are permitted.

4. Sanitary Facilities. Provision(s) for sanitary facilities for all of the uses on the lot shall be provided. Any OWTS system serving the property shall have been certified by applicable state and local authorities to be adequate and suitable for the additional anticipated usage. If the property is served by municipal sewer the Sewer Commission shall certify that adequate sewer capacity has been allocated to the property and that all fees and bills have been paid.

5. Parking. Provide a minimum of one (1) on-site, off street, parking space for each Dwelling Unit beyond what is already required for the primary use.

6. Life Safety. Adequate escape route(s), functioning smoke detectors, carbon monoxide detectors and any other local or state required safety device of a type and location provided in the State Fire Code shall be provided for all uses on the property.

7. Number of Bedrooms. There shall be maximum of three (3) bedrooms unless a Special Use Permit is obtained in accordance with Section D below.

8. Maximum Square Footage. There shall be a maximum of twelve hundred (1,200) square feet of living floor area unless a Special Use Permit is obtained in accordance with Section D below.

9. Minimum living area. There shall be a minimum living area consistent with Rhode Island Housing Code, R.I. Gen. Law 45-24.3-11.

10. Dimensional Standards. The Accessory Dwelling Unit must not exceed dimensional standards established for accessory structures within the applicable Zoning District.

C. Specific Standards.

1. Standards for Residential Zones.

In addition to the Section 513B General Standards above, the following standards shall apply to such Accessory Dwelling Units located in the RA Zone, the RB Zone, the RC Zone, the RC/M Zone, and the M Zone.

a. Modifications to the exterior of an existing principal structure resulting from the installation of an Accessory Dwelling Unit, or the design and construction of new homes with an Accessory Dwelling Unit integrated into the design from the start, shall be consistent with the principal building's predominant character as a single-family home. Only one (1) main entrance for each will be permitted. All other entrances shall be located at the side or rear of the building. The Building Official shall determine to what degree interior or exterior modifications shall be made to conform to the requirements of the state building code for life safety and fire separation.

b. There shall be a maximum of one (1) Accessory Dwelling Unit per lot without a Special Use Permit.

c. As a condition for the issuance and continued validity of an occupancy permit for an Accessory Dwelling Unit, the owner shall execute and record against the deed to said property a restriction, running with the land and in favor of the Town, to the effect that occupancy of the Accessory Dwelling Unit shall be limited to persons residing in the Town year-round (as defined in Chapter 2, Article I, Section 2-2 of the Revised Ordinances of the Town of New Shoreham) and that the Accessory Dwelling Unit may not be offered, nor used, for seasonal occupancy; and the owner shall file with the Town, prior to issuance of an occupancy permit and within thirty (30) days of any change in ownership of the premises, an affidavit, signed under the penalties of perjury by the owner of the premises, attesting to the fact that the Accessory Dwelling Unit is, and will be, limited to occupancy by persons residing in the Town year-round (as defined in Chapter 2, Article I, Section 2-2 of the Revised Ordinances of the Town of New Shoreham) and that the Accessory dwelling[??] Dwelling Unit will not be offered, nor used, for seasonal occupancy. The affidavit shall be renewed by the owner of the premises every two (2) years as a condition for retaining an occupancy permit for the Accessory Dwelling Unit.

2. Standards for Commercial Zones.

In addition to the Section 513B General Standards above, the following standards shall apply to Accessory Dwelling Units located in the SC Zone, the OHC Zone and the NHC Zone:

a. There shall be a maximum of three (3) Accessory Dwelling Units per lot without a Special Use Permit.

b. As a condition for the issuance, and continued validity, of an occupancy permit for any Accessory Dwelling Unit, the owner shall execute and record against the deed to said property a restriction, running with the land in favor of the Town, to the effect that occupancy of the Accessory Dwelling Unit shall be limited to persons resident in the Town year-round (as defined in Chapter 2, Article I, Section 2-2 of the Revised Ordinances of the Town of New Shoreham) or deriving income from employment on the Island and that the dwelling Dwelling Unit may not be offered, nor used, for seasonal occupancy except for seasonal occupancy by persons deriving income from employment on the Island; and the owner shall file with the Town, prior to issuance of an occupancy permit and within thirty (30) days of any change in ownership of the premises, an affidavit, signed under the penalties of perjury by the owner of the principal structure, attesting to the fact that the Accessory Dwelling Unit is, and will be, limited to occupancy by persons residing in the Town year-round (as defined in Chapter 2, Article I, Section 2-2 of the Revised Ordinances of the Town of New Shoreham) or deriving income from employment on the Island and that the Accessory Dwelling Unit will not be offered, nor used, for seasonal occupancy except for seasonal occupancy by persons deriving income from employment on the Island. The affidavit shall be renewed by the owner of the premises every two (2) years as a condition for retaining an occupancy permit for the Accessory Dwelling Unit.

c. A separate affidavit shall be required for each Accessory Dwelling Unit clearly identifying the Dwelling Unit and distinguishing it from any other Accessory Dwelling Units on the property.

3. Standards for Town Employee Accessory Dwelling Units.

In addition to the Section 513B General Standards above, all Accessory Dwelling Units for Town Employees:

a. Accessory Dwelling Units owned by the Town of New Shoreham and constructed principally for the purpose of providing housing for employees serving necessary local government functions shall be exempt from the Standards of C1b, C1c, 2, E2, E3 and G2 of Section 513.

b. There shall be no more than four (4) Accessory Dwelling Units on a lot owned by the Town of New Shoreham. Such Accessory Dwelling Units shall be permitted, without regard to the residential density requirements of the zoning district in which the lot is situated.

c. If, at such time after the construction of the permitted dwelling unit(s) for the purpose of providing housing for employees serving necessary local government functions, there becomes no immediate need for the housing by the Town, it may be rented, on a yearly basis, to a resident qualifying as a low or moderate income person or family.

d. Procedure. Notwithstanding any other provisions of this Ordinance, no construction of or alterations to buildings or structures for the development of Town Employee Accessory dwelling units shall be permitted until development plans have been reviewed and approved by the Planning Board as set forth in Section 704, Development Plan Review.

e. Plans Required. In addition to any applicable submittals required under Development Plan Review, the applicant shall submit:

(1) An existing conditions plan prepared by a registered land surveyor or professional engineer which shows contours at two (2) foot intervals; all structures, travel lanes and parking areas; all street and lot lines, dimensions and property setbacks; and the location of wetlands and water bodies on the property.

(2) A site plan which indicates the intended location of the proposed structures, with all dimensions and setbacks indicated, and all site improvements, including proposed grading, parking areas, fencing, landscaping and lighting.

(3) Architectural plans for any new construction or exterior alterations to any existing structure.

f. Standards of Review. No final approval of any development plan for building construction or alteration or other site improvements may be granted by the Planning Board until it has reviewed the plans in accordance with, but not limited to, the following:

(1) All applicable general site standards contained in Section 501 A.

(2) The limitations on building footprint, living area, gross area and building volume as delineated in Section 406 for a residential structure

(3) All other applicable parking, landscaping, signage and utility standards.

D. Accessory Dwelling Units by Special Use Permit.

1. Applicability.

The following Accessory Dwelling Units require a Special Use Permit:

a. An Accessory Dwelling Unit greater than 1,200 square feet of living floor area, up to a maximum of 1,500 square feet of living floor area.

b. A structure existing as of July 1, 2022, greater than 1,200 square feet of up to 1,800 square feet of living area, may be converted proposed for conversion into an accessory Accessory Dwelling Unit, upon the granting of a Special Use Permit by the Zoning Board of Review.

c. An Accessory Dwelling Unit greater than three (3) bedrooms up to a maximum of four (4) bedrooms.

d. An Accessory Dwelling Unit proposed in a primary or accessory structure that is lawfully established preexisting non-conforming pursuant to R.I.G.L. § 45-24-73(b).

e. In the RA Zone, the RB Zone, the RC Zone, the RC/M Zone, and the M Zone, two (2) Accessory Dwelling Units may be permitted if the result would be a residential density of not more than three (3) dwelling units per lot.

f. In the SC Zone, the OHC Zone and the NHC Zone, more than three (3) Accessory Dwelling Units.

Exception:

Upon granting of a Special Use Permit by the Zoning Board of Review, for lots of record that are substandard by lot area, the first 600 square feet of a new Accessory Dwelling Unit may be excluded from the calculation of lot building coverage for the sole purpose of creating the Accessory Dwelling Unit. The owner shall execute and record against the deed to said property a restriction that in exchange for the bonus, the Accessory Dwelling Unit created shall remain part of the island's attainable year-round housing stock for a period not less than fifteen (15) years from the date of the issuance of the certificate of use and occupancy.

2. Requirements.

An application must be submitted for a Special Use Permit. Any such application shall also be subject to Development Plan Review. Prior to the approval of an application submitted under this section, the Zoning Board of Review shall determine that the application meets the General Criteria for a Special Use Permit contained in § 401, General Criteria for a Special Use Permit.

3. Expedited Approval Process ("EAP").

a. An Accessory Dwelling Unit that requires a Special use Permit under Section 513D:

Accessory Dwelling Units by Special Use Permit, but otherwise conforms to all other applicable standards and dimensional regulations contained in this Ordinance, shall be exempt from having to obtain a Special Use Permit if an application for building permit is filed with the Building Official for review and approval, and said application includes at the time of filing:

(1) Planning Board Pre-approved building plans. The Planning Board may from time to time review and approve such building plans. Details and plans of planning board pre-approved structures shall be held by the Zoning Official and may be obtained upon request;

(2) Approval from applicable state and local authorities for a new OWTS and/or tie in to a pre-existing system;

(3) A well system which has been approved by applicable state and local authorities;

(4) If the property is on Town water, a letter from the water company attesting the fact that the additional allotment required, is available;

(5) A sufficient electrical and/or solar energy system which has been approved by applicable state and local authorities; and

(6) An affidavit from the owner that the Accessory Dwelling Unit will be offered for year-round rental only.

E. Additional Requirements For All Accessory Dwelling Units:

Prior to issuance of a Building Permit and/or any permit of occupancy for any Accessory Dwelling Unit, the Property owner shall:

1. Properly demonstrate through RIDEM certification or inspection by the Wastewater Management Inspector, or his or her designee, and any necessary repair, modification, alteration or replacement of the OWTS that all required State code requirements are met and that the OWTS serving the property shall be adequate and suitable to accommodate the additional anticipated usage. If the property is served by municipal sewer, the Sewer Commission shall certify that adequate sewer capacity has been allocated to the property and that all fees and bills have been paid.

2. Record a declaration in the land evidence records and provide a copy to the Zoning Official and Building Official, detailing all use restrictions, including a restriction in favor of the Town, that occupancy of the Accessory Dwelling Unit shall be restricted as set forth in this ordinance, and

3. File with the Town, and again within thirty (30) days of any change in ownership of the premises, an affidavit that the Accessory Dwelling Unit is, and will be, limited to the restricted occupancy as set forth in this Ordinance. The affidavit shall be renewed by the owner of the Property every two (2) years.

F. Maintaining an Accessory Dwelling Unit.

All Accessory Dwelling Units shall be rented only by a written rental agreement which shall be kept by the owner and filed with the Zoning Official. Personal, financial or protected information may be redacted.

1. For all Accessory Dwelling Units, except Town Employee Accessory Dwelling Units, once the individual(s) identified in the rental agreement no longer reside in the premises on a permanent basis, or the title is transferred, the property owner shall notify the zoning official in writing, and the Accessory Dwelling Unit shall be considered abandoned pursuant to § 513G.

2. Fire escape routes, smoke detectors, carbon monoxide detectors and any other local or state required safety device of a type and location provided in the State Fire Code shall be properly maintained at all times.

3. Accessory Dwelling Units shall be subject to inspection by the Zoning Official and/or Building Official upon forty eight (48) hours' prior notice of the date, time and purpose of the inspection.

G. Termination, Abandonment and Release.

1. Any property owner with an Accessory Dwelling Unit may terminate the use and obtain a written release of the restrictions recorded under Section 513C and/or Section 513E2 by abandoning the use in accordance with the following procedure:

a. The owner of the property shall send a written notice by certified mail of the intention to abandon the Accessory Dwelling Unit use to the Zoning Official and any tenant(s) expressly abandoning the use, stating the use to which the dwelling unit is to be changed and stating the date of the abandonment.

b. The owner shall convert the dwelling unit from a dwelling unit to another use by, at a minimum, removing all cooking facilities and associated utilities such that any reconversion to a dwelling unit will require a building permit.

c. On, or after, the date of abandonment the Building Official or his or her designee shall inspect the dwelling unit and certify in writing that the dwelling unit has been abandoned stating the date of the inspection, specifically what alterations were made by the owner in converting the dwelling unit and to what use it has been converted. The Building Official shall ensure that all alterations have been done according to code requirements.

2. If any Accessory Dwelling Unit is not rented or occupied, in accordance with the terms of this Section, for a period in excess of one year, the Accessory Dwelling Unit use may be considered to have been abandoned. The Building Official and/or Zoning Official shall conduct an investigation, document his or her findings, and notify the property owner of his or her determination. In the Notice the Building Official and/or Zoning Official shall advise the property owner that a new application for a Special Use Permit will be required to reacquire the use. If no response is received the Building Official and/or Zoning Official shall record the Notice on the Land Evidence Records. Thereupon, the owner shall convert the dwelling unit from a dwelling unit to another use by, at a minimum, removing all cooking appliances and kitchen plumbing such that any reconversion to a dwelling unit will require a building permit.

This does not preclude the Building Official and/or Zoning Official from pursuing any other violation of the terms of this Section by someone, for example, renting the unit weekly at market rates.

§ 514. Residential Structures in the RA and RB Zones

§ 514 Residential Structures in the RA and RB Zones

[Amended 8-2-2021 by Ord. No. 2021-08; 12-5-2022 by Ord. No. 2022-07; 3-20-2024 by Ord. No. 2024-09]

A. Purpose. The purpose of this section is to provide limitations on the massing and size of residential structures to ensure that new development is designed in a manner that complements traditional construction styles and in particular, protects the viewshed and quality of life of island neighbors, residents and visitors.

B. Applicability. This section shall apply to all single family dwellings, accessory structures, Accessory Residential Structures and Secondary Dwelling Units proposed within the RA and RB Zones for which a building permit is issued after the effective date of October 6, 2008. Where there is a conflict between the standards contained in this section and those in any other applicable section of this ordinance, the most restrictive standard shall apply.

C. Standards. The following standards shall apply (See Section 202, Definitions: "Plane, Building," "Plane, Wall," "Building Footprint," "Floor Area Living," "Building Volume"):

1. No residential structure shall have a wall plane in excess of 45 feet in length (See Appendix I, Figures 4 and 5).

2. No residential structure shall be constructed with a building plane in excess of 75 feet in length (See Appendix I, Figure 5).

3. In no case shall a building footprint of any residential structure, principal or accessory, exceed 3,500 square feet, exclusive of ground level or first floor decks, or one story (no floor area above) unenclosed porches.

4. In no case shall a residential structure exceed 5,000 square feet of living floor area.

5. In no case shall the volume of any residential structure, principal or accessory, exceed 65,000 cubic feet.

6. The roof design and pitch of all new residential structures constructed at a height greater than 28 feet shall comply with the following standards:

a. Hip roofs and gable roofs, including gable dormers but excluding porch roofs, shall be constructed at a minimum pitch of 7 inches vertical over 12 inches horizontal.

b. Shed dormers shall be constructed at a minimum distance of two feet horizontally from exterior gable end walls.

c. Gambrel roofs shall be constructed so that they are compatible with the pitch and proportion of historic gambrel roofs on the island.

d. Mansard roofs shall be constructed so that they are compatible with pitch and proportions of historic mansard roofs on the island.

e. Flat roofs shall not be permitted.

§ 515. Trades Trailers

§ 515 Trades Trailers

A. General Standards. Commercially used enclosed trailers which provide for the storage and transport of equipment and supplies related to the building and other trades are permitted, provided that any such trailer:

1. Is currently registered as a commercial vehicle;

2. Is equipped with wheels so that it is transportable by towing;

3. Does not include interior plumbing fixtures;

4. Has box size not exceeding eight feet in width or 24 feet in length;

5. Is able to be entirely closed so that the contents are not visible when not in use; and

6. Shall be painted in a neutral color or a color that blends with the surrounding environment.

B. Identification. Trades trailers shall be identifiable from the exterior by either the business name or the Rhode Island license number for the business. Any building contractor making use of a trades trailer shall include either the contractor's registration number or the building trade's license number on the exterior of the trailer.

C. Use Standards. Such trailers may be in place or use at any location, including the owner's residence, but shall be used only for storage and transport, and on-site construction activity. No more than one such trailer for each registered contractor or tradesperson, with a maximum of two trailers, shall be allowed on a property.

(Entire Section Added January 20, 2010)

§ 516. Gaming Devices and Table Games

§ 516 Gaming Devices and Table Games

A. Gaming devices and table games are permitted as an accessory use to a restaurant or retail trade establishment provided that the following standards are satisfied:

1. No more than two gaming devices may be located in one establishment.

2. No gaming device shall be visible from the exterior of the building in which it is located.

3. A license issued by the Town Council is required for each gaming device and table game. (Section added November 5, 2012 by Ord. No. 2012-09)

§ 517. Solar Energy Systems (SES)

§ 517 Solar Energy Systems (SES)

[Amended 3-1-2021 by Ord. No. 2021-01; 2-5-2024 by Ord. No. 2024-02; 3-20-2024 by Ord. No. 2024-10]

A. Purpose: The purpose of this section is to regulate the placement, design, installation and removal of solar energy systems to minimize any potential adverse impact they may have on the aesthetics, public health, and safety of the Town.

B. Intent: The Town encourages the use of accessory solar energy systems to reduce reliance on fossil fuels and to promote resiliency. The Town supports solar energy systems in locations which provide the greatest potential energy generation while actively striving to minimize the visual impacts to the existing landscape from which SES are visible from adjoining roadways and abutting properties.

C. Definitions: The following terms shall have the following meanings as used in this Section:

1. Abandoned Solar Energy System: A solar energy system that has reached the end of its useful life, is not fully maintained, or is disconnected with no plan for reconnection.

2. Array Size: measured as the length times width of each panel, with the area of all panels totaled and expressed as square feet. Array size is to be applied when calculating the contribution of a ground mounted solar energy system to lot coverage.

3. Ground-Mounted Solar Energy System: A solar energy system that is structurally appended to the ground and is not supported to a structure or building.

4. Roof-Mounted Solar Energy System: A solar energy system that is structurally appended to the roof of a code compliant structure.

5. Solar Canopy: A solar energy system that is located on an elevated accessory structure that hosts solar panels and provides shelter to a parking area, driveway or walkway underneath.

6. Solar Energy System (SES): The collective components and subsystems, including both solar thermal and photovoltaic, required to convert solar energy into electric energy or hot water. Solar energy systems are further defined by the following installation types: roof-mounted, ground- mounted, and solar canopies.

7. Solar pool heater system: A type of SES which uses thermal energy from the sun to increase the temperature of pool water. The system uses solar collectors (heating plates) to heat water that circulates through the system and back to the pool.

D. Applicability and Review Procedures:

1. Solar energy systems are allowed in all zoning districts as accessory uses subordinate to the principal use of the parcel.

2. Ground mounted solar energy systems, or solar canopies, but not solar pool heater systems, with a total array size greater than 400 square feet may be allowed by special use permit. An application must be submitted for a Special Use Permit. Any such application shall also be subject to Development Plan Review.

3. Solar pool heater systems of a size less than 75 percent of the surface area of the pool are exempt from requiring a Special Use Permit under this section.

4. Any SES proposed within the Historic Overlay District shall require review and approval by the Historic District Commission.

5. Solar energy systems must be consistent with all applicable State and Federal fire and electrical safety codes and shall obtain all necessary statewide solar, building, and electrical permits from the Building Official prior to commencement of construction.

E. Standards for Roof-Mounted Systems: solar panels which are mounted on the roof of a building shall not extend above the highest point of the roof. In no case shall a solar panel extend beyond the edge of the roof, if the distance between the surface of the roof and the upper surface of the solar panels shall not be more than two feet, i.e. meaning the panel shall not be higher than 2 feet above the plane of the roof.

F. Standards for Ground-Mounted Systems:

1. Ground-mounted SES shall not exceed 10 feet in height, as measured from the natural grade to its highest point, including the top of any support structure or panel when adjusted to its highest seasonal position.

2. Ground-mounted SES shall comply with the minimum setbacks for accessory structures and uses for the zoning district in which the SES is located.

3. The first 250 square feet of array size shall be exempt in the calculation of lot coverage. Additional array size beyond 250 square feet shall be counted toward the maximum lot coverage.

4. Any ground mounted SES which exceeds 3 feet in height shall incorporate landscaping and design elements to visually screen the SES from public roadways and abutting properties.

G. Standards for Solar Canopies: Building height for solar canopies shall not exceed 12 feet in height. All other applicable dimensional standards required for the zoning district in which the proposed solar canopy is located shall apply.

H. Abandonment: Any abandoned solar energy system shall be removed within 180 days from the date of discontinued operations. Decommissioning shall consist of:

1. Physical removal and recycling of all solar energy system components.

2. Disposal of all solid and hazardous waste in accordance with all federal, state and local laws, regulations and ordinances.

3. Stabilization and re-vegetation of the site necessary to minimize erosion. The Building Official shall be authorized to direct the removal of abandoned SES and all of its components. The property owner shall remove the system within 90 days of said notice by the Building Official. If the owner or operator of an abandoned or decommissioned SES fails to remove the SES in accordance with the provisions of this section, the Town of New Shoreham may enter the property and physically remove all components of the SES at the cost of the property owner.

§ 518. (Reserved)

§ 518 (Reserved)

[Prior § 518, Accessory family dwelling units, was repealed 3-20-2024 by Ord. No. 2024-09. History includes Ord. No. 2018-04.]

§ 6. Administration

Article 6 Administration

§ 601. General

§ 601 General

A. The Town Council is authorized to enact the Zoning Ordinance and to have it reviewed periodically.

B. The Planning Board is charged with reviewing this Ordinance every five years, and following any amendment to the Comprehensive Plan, to identify any changes necessary and forwarding those changes to the Town Council. At such times, the Council, after public hearing in accordance with § 708 (Amendments to the Ordinance), shall amend this Ordinance, or adopt a new zoning ordinance as required to promote the needs and public welfare of the Town.

C. The members of the Zoning Board of Review and the Planning Board, as well as Town officials charged with the enforcement of the standards and procedures set forth in this Ordinance, shall be appointed in accordance with the procedures set forth in the Town Charter. Other Town committees, commissions, and boards, as the public welfare requires, shall be appointed in accordance with the procedures set forth in the Town Charter.

D. The Town Clerk shall be the custodian of the Zoning Ordinance and Zoning Map or Maps. The Town Clerk shall be responsible for the maintenance and update of the text and Zoning Map comprising the Zoning Ordinance. Changes which impact the Zoning Map shall be depicted on the Map within 90 days of the authorized changes.

§ 602. Administration, Enforcement and Duties

§ 602 Administration, Enforcement and Duties

[Amended 5-3-2022 by Ord. No. 2022-04; 8-16-2023 by Ord. No. 2023-06]

A. Designation. A Zoning Official shall be designated by the Town Manager to assist in administration and enforcement of this Ordinance. They may be provided with the assistance of such other persons as the Town Manager may direct.

B. Duties.

1. It shall be the duty of the Zoning Official to interpret and enforce the provisions of this Ordinance 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.

2. The Zoning Official shall refer all applications for variances, Special Use Permits and other appeals to the Zoning Board of Review, and shall grant or deny applications for Zoning Modifications.

3. In order to provide guidance or clarification, the Zoning Official shall, upon written request, issue a Zoning Certificate or provide information to the requesting party as to the determination by the Zoning Official. Such information, certificate or determination shall be provided within 15 days of the Zoning Official's receipt of the written request. If no written response is provided within that time, the requesting party shall have the right to appeal to the Zoning Board of Review for the determination.

4. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may convey to the Zoning Official (or their designee) a complaint, which shall be in writing. The Zoning Official (or their designee) shall properly record such complaint, promptly investigate and take appropriate action thereon as provided by the Ordinance. All complainants shall be promptly notified as to the disposition of their complaint. The Zoning Official (or their designee) shall make a determination in writing, within 15 days, to any written complaint received, regarding a violation of this Ordinance. Any such determination may be appealed to the Zoning Board of Review.

5. If the Zoning Official (or their designee) shall find that any of the provisions of this Ordinance are being violated, they shall notify in writing the person responsible for such violation, indicate the nature of the violation and order the action necessary to correct it. They shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance or by State Law or by policies or procedures adopted by Town Council to ensure compliance with or to prevent violation of their provisions.

6. The Zoning Official shall perform such other duties and take such other actions as may be assigned by this Ordinance.

C. Conflicts of Law. 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 Ordinance 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 Ordinance. Any permit or license, issued in conflict with the provisions of this Ordinance, shall be null and void.

§ 603. Zoning Board of Review

§ 603 Zoning Board of Review

[Amended November 1, 2004; added November 1, 2004; 3-5-2018 by Ord. No. 2018-05; 5-3-2022 by Ord. No. 2022-04]

A. General.

1. The Board acts as a legally constituted quasi-judicial decision-making body and shall take no action except in accordance with state law.

2. The Zoning Board of Review shall be appointed by the Town Council and shall consist of five regular members and two auxiliary members.

3. If a vacancy occurs on the Board, for whatever reason at any time, the Town Council shall appoint a new member for the remainder of the unexpired term.

4. The Town Council may remove any regular or auxiliary member for cause, including excessive absenteeism, after written notice to the member and a hearing. The notice shall be sent by regular and certified mail to the members' last known mailing address.

B. Powers and Duties. The Zoning Board of Review shall:

1. Have the following powers and duties:

a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative officer of the Town in the enforcement or interpretation of this Ordinance, or of any Ordinance adopted pursuant hereto; [Amended 3-5-2018 by Ord. No. 2018-05]

b. To hear and decide appeals from a party aggrieved by a decision of the Historic District Commission;

c. To hear and decide appeals from a party aggrieved by a decision of the Minimum Housing Inspector, and serving as the Housing Board of Review;

d. To hear and decide appeals for Airport Zoning Regulations;

e. To authorize, upon application, in specific cases of hardship, variances in the application of the terms of this Ordinance, pursuant to § 706. Variance;

f. To authorize, upon application, in specific cases, Special Use Permits, pursuant to § 704, Development Plan Review;

g. To refer matters to the Planning Board, or to other boards or agencies of the Town, as the Zoning Board may deem appropriate, for findings and recommendations;

h. 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 approval shall specify the time period in which all state or federal agency approvals must be received. A conditional zoning approval shall be revoked in the instance where any necessary state or federal agency approvals are not received within a specified time period;

i. To act as the Local Review Board on comprehensive permits for the Town; and

j. To hear and decide other matters, according to the terms of the Ordinance or other statutes, and upon which the Board may be authorized to pass under the Ordinance or other statutes; and

2. 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 or herself, shall not sit as an active member, and 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 Zoning Board of Review sitting at a hearing shall be necessary to reverse any order, requirement, decision, or determination of any zoning administrative officer from whom an appeal was taken;

c. The concurring vote of four of the five members of the Zoning Board of Review sitting at a hearing shall be required to decide in favor of an applicant on any matter within the discretion of the Zoning Board of Review, upon which it is required to pass under the Ordinance, including Variances and Special Use Permits; and

d. No member or auxiliary member may vote on any matter before the Zoning Board of Review unless he or she has attended all hearings concerning that matter.

C. Decisions and Records.

1. The Zoning Board of Review shall include in its decision all findings of fact and conditions, showing the vote of each member participating thereon, and the absence of a member or his or her failure to vote.

2. A written copy of the decision shall be filed in the office of the Zoning Board of Review within thirty (30) days of the date the decision was rendered, and shall be a public record. A decision granting a Variance or a Special Use Permit shall be recorded in the Land Evidence Records. [Amended 3-5-2018 by Ord. No. 2018-05]

3. The Zoning Board of Review shall keep written minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact.

4. The Zoning Board of Review shall keep records of its examinations, findings of fact, and other official actions, all of which shall be recorded and filed in the office of the Zoning Board of Review in an expeditious manner upon completion of the proceeding.

5. For any proceeding in which the right of appeal lies to the Superior or Supreme Court, the Zoning Board of Review shall either have the minutes taken by a competent court stenographer or record the meeting with a sound-recording device.

6. Within one business day of the day a written Zoning Board of Review decision is filed, a copy shall be mailed by any method that provides confirmation of receipt to the applicant and to any objector who has filed a written request for notification with the Zoning Officer. A copy shall also be delivered to the zoning enforcement officer. If the decision was recorded in the Land Evidence Records, a copy of the recorded decision shall be mailed. [Amended 3-5-2018 by Ord. No. 2018-05; 5-3-2022 by Ord. No. 2022-04]

§ 604. Technical Review Committee

§ 604 Technical Review Committee

[Added 2-21-2024 by Ord. No. 2024-05]

A. There is hereby established a technical review committee (TRC) in accordance with RIGL § 45-23-56, the members of which are appointed by the Planning Board. The TRC is responsible for conducting technical reviews of all applications subject to the jurisdiction delegated in the Land Development and Subdivision Regulations.

B. The TRC shall consist of a minimum of three (3) members and include the following membership:

1. The Administrative Officer who shall serve as Chair;

2. At least one but no more than three members of the Planning Board.

3. At least one of the following additional members:

a. The Zoning Official or designee.

b. The Public Works Director or designee.

c. The Fire Chief or designee.

d. The Police Chief or designee.

e. The Town Engineer or designee.

f. Additional member(s) of the Planning Board, but no more than three members total may serve at one time.

g. A member of the Conservation Commission.

h. A member of the Historic District Commission.

i. A member of the Water District.

j. A member of the Sewer District.

k. A member of the public with expertise and/or knowledge and/or experience in land use planning, architecture, construction, land surveying, or engineering.

C. The Planning Board shall adopt written procedures establishing the committee's responsibilities.

1. The Planning Board may allow the administrative officer to invite additional members to sit as full members for specific projects where there is a specialized knowledge, skill, or expertise required for review.

D. Recommendations of the TRC to the permitting authority shall be in writing and kept as part of the permanent record of the development application. In no case shall the recommendations of the Technical Review Committee be binding on the Planning Board in its activities or decisions. The recommendation of the TRC shall be made available to the applicant prior to a decision by the permitting authority.

§ 7. Permits, Procedures and Enforcement

Article 7 Permits, Procedures and Enforcement

§ 701. Building Permit/Zoning Certificate/Certificate of Occupancy

§ 701 Building Permit/Zoning Certificate/Certificate of Occupancy

[Amended Jan. 21, 2004; May 21, 2008; 5-3-2022 by Ord. No. 2022-04]

A. Application. Application for a building permit or zoning certificate shall be submitted by the owner of the property or the owner's agent on forms provided by the Building Official or Zoning Official, together with the pertinent application fee(s).

B. Submittal Requirements. The application shall be accompanied by the following:

1. A site plan, drawn to scale, with sufficient clarity to show the lot boundaries, the location of any existing and proposed structures, all proposed or existing uses clearly identified, the distances from all lot lines, off-street parking, buffers and the nature of the work to be performed. The Building Official or Zoning Official shall also require any site plan to include the following, where relevant:

a. Zoning lines and overlay districts;

b. Coastal features and wetlands;

c. Grade elevations for the outermost four (4) corners of the foundation and a calculation of the average grade, for purposes of determining building height. Two permanent benchmarks shall be installed on the property within 200 feet of the proposed building or structure by a Rhode Island Registered Land Surveyor prior to any human activity or land disturbance for the purpose of determining building height. (See § 202, Definitions, "Building Height," "Grade Average" and "Grade, Natural."); [Amended 3-5-2018 by Ord. No. 2018-06]

d. Any other information deemed necessary to evaluate the permit or certificate request. The Building Official or Zoning Official may require any information on the site plan to be prepared and supplied by qualified professionals such as an engineer, surveyor, biologist or other appropriate professional;

2. A certificate from the Department of Environmental Management stating that the water supply and sewage disposal facilities are satisfactory, or evidence of approvals and successful connection to municipal water supplies or sewer lines; and

3. All approvals or variances granted by the Planning Board or the Zoning Board of Review as required by this Ordinance including any development plans, site plans, architectural plans, and/or engineering plans pertinent to such approvals.

C. Review and Disposition. Within 15 days of receiving a complete application, the Building Official and/or Zoning Official shall determine whether the proposed development has received all approvals under and/or otherwise conforms to this Ordinance and any other pertinent law or regulation, and shall approve or deny the application accordingly, in writing. If the application is denied, the writing shall state the reasons for the denial and shall inform the applicant that the determination of the Building or Zoning Official may be appealed to the Zoning Board of Review, pursuant to § 709, Appeals of this Ordinance.

D. Permit Placard. A true copy of the permit placard issued with the building permit shall be kept on site and available for public inspection during the course of construction and until completion. A true copy of the permit placard issued with the zoning certificate/certificate of use shall be kept on site and available for inspection by the Zoning Official.

E. Permit Revocation/Expiration.

1. Revocation. The Building Official shall revoke a building permit or zoning certificate if they find that the permit application contained misrepresentations of fact or if the parameters of the permit are violated by work or any activity that does not conform to the approved plans for which the permit or certificate has been issued.

2. Expiration. Any permit issued shall become invalid unless the work authorized by it shall have been commenced within six months after its issuance, or if the work authorized by the permit is suspended or abandoned, for a period of six months after the time the work is commenced.

3. Extension. The Building Official may grant an extension, for a period not exceeding 90 days, for cause. All extensions shall be in writing and signed by the Building Official.

F. Records. The Building Official's office shall keep accurate records of all building permits issued, indicating plat/lot, new construction, additions or modifications, and building type. In addition, records are to be kept of all site visits with action taken and the time and issue date of all permits, certificates and stop orders. In the latter case, the Building Official shall record the conditions warranting a stop order by taking photographs and providing a written description of the nonconforming elements.

G. Certificate of Occupancy/Zoning Certificate.

1. The Building Official shall issue a certificate of occupancy and the Zoning Official a zoning certificate for any building, structure or land only if any use or construction thereon requiring a permit under this Section has been carried out in conformance with the requirements of such permit.

2. The certificate of occupancy/zoning certificate shall state that the intended use, building, structure or lot conforms to the permit issued pursuant to this Section, and complies with or is legally nonconforming to the provisions of this Ordinance or is an authorized variance or modification therefrom.

§ 702. General Procedures

§ 702 General Procedures

[Amended May 2, 2001; August 20, 2014 by Ord. No. 2014-08]

A. Applicant's Participation Mandatory. At any hearing of the Town Council or any board or commission before which an application is pending, the applicant or the applicant's agent must appear and stand ready to answer questions regarding the proposal submitted. Failure to be present may be grounds for dismissal of an application without prejudice.

B. Notice Requirements. All notices of a public hearing shall contain the name of the owner of the subject property, the Assessor's Plat and Lot number(s) of the subject property, the address and/or a description of the location of the subject property, and a description of the application upon which the Board is being asked to act. All costs of notification shall be borne by the applicant. Notification of a public hearing for a Variance or for a Special-Use Permit shall be as follows:

1. The Zoning Board of Review (or the Planning Board in the case of a Development Plan Review application submitted pursuant § 703, Subsection D 2) shall give public notice of the hearing, at least 14 days prior to the date of the hearing, in a newspaper of general circulation in the Town.

2. Notice of the public hearing shall be sent to the applicant, all property owners within 200 feet of all boundaries of the subject property and the owner of the subject property. The notice shall be sent by first class mail, with a certificate of mailing from the United States Postal Service, not less than 14 days before the public hearing. The notices shall be mailed by the applicant. Proof of mailing shall be established by the applicant's filing, prior to the commencement of the public hearing, an affidavit of the mailing of the notice stating the date the notices were mailed and who mailed them. The affidavit shall have attached to it the certificates of mailing from the United States Postal Service.

3. The applicant shall send notice of the public hearing, by first class mail, to the Associate Director of the RI Department of Administration, Division of Planning.

C. Submittal Requirements.

1. Waiver of Requirement. Submittal Requirements for any application made under this Ordinance are the minimum requirements necessary for any application to be considered by the Town Council or any board or commission before which the application is pending. Any request to waive any submittal requirements shall be submitted in writing at the time the application is made, and shall include a statement of the reason for the request and of the relationship of that requirement to the application. Upon receipt of the application, the Town Council or the board or commission to which the application has been made shall consider any requests to waive any Submittal Requirements. If the Town Council or the Board or Commission before which the application is pending determines that such requirement(s) may be waived, waivers shall be supported by specific findings and conclusions, which shall be contained in the record as the basis for granting such waiver(s). If any waiver is not granted, the application shall be returned to the applicant and no further consideration of the application shall occur until all requirements have been fully met.

2. Unless specifically indicated in the Submittal Requirements of a Section of this Ordinance, the applicant shall submit 12 copies of each item required for application. Copies of each item required for application, including the plans, shall be submitted on standard-size (8 1/2 x 11 or 11 x 17 inch) paper.

D. Application After Denial. An application for a Variance or Special-Use Permit, once denied by the Zoning Board of Review, cannot be submitted again absent a showing of a change of material circumstances in the time intervening between the two applications.

E. Fees. Fees for building and use permits, certificates of occupancy, and for all applications before the Town Council, the Planning Board, and the Zoning Board of Review shall be established by the Town Council and shall include, but not be limited to, the estimated cost of any publication and sending of notice. A schedule of fees shall be displayed in the Office of the Town Clerk.

F. Pre-Application. The Planning Staff or, in the absence of a Planning Staff, a Planning Board Committee appointed for this purpose, shall at the applicant's request, confer with the applicant prior to submission of the application to review the development proposal.

1. A pre-application conference is intended to allow the Town to:

a. Acquaint the applicant with the Comprehensive Plan and any specific plans that apply to the parcel, as well as the Zoning and other Ordinances that affect the proposed development;

b. Suggest improvements to the proposed design on the basis of a review of the sketch plan;

c. Advise the applicant to consult appropriate authorities on the character and placement of public utility services; and

d. Help the applicant understand the steps to be taken to receive approval.

2. A pre-application conference is not required by the Town, but is recommended for all applications, particularly since the Planning Board and/or Planning Staff may submit written findings and recommendations on each application. The Town may, in fact, require that such a meeting take place for each application, if desired.

3. No determination made in the pre-application process shall be binding on any municipal boards and/or commission.

G. Vested Rights. Upon formal acceptance by the Zoning Board of Review of a complete and properly submitted application for development, that application shall be protected. Any application considered by the Town under the protection of this Section shall be reviewed according to the regulations applicable in the Zoning Ordinance in force at the time the Zoning Board of Review accepted the complete and properly submitted application.

H. Conditional Approvals. In granting a Variance or in making any determination upon which it is required to pass after a public hearing, the Zoning Board of Review may apply special conditions to that decision. These conditions may, in the opinion of the Board, be required to promote the intent and purposes of the Comprehensive Plan and the Zoning Ordinance. Failure to abide by any special conditions attached to a grant shall constitute a zoning violation. These special conditions shall be based on competent credible evidence on the record and shall be incorporated into the decision. Special conditions may include, but are not limited to, provisions for:

1. Minimizing adverse impact of the development upon other land, including the type, intensity, design, and performance of activities;

2. Controlling the sequence of development, including when it must be commenced and completed;

3. Controlling the duration of use or development and the time within which any temporary structure must be removed;

4. Assuring satisfactory installation and maintenance of required public improvements;

5. Designating the exact location and nature of development; and

6. Establishing detailed records by submission of drawings, maps, plats or specifications. (Section Amended October 6, 2008)

§ 703. Procedures for Special Use Permit

§ 703 Procedures for Special Use Permit

[Amended 6-1-1998; December 4, 2000; February 2, 2004; 3-5-2018 by Ord. No. 2018-07; 2-21-2024 by Ord. No. 2024-04]

A. Purpose. The purpose of Special Use Permit is to allow designated types of development only under certain conditions and to provide the Town scope for determining whether a given development proposal is compatible with the Town's planning objectives in light of standards designed to protect the natural, social and cultural environment of the Island as a whole and of various areas of the Island in particular.

B. Review by Others. The Zoning Board of Review may submit the application to the Planning Board, the Conservation Commission, the Historic District Commission or any other Town board, commission or

department or employee for their review and recommendation, which shall be submitted in writing to the Zoning Board of Review within 30 days of referral.

C. Submittal Requirements. An application for a Special Use Permit, in addition to any other information that the Zoning Board of Review may request, shall include the following, excepting that any one or more of these requirements may, on the written request of the applicant, be waived in its entirety or in part at the application acceptance stage by the Zoning Board of Review as being unnecessary or inappropriate.

1. Other Properties Affected. A list of the names and addresses of all property owners within 200 feet of all property lines of the subject property.

2. A copy of all Variance, Modification and/or Special Use Permit approvals attached to the property and all subdivision approvals, conditions, restrictions, and pertinent subdivision plans relating to the property.

3. Composite Site Plan. The composite site plan shall be prepared by a registered civil engineer, registered land surveyor or registered landscape architect, shall be stamped and dated and shall show the following:

a. Proposed and existing structures shall be indicated, including footprints of foundations, porches, decks, walkways, travel lanes, parking areas, with dimensions to property lines from structures, and overall building dimensions.

b. Dimensional requirements, including street and lot lines, setback lines, building heights, and roof profiles.

c. Where any land disturbance is proposed, environmental data shall include well and sewage disposal sites, as well as other wells and sewage disposal systems located within 400 feet of those proposed; areas of steep slope greater than 15% and lands by definition not developable; the edge of wetlands, water bodies, and any coastal features as defined by the Rhode Island Department of Environmental Management, DEM regulations and CRMC preliminary determinations; buffer zones and building setbacks from buffer zones as required by CRMC preliminary engineering and biological reports; and surface drainage showing parcel configuration and proposed filled land.

d. Where any land disturbance is proposed, existing and proposed grades shall be shown at two foot intervals.

e. There shall be indicated one or more benchmarks that can be used in the field to verify conditions.

4. A statement from the Zoning Official that any Variances, Modifications or Special Use Permits necessary to develop the project as proposed have been applied for or secured.

5. CRMC Engineering and Biological Reports. Submittals for projects within CRMC jurisdiction shall be accompanied by any required CRMC preliminary engineering and biological reports reflecting site inspection data, if such reports are obtainable.

6. Utility and Disposal Plan. Written description and engineered plan indicating how all utility and disposal needs will be met, and documenting how the standards of § 501(A)(5) and (8) will be met.

7. Architectural Plans for Any New Construction, or Exterior Alterations to Any Existing Structure. Plans, sections, and/or elevations at 1/4 inch or 1/8 inch equals one feet.

8. Aerial Photos. If required by the Zoning Board of Review, the site shall be located on an aerial photograph, which aerial photograph will be provided by the Town.

9. Economic Impact Report. For developments likely to employ 10 or more persons, an analysis demonstrating relationship of the proposal to the goals and objectives contained in the Economic Development element of the New Shoreham Comprehensive Plan, as most recently amended.

10. Analysis of Toxic or Hazardous Materials Impacts. Analysis by a qualified environmental assessment professional demonstrating that the proposal is in compliance with the requirements of § 505, Uses Involving Toxic or Hazardous Materials. Such analysis shall be required of any proposal which requires the presence of any such materials.

11. Natural Conditions Analysis. A natural conditions analysis of the site prepared by a registered or licensed professional and indicating at a scale of one inch equals 20 feet the soil, geologic, hydrologic, and vegetative

conditions of the site, including a report from the R.I. Natural Heritage Program that the proposal will not have an adverse impact upon areas of critical environmental importance, such as habitats of species listed as endangered, threatened or of special concern.

12. Landscape Plan. A landscape plan prepared by a registered landscape architect at a scale of one inch equals 20 feet. It shall indicate the relation of units to topography, the preservation of views, existing and proposed planting and grading, and shall demonstrate the integration of existing landscape features such as stone walls, old foundations, existing buildings, tree rows. A Landscape Plan shall be required for any land disturbing proposal for non-residential development.

13. Open Space/Management Plan. An open space plan indicating agricultural, recreational and conservation uses of the site. A management plan indicating how all common or public lands will be maintained, used, and managed.

14. Models. Site or building models are required in situations when extensive construction is proposed, when relationship to existing buildings is considered critical, when views of nearby buildings may be affected, when the bulk, configuration, or scale of proposed buildings is questioned or in other such situations as the Zoning Board may require unless waived by the Zoning Board. Models shall be simple in technique but accurate as to contours, detail and the following scales:

a. Site Model: one inch equals 40 feet with five-foot contours;

b. Building Model: 1/8 inches equals one feet or one inch equals 20 feet (the latter for any building complex).

15. Traffic Analysis. Documentation that the traffic standards of § 501(A)(1) will be met.

16. Auto Dependency. Narrative regarding how auto dependency standards of § 401(A)(7) will be met.

D. Procedures. Special Use Permit application, review, and disposition shall be conducted by the Zoning Board of Review in accordance with the following:

1. Application. An application for a Special Use Permit shall be submitted to the Zoning Board of Review on a form provided by the Board, together with all submittal requirements for Development Plan Review as set forth in § 704, Development Plan Review, together with the appropriate filing fee. The Zoning Board of Review shall review applications so submitted at its next regularly scheduled meeting following submission. Applications must be received prior to the closing of the agenda in order to be scheduled for said meeting. Upon review of the application, the Board shall either accept the same as complete or return an incomplete application to the applicant with an explanation of the submission requirements not met.

2. Referral to Planning Board. The Zoning Board of Review shall transmit copies of the complete development plan materials to the Planning Board for its review and recommendations.

a. The Planning Board shall deliberate and make its recommendations at a meeting open to the public at which the public may present information pertinent to the application. Such open meeting shall be scheduled within 30 days of receipt of the complete application by the Planning Board.

b. The Planning Board may continue consideration of the proposal for up to three months for the purpose of receiving additional information, or for revisions to the proposal to be made. In this case, the Planning Board shall notify the Zoning Board of Review of the continuation, and the Zoning Board of Review shall postpone the public hearing, as necessary, until receipt of the Planning Board's review.

c. The Planning Board shall make its recommendations on the proposal in writing to the Zoning Board of Review within 15 days after completing its consideration. If it fails to submit its recommendation to the Zoning Board of Review within the time frame herein or in Subsection 2(b) above, the Zoning Board of Review may act without such recommendation.

3. Public Hearing Required. Prior to disposition of an application for Special Use Permit by the Zoning Board of Review, a public hearing, duly noticed pursuant to § 702(B), Notice Requirements, shall be held at which opportunity shall be given all interested persons to be heard on the proposed Special Use Permit.

4. Review and Disposition. The Zoning Board of Review shall act upon all applications for Special Use Permit in accordance with the following:

a. The Zoning Board of Review shall schedule a public hearing on the application within 60 days of receipt of same, and not longer than 90 days after acceptance of the application, unless it is advised that advisory review is continuing before the Planning Board. In that event, the Zoning Board shall schedule a public hearing following receipt of the findings and recommendations from the Planning Board.

b. The public hearing may be held open for up to three months from the date of its commencement at the request of either the Zoning Board of Review or the applicant in order for additional information to be presented or for revisions to be made to the proposal.

c. Within fifteen (15) days of the day the public hearing is closed, the Zoning Board of Review shall deliberate at a meeting open to the public as to whether the proposed development meets the standards set forth in Article 4 -Standards for Uses Requiring Special Use Permit and shall either approve, approve with conditions, or deny the application for Special Use Permit. The decision of the Zoning Board of Review shall be in writing and shall set forth the reasons for any condition imposed or for a denial. [Amended 3-5-2018 by Ord. No. 2018-07]

E. Conditions. In granting a Special Use Permit, the Zoning Board of Review may impose such additional conditions on the proposed development as it deems necessary to conform to the requirements of Article 4, Standards for Uses Requiring Special Use Permits, and Article 5, Performance Standards.

F. Expiration of Special Use Permit Approval. Special Use Permit approval shall expire 12 months from the date of approval unless a building permit has been issued and construction has commenced and is being diligently pursued to completion.

G. Dimensional Relief. The Zoning Board of Review or, under unified development review, the planning board may grant a dimensional variance, in conjunction with a special use permit, if the Special Use Permit could not exist without a dimensional variance. The permitting authority shall consider the Special Use Permit, and the dimensional variance together, to determine if granting the special use is appropriate based on both the special use criteria and the dimensional variance evidentiary standards. [Amended 2-21-2024 by Ord. No. 2024-04]

§ 704. Development Plan Review

§ 704 Development Plan Review

[Amended July 7, 1997; July 2, 2007; October 6, 2008; July 6, 2009; Section amended in entirety April 6, 2015 by Ord. No. 2015-03; 2-21-2024 by Ord. No. 2024-06]

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

B. Permitting authority. The permitting authority for Administrative Development Plan Review is the Administrative Officer. The permitting authority for Formal Development Plan Review is the Planning Board.

C. Development Plan Review projects shall be consistent with those standards set forth in the Land Development and Subdivision Regulations.

D. Waivers.

1. The authorized permitting authority may waive requirements for Development Plan Review approval where there is a change in use or occupancy and no extensive construction of improvements is sought. The waiver may be granted only by a decision by the permitting authority finding that the use will not affect existing drainage, circulation, relationship of buildings to each other, landscaping, buffering, lighting and other considerations of development plan approval, and that the existing facilities do not require upgraded or additional site improvements. The application for a waiver of development plan approval review shall

include documentation, as required by the permitting authority, on prior use of the site, the proposed use, and its impact.

2. The authorized permitting authority may grant waivers of design standards as set forth in the Land Development and Subdivision Regulations and this ordinance.

3. An applicant shall not be required to obtain both land development and Development Plan Review, for the same project.

4. Applications under this chapter which require relief which qualifies only as a modification under § 45-24-46 and local ordinances shall proceed by filing an application under this chapter and a request for a modification to the Zoning Official. If such modification is granted the application shall then proceed to be reviewed by the Administrative Officer pursuant to the applicable requirements of this section. If the modification is denied or an objection is received as set forth in § 45-24-46, such application shall proceed under Unified Development Plan Review pursuant to § 45-23-50.1.

5. Applications under this section which require relief from the literal provisions of the zoning ordinance in the form of a variance or special use permit, shall be reviewed by the Planning Board under Unified Development Plan Review pursuant to § 45-23-50.1, and a request for review shall accompany the Preliminary Plan Application.

6. Requests for relief from the literal requirements of the zoning ordinance and/or for the issuance of special use permits or use variances related to projects qualifying for Development Plan Review shall be submitted and reviewed under unified development review pursuant to § 45-23-50.1.

7. Approval of Development Plan Review shall expire two (2) years from the date of approval unless, within that period, a plat or plan, in conformity with approval, and as defined in this act, is submitted for signature and recording as specified in § 45-23-64.

E. Appeal. A denial of a Development Plan Review application shall be an appealable decision pursuant to R.I.G.L § 45-23-71.

§ 705. Modification Permits

§ 705 Modification Permits

[Amended October 21, 2009; 5-3-2022 by Ord. No. 2022-04; 2-21-2024 by Ord. No. 2024-07]

A. Purpose. Modification Permits are intended to offer an administrative application and review process for deviations from the literal dimensional requirements of this Ordinance in the case of construction, alteration, or structural modification of a structure or lot of record.

B. Standards.

1. A Modification may be granted pursuant to this Section, which allows a deviation of up to 25% from any yard requirements (front yard, side yard, rear yard) of any zoning district.

2. Reserved.

3. A Modification shall not permit moving of any lot line.

4. Those lots that are subject to reduced dimensional requirements as nonconforming substandard lots are only eligible for a modification relief under this section to the extent that such relief is in excess of the proportional reduced requirements of this Ordinance. The amount of the dimensional modification able to be granted shall be calculated based on standard lot size for the district in which the subject lot is located.

C. Procedure.

1. Application. The applicant shall submit two copies of the application, including all plans, documentation and fees, to the Zoning Official, in accordance with the provisions of § 706B, Submittal Requirements.

2. Review. Within 10 days of receipt of a complete application for a Modification, the Zoning Official shall make a decision as to the suitability of the requested Modification based on the following determinations:

a. The Modification requested is reasonably necessary for the full enjoyment of the permitted use;

b. If the Modification is granted, neighboring property will neither be substantially injured nor its appropriate use substantially impaired;

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

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

3. Suitability and Notice. The Zoning Official shall notify the applicant, by regular, First Class mail, as to the decision of suitability of the requested Modification(s) based on the above determinations.

a. For Modification requests of 5% or less the Zoning Official, upon affirmative determination may issue the Modification without any public notice. For applications of 5% or less, the Zoning Official may, in his or her discretion, give public notice pursuant to subsection b prior to the issuance of a modification permit.

b. For Modification requests in excess of 5%, upon an affirmative determination, the Zoning Official shall provide written notice via first class mail to all property owners abutting the property which is the subject of the Modification.

(1) Such mailed notice shall include the date of said notice, the name of the owner of record, and Assessor's Plat and Lot number(s) and the street address of the subject property.

(2) Such notice shall include a description or copy of the Modification request which shall include the extent of modification requested and a description of the proposed structure, including its proposed use, which requires the Modification. The applicant shall also receive a copy of such notice.

(3) Such notice shall indicate that the Modification will be granted unless written objection is received within 14 days of the notice date.

(4) Such notice shall also be published in a newspaper of local circulation in the Town.

4. Review and Disposition.

a. If written objection is received within 14 days, the request for the Modification shall be scheduled for the next available hearing before the Zoning Board of Review on application for a dimensional variance. pursuant to § 706, Variance.

b. If no written objections are received within 14 days, the Zoning Official shall grant the Modification request. In that case, the Modification Permit shall be issued to the applicant by certified mail, return receipt.

c. In the case of a modification of 5% or less, the Zoning Official shall have the authority to issue a permit approving the modification, without any public notice requirements. The Modification permit shall be issued to the applicant by certified mail, return receipt.

5. Conditions. The Zoning Official may apply special conditions to the Modification Permit as may, in the opinion of the Zoning Official, be required to conform to the intent and purposes of this Ordinance.

6. Appeals from such conditions imposed by the Zoning Official may be made to the Zoning Board of Review pursuant to § 709, Appeals.

D. Records. The Zoning Official shall keep public records of all requests for Modifications, and of findings, determinations, special conditions, and any objections received.

E. Costs. All application fees and costs of notice shall be borne by the applicant requesting the Modification.

§ 706. Variance

§ 706 Variance

[Amended January 21, 2004;]

A. Purpose. A Variance is intended to relieve a property owner from undue hardship resulting from the literal enforcement of the provisions of this Ordinance.

B. Submittal Requirements. An application for a Variance in addition to any information that the Zoning Board of Review may request, shall include the following:

1. All applications for Variances shall be accompanied at the time of filing by a plot plan drawn to scale showing the location of all lot and street lines, existing and proposed structures, wetlands, easements, utilities, wells, and sewage disposal systems of property which is the subject of the application. All applications shall also be accompanied by a plat map showing lot and street lines and approximate locations of structures or premises adjacent to the property which is the subject of the application, and other information as may be required by the Board.

2. The names and addresses of all property owners within 200 feet of all boundaries of the subject property and all others requiring notice under § 702(B), Notice Requirements.

3. The specific provision of the Ordinance from which a Variance is being sought. This includes a reference to the specific section(s) of the Ordinance, as well as a description of the Variance(s) needed.

4. The justification for the Variance in light of the standards set forth in this Section.

5. A statement as to how the granting of the requested Variance will be consistent with the intent and purposes of this Ordinance and with the Comprehensive Plan.

C. Procedures. Review of an application for a Variance shall be conducted by the Zoning Board of Review in accordance with the following:

1. Application. An application for Variance shall be submitted to the Zoning Board of Review on forms provided by the Board, together with all submittal requirements set forth in this Section, and the appropriate application fee. The Zoning Board of Review shall review applications so submitted at its next regularly scheduled meeting following submission. Applications must be received prior to the closing of the agenda to be scheduled for said meeting. Upon review of the application materials, the Board shall either accept the application as complete or return an incomplete application to the applicant with an explanation of the submission requirements not met. No application may be determined to be complete until the minimal submission requirements described in Subsection B, Submittal Requirements, above shall have been submitted and until the appropriate filing fee has been paid.

2. Referral. Immediately upon acceptance of a complete application for a Variance, the Zoning Board of Review shall forward a copy to the Planning Board and Planning Staff. The Planning Board and Planning Staff may, or, at the request of the Zoning Board of Review, shall, report its findings and recommendations, including a statement on the general consistency of the application with the goals and purposes of the Comprehensive Plan. Any such findings and recommendations shall be submitted in writing to the Zoning Board of Review within 30 days of receipt of the application from the Zoning Board of Review.

3. Public Hearing Required. Prior to disposition of an application for a Variance by the Zoning Board of Review a duly noticed public hearing shall be held at which opportunity shall be given to all interested persons to be heard on the proposed Variance. Notification of the public hearing shall be as required in § 702(B), Notice Requirements.

4. Review and Disposition. The Zoning Board of Review shall act upon all applications for a Variance in accordance with the following:

a. Within 35 days of acceptance of a complete application for Variance, the Zoning Board of Review shall schedule a public hearing on the application and within 55 days thereof, it shall hold the public hearing and shall receive all information presented by the applicant or agent or any property owner or agent pertinent to the proposed Variance and render a decision.

b. The public hearing may be held open for up to two months from the date of its commencement at the request of either the Board or the applicant in order for additional information to be presented.

c. Within 15 days of the day the public hearing is closed, the Zoning Board of Review shall deliberate at a meeting open to the public as to whether the proposed Variance meets the standards set forth in this Section and shall either approve, conditionally approve, or deny the proposed Variance. [Amended 3-5-2018 by Ord. No. 2018-08]

D. Standards. A Variance shall be granted only if evidence of the following standards are entered into the record of the proceedings:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant;

2. The hardship sought to be avoided is not the result of any prior action by the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;

3. The granting of the requested Variance will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan upon which the Ordinance is based; and

4. That the Variance granted is the least relief necessary to remove the hardship to the applicant.

E. Additional Standards. In addition to the above standards, the Zoning Board of Review shall 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 the Zoning Ordinance. Non-conforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a Use Variance; and

2. In granting a Dimensional Variance, the applicant for relief must show, by evidence upon the record, that the hardship that will be suffered by the owner of the subject property, if the dimensional variance is not granted, amounts to more than a mere inconvenience. 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.

F. Variances for Historical Restorations. If allowed by law, Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or in the State Inventory of Historic Places without regard to the procedures set forth in this Section.

G. Expiration of Variance. A Variance shall expire after a maximum of 12 months from the date of approval unless a Building Permit has been issued and construction has begun and is being diligently pursued to completion.

§ 707. Enforcement

§ 707 Enforcement

[Amended 5-3-2022 by Ord. No. 2022-04; 8-16-2023 by Ord. No. 2023-06]

A. Violations of the Ordinance. Any person who violates any of the provisions of this Ordinance or any condition or requirement of any action imposed by the Zoning Board of Review or any other agency pursuant to this Ordinance may be fined up to $500 for each violation. The penalty for the violation shall reasonably relate to the severity of the offense. Each day the violation continues shall be deemed a separate offense.

1. Notice of Violation. Upon finding a violation, the Zoning Official (or their designee) shall serve notice by personal service or by certified mail addressed to the premises or the person committing or permitting the violation, or on the owner of the property as shown on the latest copy of the Town assessment rolls, indicating the nature of the violation and ordering the action necessary to correct it.

2. Compliance Time. Such notice shall give a compliance date which shall establish the length of time reasonably required to so comply, subject to the following:

a. The notice shall require compliance within no more than 30 days and not less than 10 days, except as provided in this Section below.

b. Compliance may be ordered within 24 hours of notice of violation if it is determined that the violation constitutes an immediate hazard to public health or safety.

c. Notice of the violation shall be posted in the Office of the Town Clerk and, upon failure to correct the violation by the compliance date, notice thereof shall be sent to the Chairman of the Planning Board, the Chairman of the Zoning Board of Review, and the Town Solicitor, and shall be recorded in the Land Evidence Records of the Town.

B. Enforcement. Upon notification of any violation of the Ordinance which has not been corrected by the compliance date, the Town Solicitor may initiate legal proceedings to restrain the violation of, or compel compliance with, the provisions of this Zoning Ordinance. The Town may consolidate an action for injunctive relief and/or fines under the Ordinance in Superior Court.

§ 708. Amendments to the Ordinance

§ 708 Amendments to the Ordinance

A. General. For the purposes of promoting the public health, safety, morals and general welfare, the Town Council shall have the power to adopt, amend or repeal this Zoning Ordinance. This Ordinance shall be consistent with and shall provide for the implementation of the New Shoreham Comprehensive Community Plan.

B. Submittal Requirements. An application to amend the Ordinance shall be accompanied by the following:

1. Zone Change. When the proposed amendment includes a specific change in a zoning district map, but does not affect districts generally, the application shall include: a survey showing the parcel of land to be rezoned; the existing zone of the subject property and of all abutting properties; a current listing of the names and addresses of all owners of real property whose property is located in or within 200 feet of the perimeter of the area proposed for change; all appropriate fees, and; any other information or documentation necessary to demonstrate that the proposed amendment meets the needs of the Town and is consistent with the Comprehensive Plan and the intents and purposes of this Ordinance.

2. Other Amendment. An application for an amendment other than a zone change shall include any information or documentation necessary to support the application or requested by the Town Council to demonstrate that the proposed amendment meets the needs of the Town and is consistent with the Comprehensive Plan and the intents and purposes of this Ordinance.

C. Procedures. Submission, review and disposition of an application to amend the Ordinance shall be conducted as follows:

1. Application. An application to amend the Ordinance, together with the appropriate filing fee, shall be submitted to the Town Clerk on a form adopted by the Town Council for such purpose.

2. Planning Board Recommendation. Immediately upon receipt of the proposal, the Town Clerk shall transmit a copy of such proposal to the Town Council and to the Planning Board for study and recommendation. The Planning Board shall notify and seek the advice of the Planning Staff, and report to the Town Council within 45 days after receipt of the proposal giving its findings and recommendations. Where a proposal for adoption, amendment or repeal of a zoning ordinance or zoning map is made by the Planning Board, the requirements for study by the Board may be waived, provided that the proposal by the Planning Board include its findings and recommendations. Among its findings and recommendations to the Town Council with respect to a proposal for adoption, amendment or repeal of a zoning ordinance or zoning map, the Planning Board shall:

a. 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

b. Include a demonstration of recognition and consideration of the applicable purposes of zoning, as represented in § 102, Purpose.

3. Public Hearing Required. Prior to the disposition of an application to amend the Ordinance, and within 65 days of the receipt of the proposal, the Town Council shall hold a duly noticed public hearing at which opportunity shall be given to all interested persons to be heard on the proposed amendment.

4. Notice and Hearing Requirements.

a. General Notice Requirements. Notice of public hearing shall be given by the Town Clerk in a newspaper of general circulation in the Town at least once each week for three successive weeks prior to the date of the hearing, which may include the week in which the hearing is to be held. Written notice, which may be a copy of the newspaper notice, shall be mailed to the associate director of the Rhode Island Department of Administration, Division of Planning. The newspaper notice shall:

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

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

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

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

(5) State that the proposals shown thereon may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any alteration or amendment must be presented for comment in the course of the hearing.

b. Specific Notice Requirements.

(1) Where a proposed general amendment to the existing Ordinance includes changes in the existing zoning map, public notice shall be given as required in Subsection 4(a), General Notice Requirements, of this Section.

(2) Where a proposed amendment to the existing Ordinance includes a specific change in a zoning district map, but does not affect districts generally, the hearing notice requirement cited above shall be supplemented by written notice of the date, time, place, nature and purpose of the hearing, to the owner of record, the applicant and to all owners of real property whose property is within the area of the proposed change and to owners whose property is within 200 feet of the perimeter of the real property proposed for change. Such notice shall also include a map showing the existing and proposed boundaries, zoning district boundaries, and existing streets and roads and their names. Such notice shall be sent by certified mail, return receipt requested, postage prepaid, to the last known address of the owners, as shown on the current real estate tax assessment records, and shall be sent at least 15 days prior to the date of the public hearing. Proof of mailing shall be established by the applicant's filing, prior to the commencement of the public hearing, an affidavit of such notice, including an affidavit that both the owner of the subject property and the applicant have also received a copy of such notice, and the receipts of mailing and return receipts.

(3) Notice of public hearing shall be sent by first class mail to the chief executive body of the New Shoreham municipal water company.

c. Costs of all notice requirements shall be borne by the applicant and shall be paid in advance, as may be required by the Clerk.

5. Review and Disposition. The Town Council shall dispose of all applications to amend the Ordinance in accordance with the following:

a. Within 65 days of receipt of the complete application to amend the Ordinance, the Town Council shall hold a public hearing on the application and shall receive all information presented by the applicant or agent or any property owner or agent or any other interested party, and pertinent to the proposed amendment.

b. The public hearing may be held open for up to three months from the date of commencement at the request of either the Planning Board, the Town Council, or the applicant in order for additional information

to be presented.

c. Within 45 days after the date of completion of the public hearing, the Council shall deliberate at a meeting open to the public as to whether the proposed amendment meets the needs of the Town and is consistent with the Comprehensive Plan and the intent and purposes of the Ordinance, and shall either approve, conditionally approve or deny the proposed amendment. The decision of the Council shall be in writing.

d. The provisions of this Subsection pertaining to deadlines shall not be construed to apply to any extension consented to by the applicant.

6. Conditions of Approval. In granting a zoning ordinance amendment, the Town Council may limit the change to one of the permitted uses in the zoning district to which the subject land is rezoned, and impose such limitations, conditions, and restrictions as it deems necessary, including, without limitation:

a. Requiring the petitioner to obtain a permit or approval from any and all state or local governmental agencies or instrumentalities having jurisdiction over the land and use which are the subject of the zoning change;

b. Those relating to the effectiveness or continued effectiveness of the zoning change; and/or

c. Those relating to the use of the land.

D. Recording the Decision.

1. The Town Clerk shall cause the limitations and conditions so imposed to be clearly noted on the zoning map and recorded in the land evidence records. In the case of a conditional zone change, however, the limitations, restrictions, and conditions shall not be noted on the zoning map until the zone change has become effective. If the permitted use for which the land has been rezoned is abandoned, or if the land is not used for the requested purpose for a period of two years or more after the zone change becomes effective, the Town Council may, after a public hearing as set forth in Subsection C, Procedures, above, change the land to its original zoning use before the petition was filed. If any limitation, condition, or restriction in an ordinance is held to be invalid by a court in any action, that holding shall not cause the remainder of the Ordinance to be invalid.

2. The Town Clerk shall also notify the Zoning Official, Planning Staff and other Town boards and officials of the disposition of any application to amend this Ordinance. [Amended 5-3-2022 by Ord. No. 2022-04]

3. Upon publication of the Zoning Ordinance and map(s), and any amendments thereto, the Town Clerk shall send a copy, without charge, to the Associate Director of the RI Department of Administration, Division of Planning, and to the RI State Law Library.

§ 709. Appeals

§ 709 Appeals

A. Appeals to the Zoning Board of Review. As required by Rhode Island law, an appeal shall stay all proceedings in furtherance of the action being appealed from unless the official, officer or agency from whom the appeal is taken certifies to the Zoning Board of Review, after an appeal has been duly filed, that by reason of facts stated in the certificate a stay would, in the official's, officer's or agency's opinion, cause imminent peril to life or property. In that 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 official, officer or agency from whom the appeal is taken on due cause shown.

1. Appeal. Appeals to the Zoning Board of Review may be taken by any party aggrieved by any decision of any official, officer or agency charged in this Ordinance with the enforcement of any of its provisions.

2. Procedure. All appeals to the Zoning Board of Review shall be made in accordance with the following procedure:

a. Time for an Appeal. An appeal shall be brought within twenty (20) days of the date the appellant received the decision or the date on which the appellant knew or should have known of the decision. [Amended 3-5-2018 by Ord. No. 2018-09]

b. Submittal Requirements. An appeal shall be instituted by filing a notice of appeal which, at a minimum shall: identify the specific decision appealed from including the date of the decision, and shall include a copy of the decision; explain the applicant's standing to bring the appeal; describe the specific grounds for the appeal including a detailed explanation of the reason why the decision was in error; include a reference to the governing provisions of the Ordinance; include any plans, documents, reports or information supporting the appeal; include a radius map and list of the names and addresses of all property owners within 200 feet of all the property lines of the subject property.

c. Filing of a Notice of Appeal. A notice of appeal, with all the material constituting the appeal, shall be filed with the officer, official or agency from whom the appeal is taken and with the Zoning Board of Review.

d. Filing Fee. The filing fee for a notice of appeal shall be that set by the Town Council hereunder for any other application but shall include an additional fee sufficient to cover the cost of the required certified mail notices and the time incurred in mailing said notices.

e. Transmission of the Record. The officer or agency whose decision is being appealed shall immediately forward all records relevant to the appeal to the Zoning Board of Review.

f. Public Hearing. A public hearing on the appeal shall be scheduled by the clerk, or Zoning Official, for the very next scheduled meeting of the Zoning Board of Review for which the public notice requirements of § 702B Notice Requirements can be met.

g. Notice. Notice of the public hearing, as required by law and as set forth in § 702(B)(2) and (3) of this Ordinance shall be sent by the clerk of the Zoning Board, or Zoning Official.

3. Review and Disposition. The Zoning Board of Review may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, and may modify the order, requirement, decision, or determination appealed from. The Zoning Board of Review may make such orders, requirements, decisions, or determinations as ought to be made, and to that end shall have the powers of the officer or agency from whom the appeal was taken. Decisions of the Zoning Board of Review on appeals shall be rendered within 65 days of the date the appeal was filed. [Amended 3-5-2018 by Ord. No. 2018-09]

4. Decisions and Records. All decisions and records shall be rendered and maintained in accordance with Section 603(C). (Section Amended May 4, 1998) [Amended 3-5-2018 by Ord. No. 2018-09]

§ 710. Fees

§ 710 Fees

A. Application fees, advertising and notice fees and other fees, costs or expenses necessary in connection with the procedures set forth in this Ordinance, shall be borne by the applicant. Application fees shall be as established by the Town Council and published in the office of the Town Clerk.

B. Upon the filing of any appeal, the applicant/appellant shall be responsible for the costs of the preparation of any necessary hearing transcript. The appellant shall either order the transcript directly from the transcriber and submit the original to the Town or deposit with the Town the estimated cost of the transcript and be billed any balance. (Section Amended May 2, 2001)

§ 711. Demolition Review

§ 711 Demolition Review

[Amended 5-3-2022 by Ord. No. 2022-04]

A. Purpose. The purpose of these provisions is to provide a process for review of alternatives to demolition of buildings or structures that importantly contribute to the historic resources of New Shoreham, to create

an incentive for the reuse of existing structures, and to reduce the quantity of demolition debris generated on the Island.

B. Applicability. The Demolition Review provisions shall apply to all buildings and exterior elements thereof.

C. Procedure.

1. A permit may be issued by the Building Official for demolition of any building or structure to which these provisions apply only if he has determined, based upon his own examination and his review of evidence provided by the applicant and by any engineers or experts that the applicant may retain that:

a. The condition of the building or structure poses a serious and imminent threat to the public health and safety, and that there is no economically feasible alternative to the immediate demolition of the building or structure, or

b. Said building or structure is clearly devoid of reuse potential due to its existing condition or to physical barriers to moving the structure such as significant trees or topography, or

c. The demolition delay period set forth in § 711(C)(5) below has expired.

2. For these purposes, "demolition" includes razing, removing from the site, or substantial destruction through removal of a roof (but not re-roofing), removal of one or more sides of a building (but not re-siding), or other combination of actions resulting in removal of more than 25% of the structural exterior of a building or structure.

3. Applicants for approval of demolition shall submit the following information to the Building Official:

a. A description of the proposed plans for demolition and the reason(s) therefore.

b. In the case of partial demolition involving additions or alterations, proposed plans and elevations for the affected portion of the building or structure.

c. In the case of complete razing or demolition, a description of efforts, if any, to implement an alternative to demolition, including any efforts to locate a purchaser of the building or structure who is willing to preserve, rehabilitate, or restore the building or structure.

4. Within 20 days of receipt of the required submittals the Building Official shall issue to the applicant a notice of determination regarding whether immediate demolition is necessary per § 711(C)(1)(a) or whether the building or structure is clearly devoid of reuse potential per § 711(C)(1)(b). If the Building Official determines that the demolition may then proceed or if more than the allowable time for his or her decision under § 711(C)(4) elapses, a permit for demolition may be issued in accordance with applicable law.

5. If the Building Official determines that immediate demolition is not required and that the structure has reuse potential a public notice shall be provided in a local newspaper at the expense of the applicant inviting letters of interest regarding the availability of a building or structure which is to be moved from the present location. Such notice shall include a description of the property and a way to contact the owner or owner's agent. Demolition may proceed if either:

a. Thirty days elapse from the date of publication without receipt of one or more letters found by the Building Official to be bona fide expressions of interest; or

b. More than 60 days elapse from the date of publication without a written agreement having been executed between the owner of the building or structure and a party seeking to acquire it for restoration or relocation.

D. Interim Arrangements. Where a written agreement has been executed as provided at § 711(C)(5)(b) with security satisfactory to the Building Official assuring removal or, failing that, demolition of the building or structure, that building or structure may be temporarily relocated and may remain on the premises for up to six months, during which period permitting and new construction may proceed on the premises without that building or structure being reflected in determinations made regarding zoning compliance. In such cases, no final certificate of occupancy shall be issued while the building proposed for removal or demolition remains on the site.

E. Enforcement. Demolition of a building or structure without first obtaining and complying fully with the determinations of the Building Official under § 711 shall be subject to enforcement action as provided at § 707, Enforcement. The period of violation shall begin as provided at § 707(A)(2) and shall not end until restoration or compensatory provisions have been made to the satisfaction of the Building Official. Further, no building permit for new construction on the premises shall be issued for a period of two years following the date of the unauthorized demolition."

§ 712. Comprehensive Permits for Low and Moderate Income Housing

§ 712 Comprehensive Permits for Low and Moderate Income Housing

[Amended February 20, 2013 by Ord. No. 2013-03]

A. Authority. Pursuant to Title 45, Chapter 53 of the Rhode Island General Laws, as amended the Low and Moderate Income Housing Act, the New Shoreham Planning Board shall have the authority to issue a comprehensive permit for low and moderate income housing.

B. Definitions. The following words or phrases shall have the following meaning when used in this Section:

1. Approved affordable housing plan means an affordable housing plan that the director of administration has approved as meeting the guidelines for a comprehensive plan as promulgated by the state planning council.

2. Consistent with local needs. Local zoning and land use ordinances and regulations are consistent with local needs if they are:

a. Reasonable in light of the State's need for low and moderate income housing and the number of low income persons in New Shoreham, considered with:

(1) The need to protect the health and safety of the community, or

(2) The need to promote better site design and building design in relation to the surroundings, or

(3) The need to preserve open spaces.

b. Not designed or intended to exclude low and moderate income residents from the community or to discourage or frustrate the likelihood of success of a project.

c. Applied as equally as possible to both subsidized and unsubsidized housing.

3. Letter of eligibility means a letter issued by the Rhode Island Housing and Mortgage Finance Corporation pursuant to G.L. 1956, § 42-55-5.3(a).

4. Low or moderate income housing means any housing, whether built or operated by any public agency or any nonprofit organization or by any limited equity housing cooperative or any private developer, that is subsidized by a federal, state, or municipal government under any program to assist the construction or rehabilitation of housing, affordable to low or moderate income households, as defined in the applicable federal or state statute or local ordinance, and that will remain affordable through a land lease and/or deed restriction for 99 years or such other period agreed to by the applicant and the town, or prescribed by the federal, state, or municipal government subsidy program, but in no case fewer than 30 years from initial occupancy.

5. Municipal government subsidy is assistance that is made available through a town program sufficient to provide affordable housing. Such assistance may include, but is not limited to, direct financial support, abatement of taxes, waiver of fees and charges, and approval of density bonuses and/or internal subsidies, or any combination of forms of assistance.

C. Eligible proposals.

1. An applicant proposing to build low or moderate income housing may submit to the Planning Board an application for a Comprehensive Permit to build that housing, instead of separate applications to the local boards and officials who would otherwise have the authority to approve the application. This procedure is available only for proposals in which at least 25% of the housing will be low or moderate income housing.

2. Notwithstanding the timetables elsewhere in this ordinance, the Planning Board shall have the authority to consider Comprehensive Permit applications from for-profit developers sequentially in the order in which they are submitted.

D. Application procedure.

1. Pre-application conference.

a. Any applicant for a Comprehensive Permit shall request a pre-application conference with the Administrative Officer, who may include in the conference any other person deemed appropriate by the Officer. The purpose of the conference is to review a concept plan of the proposed development.

b. To request a pre-application conference, the applicant shall submit a short written description of the project, including the number of units, type of housing, and a location map.

c. The Administrative Officer shall have 30 days from receipt of a request for a pre-application conference to conduct the conference. If the pre-application conference has not taken place within 30 days, the applicant has the right to file the Comprehensive Permit application.

2. Submission requirements. Applications for a Comprehensive Permit shall include:

a. A written application for a Comprehensive Permit on a form provided by the Town for that purpose. The application shall identify the specific ordinances and regulations from which the applicant is seeking relief, together with a description of what relief is needed, including the permitted and the proposed housing density.

b. A letter of eligibility, documentation of eligibility for a state or federal subsidy, or documentation of eligibility for a municipal government subsidy.

c. A proposed timetable for the commencement of construction and completion of the project, including a timetable for construction phasing that includes the percentage of low and moderate income housing that will be constructed during each phase.

d. A sample land lease or deed restriction with affordability liens, in conformance with guidelines of the agency providing the subsidy, that will restrict use of the low and moderate income units to low and moderate income housing for not less than 30 years.

e. Identification of an approved entity that will monitor the long-term affordability of the low and moderate income units.

f. A financial pro-forma for the proposed development, including but not limited to evidence of the acquisition price, expenses, and other economic factors that comprise the total cost for the construction and administration of the facility and the resulting rental rates or sale prices to be charged for all units constructed;

g. The required application fee.

h. Supporting documentation.

(1) For Comprehensive Permit applications that do not propose a major land development or a major subdivision, the applicant shall submit all of the material required by the applicable provision of the zoning ordinance or the land development and subdivision regulations.

(2) For Comprehensive Permit applications that propose a major land development or a major subdivision, the applicant shall submit all items on the Master Plan Checklist for Major Land Developments and Major Subdivisions in the land development and subdivision regulations, as amended.

3. Certification of completeness.

a. The Administrative Officer shall certify a new application as complete or incomplete, according to the provisions of the land development and subdivision regulations, as amended, within 30 days of the day it is received. If the application is determined to be incomplete, the Administrative Officer shall specify in

writing the missing or incomplete items. When the application is re-submitted, the Administrative Officer shall certify it as complete or incomplete with 14 days of the date of re-submission.

b. When an application is certified as complete, the Administrative Officer shall transmit a complete copy of the application to each local board or official who would otherwise have the authority to approve the application.

c. The Administrative Officer shall ask the Conservation Commission for an advisory opinion to the Planning Board concerning the conservation issues raised by the application.

4. Additional documentation. Notwithstanding the submission requirements set forth in this section, the Planning Board may request additional reasonable documentation during the public hearing, including to opinions of experts, credible evidence of application for necessary federal or state permits, and opinions or recommendations from other town boards, commissions, or officials.

E. Public hearing.

1. A Comprehensive Permit application proposing a major land development or major subdivision shall be scheduled for a public hearing as soon as practical. The Planning Board shall render a decision on the Master Plan application no more than 120 days after the date on which the application was certified as complete, unless the applicant and the Planning Board agree to a longer period of time. Preliminary plan review and approval, and final plan review and approval, shall take place pursuant to the provisions of the Land Development and Subdivision regulations.

2. A Comprehensive Permit application proposing any type of development other than a major land development or major subdivision, including but not limited to a minor land development, minor subdivision, zoning ordinance relief, or relief from any other local ordinance or regulation, shall be reviewed according to the procedures specified in the Zoning Ordinance or in the Land Development and Subdivision Regulations for that type of relief, provided, however, that a public hearing shall be conducted on each such application. The Planning Board shall schedule a public hearing on the application as soon as practical after the application is certified as complete, and shall render a decision no more than 95 days after the date on which the application was certified as complete, unless the applicant and the Planning Board agree to a longer period of time.

3. If a decision is not rendered within the time periods in this section, the application shall be considered approved, and local officials shall immediately issue the necessary permits.

F. Notice of public hearing.

1. The public hearing on the application shall be advertised in a newspaper in general circulation in New Shoreham at least 14 days before the date of the public hearing. The advertisement shall appear in the classified section and shall be printed in type at least as large as that used for news stories.

2. Notice of the hearing shall be sent by certified mail, return receipt requested, to all owners of property within 500 feet of the property proposed for development or rehabilitation, at least 10 days before the date of the public hearing.

3. The advertisement and the notice shall state the date, time, and location of the public hearing, the location of the property by assessor's plat and lot number, and by street address, and the days, hours and location at which the complete application may be examined.

4. The applicant shall pay for the newspaper advertisement and the certified mail notice.

G. Decision.

1. In a decision approving an application for a Comprehensive Permit, the Planning Board shall make positive findings on each of the following applicable criteria. The findings shall be supported by legally competent evidence on the record, and the decision shall disclose the nature and character of the observations on which the Planning Board members acted.

a. The proposed development is consistent with local needs as identified in the Comprehensive Plan, with particular emphasis on the community's affordable housing plan, or the proposed development has satisfactorily addressed the issues where there may be inconsistencies.

b. The proposed development is in compliance with the standards and provisions of the zoning ordinance and the land development and subdivision regulations, or where those standards and provisions have been waived or varied, local concerns that have been affected by the relief granted do not outweigh the state and local need for low and moderate income housing.

c. All low and moderate income housing units proposed are integrated throughout the development, are similar in scale and architectural style to the market rate units in the development, and will be built and occupied prior to, or simultaneously with, the construction and occupancy of the market rate units.

d. There will be no significant negative environmental impacts from the proposed development as shown on the final plan with all required conditions for approval.

e. There will be no significant negative impacts on the health and safety of current or future residents of the community in areas including, but not limited to, safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewage 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.

f. All of the proposed land development, or all lots in a subdivision, will have adequate and permanent access to a public street in accordance with the requirements of G.L. 1956, § 45-23-60(5).

g. The proposed development will not result in the creation of individual lots with such physical constraints to development that building on those lots according to the applicable regulations and building standards would be impracticable, unless the lots are created solely as permanent open space or are permanently reserved for a public purpose on the approved and recorded plat.

2. The Planning Board may deny the application for any of the following reasons:

a. The town has an affordable housing plan that has been approved by the director of administration as meeting the guidelines for a local comprehensive plan as promulgated by the state planning council, the town has adopted the implementation plan contained in the approved affordable housing plan, the town has not unreasonably denied applications made pursuant to the approved affordable housing plan, and the application is inconsistent with the approved affordable housing plan.

b. The proposal is not consistent with local needs, including, but not limited to, the needs identified in an approved comprehensive plan, and/or the zoning ordinance and procedures promulgated in conformance with the comprehensive plan.

c. The proposal is not in conformity with the Comprehensive Plan.

d. The town has met, or has plans to meet, the goal of having 10% of its year-round housing units as low or moderate income housing.

e. The application does not adequately address concerns for the environment and for the health and safety of current town residents.

3. When making its decision, the Planning Board shall have the same powers as to the local boards and officials who would otherwise have the authority to approve the application.

4. The Planning Board shall have the authority to impose conditions and requirements on the decision with respect to height, site plan, size or shape, or building materials, provided that the conditions and requirements are consistent with the approved affordable housing plan. No condition or requirement shall be imposed on the approval that would make construction or operation of the housing infeasible. A condition or requirement or combination of conditions or requirements would make construction or operation of the housing infeasible, within the limits set by the subsidizing agency on the size or character of the development, on the amount or nature of the subsidy, or on the tenants, rentals, and income permissible, if the housing

could not be constructed or operated without financial loss and without substantially changing the rent levels and unit sizes that were proposed.

5. The decision of the Planning Board shall be by a majority vote of the membership of the Board.

H. Duration of approval. A Comprehensive Permit shall expire unless construction commences within 12 months of its issuance and is completed within 60 months of its issuance, unless the applicant and the Planning Board agree on a longer period, or to a period of phased development. Low and moderate income units shall be built and occupied prior to, or simultaneously with, the construction and occupancy of market rate units.

I. Appeal.

1. Any person aggrieved by the issuance of an approval may appeal to the Rhode Island Supreme Court.

2. When an application is denied, or when an application is granted with conditions and requirements that make the construction or operation of the housing infeasible, the applicant may appeal the decision to the State Housing Appeals Board. The appeal shall be taken within 20 days after the date of the notice of the decision by the Planning Board.

(Subsection 712 added March 5, 2007)

§ 713. Unified Development Review

§ 713 Unified Development Review

[Added 2-21-2024 by Ord. No. 2024-08]

A. Unified development review established. Review and decision on the issuance of variances and special use permits for properties undergoing Development Plan Review and/or Major or Minor Land Development or Subdivision review shall be conducted and decided by the Planning Board.

B. Under unified development plan review, the Planning Board, has the authority to grant, grant with conditions, or deny zoning relief;

C. The filing, review, and approval of applications, as well as the review of variances and special-use permits submitted under this section shall adhere to the procedures set forth in the subdivision regulations. In addition to any development plan review and/or minor o major land development or subdivision application materials, an application for a project under this section shall also file specific requests for relief from the literal requirements of a zoning ordinance, and/or for the issuance of special-use permit(s).

D. Public hearing. All applications heard under unified development review, shall require a public hearing that meets the requirements as determined in the Land Development and Subdivision Regulations.

E. The time periods by which the planning board must approve or deny applications for variances and special use permits under unified development review shall be the same as the time periods by which the board must make a decision on the applicable review stage of the category of project under review.

F. The expiration periods of an approval of a variance or special use permit granted under this section shall be the same as those set forth in the statute for the underlying type of project under review.

§ 714. Land Development Projects

§ 714 Land Development Projects

[Added 2-21-2024 by Ord. No. 2024-08]

A. Land development projects shall be reviewed in accordance with Rhode Island General Law and the procedures established in the Land Development and Subdivision Regulations.

B. No land development project shall be initiated until a plan of the project has been submitted and approval has been granted by the authorized permitting authority.

C. In reviewing, hearing, and deciding upon a land development project, the Planning Board is authorized to allow for zoning incentives within the project that include:

1. The adjustment of applicable lot density and dimensional standards where open space is to be permanently set aside for public or common use,

2. Where the physical characteristics, location, or size of the site require an adjustment,

3. Where the location, size, and type of housing, commercial, industrial, or other use require an adjustment,

4. Where housing for low- and moderate-income families is to be provided,

5. Where other amenities not ordinarily required are provided, as stipulated in the zoning ordinance,

6. Provision may be made for adjustment of applicable lot density and dimensional standards for payment or donation of other land or facilities in lieu of an on-site provision of an amenity that would, if provided on-site, enable an adjustment.

D. In reviewing, hearing and deciding upon a land development project, the permitting authority is empowered to apply any special conditions and stipulations to the approval that may, in the opinion of the authorized permitting authority, be required to maintain harmony with neighboring uses and promote the objectives and purposes of the comprehensive plan and zoning ordinance.

Attachments:

Attachment 1 - Appendix A List Of Amendments

Attachment 2 - Appendix B Use Categories Allowed By Zoning District

Attachment 3 - Appendix C Dimensional Regulations By Use District

Attachment 4 - Appendix D Attached Multi-Family Units

Attachment 5 - Appendix E Individual Sewage Disposal Systems (ISDS) Table 1

Attachment 6 - Appendix F Individual Sewage Disposal Systems ISDS Table 2

Attachment 7 - Appendix G Outdoor Lighting

Attachment 8 - Appendix H Outdoor Lighting

Attachment 9 - Appendix I Residential Structures

Attachment 10 - Appendix J Zoning Maps

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