



JAMESTOWN ZONING ORDINANCE



INCLUDING THE JAMESTOWN VILLAGE SPECIAL DEVELOPMENT DISTRICT

Approved at Jamestown Town Council Public Hearing on October 22, 2009
amended March 1, 2010

Chapter 82 ZONING*

* **Editors Note:** At the discretion of the town, printed herein is the zoning ordinance, as adopted by the Jamestown town council on November 27, 1995, and effective on November 27, 1995. The zoning ordinance is not considered as codified in this volume, but is only printed as a chapter. The chapter number has been added as a prefix in front of the existing section number of the ordinance [this chapter]. Amendments to the ordinance [this chapter] are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the other chapters of the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

Charter References: Planning and zoning, art. VII.

Cross References: Any ordinance rezoning property in the town saved from repeal, § 1-8(12); planning commission, § 2-56 et seq.; buildings and building regulations, ch. 14; environment, ch. 22; historic and archaeological preservation, ch. 30; burial sites, § 30-21 et seq.; mobile homes and recreational vehicles, ch. 34; streets, sidewalks and other public places, ch. 62; waterways, ch. 78.

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ARTICLE 1.
INTRODUCTION

Sec. 82-100. Preamble.

In accordance with Title 45, Chapter 24 of the General Laws of Rhode Island, 1956, as amended and as may hereafter be amended, the Rhode Island Zoning Enabling Act of 1991, Rhode Island General Laws, G.L. 1956, §§ 45-24-27--45-24-72 (the "Act"), and by virtue of the authority conferred by the Town of Jamestown Home Rule Charter, the Zoning Ordinance of the Town of Jamestown is hereby amended in its entirety to read as follows:

Sec. 82-101. Purpose.

The regulations set forth in this ordinance [chapter] are made in accordance with the Comprehensive Community Plan of the Town of Jamestown (pursuant to G.L. 1956, §§ 45-22.2-3 and 45-24-29) for the purpose of promoting the public health, safety, morals and general welfare of the citizens of the Town of Jamestown and assist the Rhode Island General Assembly in its duty to provide for the conservation of the natural resources of the state and to adopt all means necessary and proper by law for the preservation, regeneration and restoration of the natural environment of the state in accordance with sections 16 and 17 of article 1 of the constitution of the State of Rhode Island. These regulations are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of the land; to avoid undue concentrations of populations; to provide for the adequate provision of transportation, water, sewage, schools, parks and other public requirements.

In addition, these regulations shall address the following purposes:

- 1) Promote the public health, safety and general welfare;
- 2) Provide for a range of uses and intensities of use appropriate to the character of the town and reflecting current and expected future needs;
- 3) Provide for orderly growth and development which recognizes:
 - a) The goals and patterns of land use contained in the comprehensive plan;
 - b) The natural characteristics of the land, including its suitability for particular uses based on soil characteristics, topography, and susceptibility to surface or groundwater pollution;
 - c) The values and dynamic nature of freshwater ponds, the shoreline and freshwater wetlands;
 - d) The values of unique or valuable natural resources and features;
 - e) The availability and capacity of existing and planned public and/or private services and facilities;
 - f) The need to shape and balance urban and rural development;
 - g) The use of innovative development regulations and techniques;
- 4) Provide for the control, protection, and/or abatement of air, water, groundwater and noise pollution, and soil erosion and sedimentation;
- 5) Provide for the protection of the natural, historic, cultural, and scenic character of the town or areas therein;
- 6) Provide for the preservation and promotion of agricultural production, forest, silviculture, aquaculture, timber resources and open space;

- 7) Provide for the protection of public investment in transportation, water, stormwater management systems, sewage treatment and public facilities, open space, and other public requirements;
- 8) Promote a balance of housing choices, for all income levels and groups, to ensure the health, safety and welfare of all citizens and their rights to affordable, accessible, safe and sanitary housing;
- 9) Provide opportunities for the establishment of low and moderate income housing;
- 10) Promote safety from fire, flood, and other natural or manmade disasters;
- 11) Promote a high level of quality in design in the development of private and public facilities;
- 12) Promote implementation of the comprehensive plan;
- 13) Provide for coordination of land uses with contiguous municipalities, other municipalities, the state and other agencies, as appropriate, especially with regard to resources and facilities that extend beyond municipal boundaries or have a direct impact on that municipality;
- 14) Provide for efficient review of development proposals, to clarify and expedite the zoning approval process and provide for the procedures for the administration of the ordinance [this chapter], including, but not limited to, variances, special use permits and, where adopted, procedures for modifications.

Sec. 82-102. Consistency statement.

Drafting and adoption of this ordinance [chapter] is consistent with the Town of Jamestown comprehensive community plan adopted **May 5, 2004**, pursuant to G.L. 1956, § 45-22.2. In the instance of any uncertainty in the construction or application of any section of this ordinance [chapter], the ordinance [this chapter] shall be construed in a manner that will further the implementation of, and not be contrary to, the goals and policies and applicable elements of the comprehensive plan.

Sec. 82-103. Definitions.

The following words [terms] shall have the following meanings [in this chapter]:

- (1) *Abutter*. One whose property abuts, that is, adjoins at a border, boundary, or point with no intervening land.
- (2) *Active recreation*. Leisure time activities, usually of a more formal nature, often requiring equipment and taking place at prescribed places, sites, or fields. A higher level of amenities at a site, and/or a modification to the natural environment are usually connected to active recreation. It includes tennis and other court games, baseball and other field sports, and playground activities.
- (3) *Accessory building*. Any building which is customarily incidental and subordinate to the principal building and does not share a common wall and roof with the principal building. An accessory building shall be located on the same zoning lot as the principal building. See Outbuilding.
- (4) *Accessory Dwelling Unit*. A subordinate dwelling unit/apartment having no greater than 600 square feet of living area and sharing ownership and utility connections with a Principal Building; it may or may not be within an Outbuilding or Accessory Building.
- (5) *Accessory structure*. Any structure constructed or erected which is customarily incidental and subordinate to the principal building. An accessory structure shall be located on the same zoning lot as the principal building.

(6) *Accessory use.* A use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building. An accessory use may be restricted to the same lot as the principal use. An accessory use shall not be permitted without the principal use to which it is related.

(7) *Act.* Rhode Island Zoning Enabling Act as set forth in G.L. 1956, § 45-24-27 et seq.

(8) *Adult business.* Any restaurant, bar, nightclub, private or nonpublic association which employs topless waitpersons, presents nude or seminude entertainment or other erotic forms of entertainment. Also any establishment which shows, rents, promotes, displays or advertises pornographic material in any format.

(9) *Affordable Housing.* Residential housing that has a sales price or rental amount that is within the means of a household that is moderate income or less. In the case of dwelling units for sale, housing that is affordable means housing in which principal, interest, taxes, which may be adjusted by state and local programs for property tax relief, and insurance constitute no more than thirty percent (30%) of the gross household income for a household with less than one hundred and twenty percent (120%) of area median income, adjusted for family size. In the case of dwelling units for rent, housing that is affordable means housing for which the rent, heat, and utilities other than telephone constitute no more than thirty percent (30%) of gross annual household income for a household with eighty percent (80%) or less of area median income, adjusted for family size. Such housing shall remain affordable through a land lease and/or deed restriction for 99 years or such other period that is either agreed to by the applicant and Town or prescribed by the federal, state, or municipal government subsidy program but that is not less than 30 years from initial occupancy. In addition, to qualify as affordable housing under the State of Rhode Island definition, the housing must have a federal, state or municipal subsidy (see Municipal Subsidy definition).

(10) *Aggrieved party.* An aggrieved party, for purposes of this chapter, shall be:

- a) Any person or persons or entity or entities who can demonstrate that their property will be injured by a decision of any officer or agency responsible for administering the ordinance [this chapter]; or
- b) Anyone requiring notice pursuant to the act.

(11) *Agricultural structure.* A structure which is reasonably necessary to the conduct of on-site working farms . [Agricultural structure] includes, barns, shed, silos and other similar structures.

(12) *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 farmland or additional farmland of statewide importance for Rhode Island by the soil conservation service of the U.S. Department of Agriculture.

(13) *Apartment.* A Residential unit sharing a building and a Lot with other units and/or uses; may be for rent, or for sale as a condominium.

(14) *Applicant.* An owner or authorized agent of the owner submitting an application or appealing an action of any official, board or agency.

(15) *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.

(16) *Attic*. The interior part of a building contained within a the sloped roof of a structure.

(17) *Bed and breakfast home*. A single building or part thereof used only for residential dwelling and occupied by the owner thereof in which:

1. No more than five rooms are available on an overnight basis for transient guests for compensation;
2. No more than four people are permitted to occupy any one room;
3. No more than ten transient guests are permitted at any one time;
4. No cooking facilities are permitted in any guestroom;
5. No more than one meal is provided for said guests daily;
6. No person may occupy said room or rooms more than 14 days in any 30 day period; and
7. Which use is authorized for periods of two years by the zoning board subject to renewal for successive two-year terms by the town council, which renewal shall be instituted by a renewal application filed by the applicant with the town clerk.

(18) *Bedroom*. A room furnished with a bed or intended primarily for sleeping.

(19) *Bioswale*. An extended Rain Garden that may run the length of the block.

(20) *Block*. The aggregate of private Lots, Passages, Rear Alleys and Rear Lanes, circumscribed by Thoroughfares.

(21) *Bog*. A bog shall be a place where standing or slowly running water shall be near or at the surface during normal growing season and/or where a vegetational community shall be made up of one or more of, but not limited to nor necessarily including all of, the following: blueberry, cranberry (*Vaccinium*), leatherleaf (*Chamaedaphne calyculata*), pitcher plant (*Sarracenia purpurea*), sundews (*Droseraceae*), orchids (*Orchidaceae*), white cedar (*Chamaecyparis thyoides*), red maple (*Acer rubrum*), black spruce (*Picea mariana*), bog aster (*Andromeda glaucophylla*), azaleas (*Rhododendron*), laurels (*Kalmia*), sedges (*Caryx*), [and] bog cotton (*Eriophorum*).

(22) *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.

(23) *Building*. Any structure used or intended for supporting or sheltering any use or occupancy.

(24) *Buildings of Value*. Buildings identified in Historic and Architectural Resources of Jamestown, Rhode Island by the Rhode Island Historical Preservation and Heritage Commission, 1995. Also buildings of similar age, style, and architectural character shall be determined to be Buildings of Value. Buildings of Value shall become such only after amendment to the Zoning Map of the Town of Jamestown per 82-1106 A.3.

(25) *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.

(26) *Building height*. The vertical distance from lowest point of original grade on any of the four sides of the building or structure to the top of the highest point of the roof.

(27) *By Right*. Characterizing a proposal or component of a proposal for a Site Plan that complies with this Code and is permitted and processed administratively, without public hearing. See *Special Use Permit* and *Variance*.

(28) *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.

(29) *Civic*. The term defining not-for-profit organizations dedicated to arts, culture, education, recreation, government, transit, and municipal parking.

(30) *Civic Building*. A building operated by not-for-profit organizations dedicated to arts, culture, education, recreation, government, transit, and municipal parking, or for use approved by the legislative body.

(31) *Cluster*. A site planning technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space, and/or preservation of environmentally, historically, culturally, or other sensitive features and/or structures.

(32) *Coastal features*. A prominent part or characteristic of the land near the ocean shore. Includes coastal beaches, dunes, barrier beaches, wetlands, cliffs, bluffs, banks, and manmade shorelines.

(33) *Coastal wetlands*. Coastal wetlands include salt marshes and freshwater or brackish wetlands contiguous to saltwater marshes. Areas of open water within coastal wetlands are considered a part of the wetland.

Salt marshes are areas regularly inundated by saltwater through either natural or artificial watercourses and where one or more of the following species predominate: smooth cordgrass (*Spartina alterniflora*), salt meadow grass (*Spartina patens*), spike grass (*Distichlis spicata*), black rush (*Juncus gerardi*), saltworts (*Salicornia* spp.), sea lavender (*Limonium carolinianum*), saltmarsh bulrush (*Scirpus* spp.), [and] high tide bulrush (*Iva frutescens*).

Contiguous freshwater wetlands are those wetlands which border directly on salt marshes or brackish wetlands and which, except for size limitations, meet the definition of bog, swamp, or pond under the Rhode Island Freshwater Wetlands Act (G.L. 1956, § 2-1-18 et seq.). All contiguous freshwater wetlands are protected by this ordinance [chapter], regardless of size.

Contiguous brackish wetlands are those wetlands which border directly on salt marshes and where one or more of the following species predominate: tall reed (*Phragmites communis*), tall cordgrass (*Spartina pectinata*), broadleaf cattail (*Typha latifolia*), narrowleaf cattail (*Typha angustifolia*), spike rush (*Eleocharis rostellata*),

chairmaker's rush (*Scirpus americana*), creeping bentgrass (*Agrostis palustris*), sweet grass (*Hierochloe odorata*), [and] wild rye (*Elymus virginicus*).

(34) *Common ownership*. [Common ownership means] 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 lots under specific development techniques.

(35) *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 pursuant to G.L. 1956, § 40.1-24-1 et seq. All requirements pertaining to local zoning are waived for these community residences;
- b) A group home providing care or supervision, or both, to not more than eight mentally disabled or mentally handicapped or physically handicapped persons, and licensed by the state pursuant to G.L. 1956, § 40.1-24-1 et seq.;
- c) A residence for children providing care or supervision, or both, to not more than eight children including those of the caregiver and licensed by the state pursuant to G.L. 1956, § 42-72.1-1 et seq.;
- 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 purpose of fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

(36) *Comprehensive plan*. The comprehensive community plan of the Town of Jamestown adopted and approved on December 23, 1991, pursuant to chapter 22.2 of Rhode Island Zoning Enabling Legislation Act of 1991.

(37) *Condominium*. A unit in a multiunit complex of real property established in accordance with the Rhode Island Condominium Act (G.L. 1956, § 34-36.1-1.01 et seq.).

(38) *Cooking facility*. Any apparatus that is constructed, installed, or otherwise established for the purpose of preparing meals.

(39) *Customary home occupation*. Any activity customarily carried out for economic gain by a resident which:

- a) Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit;
- b) Is carried on by a member of the family residing in the dwelling unit;

- c) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and
- d) Conforms to the following conditions:
- 1) Performed by the resident and using no more than 200 square feet of floor area and such activity shall not be visible from a lot line;
 - 2) There shall be no exterior display, no exterior sign (except as permitted under article 13 [of this chapter]), no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building;
 - 3) No vibration, smoke, dust, odors, heat or glare, electrical interference, or offensive noise shall be produced;
 - 4) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood;
 - 5) Any parking required for the conduct of such a home occupation shall be provided off the street.

(40) *Day care--Day care center.* Any other day care center which is not a family day care home.

(41) *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 caregiver, but may not contain more than a total of eight individuals receiving day care.

(42) *Days.* Calendar days.

(43) *Debris.* The remains of broken or discarded machinery and structures, and their contents. Also refers to the accumulation of unused construction material, excavating and natural materials.

(44) *Deck.* A porch or other structure which is open to the outdoors, whether or not attached to the primary structure.

(45) *Density, residential.* The number of dwelling units per unit of land.

(46) *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.

(47) *Development plan review.* The process whereby authorized local officials review the site plans, maps, and other documentation of a development to determine the compliance with the stated purposes and standards of the ordinance [this chapter].

(48) *District.* See "Zoning use district."

(49) *Drainage system.* A system for the removal of water from land by drains, grading, or other appropriate means. These techniques may include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving surface and groundwater, and the prevention and/or alleviation of flooding.

(50) *Drive-in restaurant (no alcoholic beverages)*. Any lot or structure used for selling, dispensing, or serving food, refreshments, or nonalcoholic beverages to persons in automobiles, or where the consumption of food, refreshments, or nonalcoholic beverages in automobiles is permitted although customers may also consume the food, refreshments, or nonalcoholic beverages on such lot or in such structure.

(51) *Driveway*. A vehicular lane within a Lot, often leading to a garage.

(52) *Duplex*. See *Dwelling – Two Household*.

(53) *Dwelling – Two Household*. A structure containing two households where each dwelling unit provides 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.

(54) *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.

(55) *Earth removal*. The removal or extraction for sale of any rock, stone, sand, gravel, loam, topsoil, or other earth or earth products from a lot or plot of land or part thereof; not including the process of grading, or excavation on a lot preparatory to the construction of a structure or street.

(56) *Encroach*. To break the plane of a vertical or horizontal regulatory limit with a structural element, so that it extends into a Setback, into the Public Frontage, or above a height limit.

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

(58) *Façade*. The exterior wall of a building that is set along a Frontage Line.

(59) *Family*. A person or persons related by blood, marriage, or other legal means. See also "Household."

(60) *Floating zone*. An unmapped zoning district adopted within the ordinance [this chapter] which is established on the zoning map only when an application for development, meeting the zone requirements, is approved.

(61) *Floodplain or flood hazard area*. An area that has a one percent or greater chance of inundation in any given year, as delineated by the federal emergency agency pursuant to the National Flood Insurance Act of 1968, as amended (P.L. 90-448) [42 USC 4011 et seq.].

(62) *Floor area, net*. The actual area which can be occupied, not including accessory unoccupied areas or thickness of walls.

(63) *Floor area*. The sum of the gross horizontal areas of the several stories and basement of a building measured from the exterior faces of the exterior walls or from the centerline

of party walls. Included in such calculation shall be any interior balconies and mezzanines, elevator shafts, and enclosed porches. The floor area of accessory buildings on the same lot shall also be included.

(64) *Frontage*. the area between a building Facade and the vehicular lanes, inclusive of its built and planted components. Frontage is divided into **Private Frontage** and **Public Frontage**.

(65) *Frontage Line*. a Lot line bordering a Public Frontage. Facades facing Frontage Lines define the public realm and are therefore more regulated than the Elevations facing other Lot Lines. *See Table 3-2*.

(66) *Gambling*. Playing of a game of which the outcome is uncertain, for money or other stakes. Any kind of gaming or wagering.

(67) *Gasoline service station*. Buildings and lots where gasoline, oil, grease, batteries, tires, and automobile accessories are sold at retail, or where in addition only the following services may be rendered:

- a) Sale and servicing of spark plugs, batteries and distributor parts;
- b) Tire servicing and repair, but not recapping or regrooving;
- c) Replacement of mufflers and tail pipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like;
- d) Radiator cleaning and flushing;
- e) Washing and polishing, and sale of automotive washing and polishing materials;
- f) Greasing and lubrication;
- g) Providing and repairing fuel pumps, oil pumps, and lines;
- h) Minor servicing and repair of carburetor;
- i) Emergency wiring repairs;
- j) Adjusting and repairing brakes;
- k) Minor motor adjustments.

(68) *Green Roof*. a roof partially or completely covered with vegetation and soil, or a growing medium, planted over a waterproofing membrane. (Syn: eco-roof, living roof, greenroof)

(69) *Gross leasable floor area (GLFA)*. The total floor area, measured as stated in [the definition] "Floor area," of a building designed for occupancy and exclusive use by a tenant, including mezzanines and upper floors, if any, and excluding stairs, elevator shafts, air shafts, public toilets, utility and mechanical equipment areas which are used solely for the maintenance of the building.

(70) *Groundwater*. Water located beneath the surface of the earth in spaces between soil particles and cracks within bedrock which are completely saturated.

(71) *Guesthouse*. See article 15 [of this chapter].

(72) *Halfway house*. A residential facility for adults or children who have been institutionalized for criminal conduct and who require a group setting to facilitate the transition to a functional member of society.

(73) *Hardship*. As set forth in G.L. 1956, 45-24-41, [hardship] is the standard a petitioner must demonstrate in order to be granted a use variance from the requirements of this ordinance [chapter].

(74) *Hazardous or toxic material*. Any substance or combination of substances which, because of quantity, concentration, or physical, chemical, or infectious characteristics, poses a significant present or potential hazard to water supplies or to human health. Any substance considered a hazardous or a toxic waste under section 3001 of the Resource Conservation and Recovery Act of 1976, 40 CFR 26, as defined under the G.L. 1956, § 23-19.1-1 et seq. as amended, as defined by 40 CFR 116 pursuant to section 301 of the Federal Clean Water Act and subsequent amendments thereto, or as defined by section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1989 (42 USC 9605), as amended, shall also be considered hazardous under this ordinance [chapter].

(75) *Heliport and/or Helistop*. Any private or public area used for the landing and/or taking off of a helicopter and/or similar airplane vehicle engaged in personnel and/or business operations of a person, association, organization or legal entity for the receipt or discharge of passengers, cargo or any other material or products, but not including emergency response or law enforcement helicopter or airplane vehicles used from emergency, rescue and/or law enforcement purposes.

(76) *Historic district or historic site*. [The term] "historic district" means 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 has been registered, or is deemed eligible to be included, on the state register of historical places pursuant to G.L. 1956, § 42-45-5. Historic site means any real property, manmade structure, natural object, or configuration or any portion or group of the foregoing which has been registered, or is deemed eligible to be included, on the state register of historic places pursuant to G.L. 1956, § 42-45-5.

(77) *Hotel*. A building or buildings containing lodging rooms, a central kitchen and a dining room, a common entrance lobby, halls and stairway; and where lodging rooms do not have a direct egress outdoors, except for emergencies; and where more than 50 percent of the lodging rooms are for rent, with or without meals, to transient guests for a continuous period of less than 30 days.

(78) *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:

- a) A family, which may also include servants and employees living with the family; or
- b) A person or up to a maximum of three unrelated persons living together.

(79) *Impervious surface coverage*. Includes paved driveways, concrete surfaces, rooftops, basketball courts, accessory structures such as sheds, and any other surfaces that restrict

water from infiltrating into the ground. Gravel driveways, walkways and patios constructed using permeable pavements are not included as impervious areas.

(80) *Impervious layer*. Consists of category 9 or 10 soils as defined by the Rhode Island Department of Environmental Management (RIDEM) and shall be as determined by a RIDEM licensed Class IV Soil Evaluator.

(81) *Inclusionary Housing Agreement*. an agreement recorded in the Town's Land Evidence Records describing how the developer will comply with the provisions of Article 17.

(82) *Inclusionary Unit*. an affordable housing unit, as defined in this Ordinance.

(83) *Infrastructure*. Facilities and services needed to sustain residential, commercial, industrial, institutional, and other activities.

(84) *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 the ordinance [this chapter].

(85) *Land unsuitable for development*. [Land unsuitable for development] shall be defined as follows:

1) Wetlands as defined in G.L. 1956, § 2-1-18 et seq., and intertidal salt marshes as defined by G.L. 1956, § 46-23-1 et seq. as the same is or may be from time to time amended, and in any rules or regulations adopted pursuant thereto. For the purposes of delineating suitable land for the computation of the maximum number of dwelling units, land encompassed by any setback requirement or banks, as set forth in G.L. 1956, § 2-1-18 et seq., need not be excluded from consideration as developable land area.

2) Land located within zone A8 as shown on the Town of Jamestown flood insurance rate map, and any revisions thereto.

3) An area of the tract proposed to be developed equal to 20 percent of that portion of a tract which is located in an R20 district; ten percent of that portion of a tract which is located in an R40 district; and five percent of the portion of a tract which is located in an RR80 district, as an allowance for public streets or in the alternative the area of any public street rights-of-way actually designed for the proposed multifamily dwelling project in accordance with applicable subdivision regulations.

(86) *Layer*. a range of depth of a Lot within which certain elements are permitted. See Table 11-1.

(87) *Lot*. [Lot means] either:

1) The basic development unit for determination of lot area, depth, and other dimensional regulations; or

2) A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

(88) *Lot area*. The total area within the boundaries of a lot, excluding any street right-of-way, usually reported in acres or square feet.

(89) *Lot coverage*. That portion of the lot that is or may be covered by buildings and accessory buildings and accessory structures.

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

(91) *Lot width*. The distance along the street line lying between the side lot lines. The front of a lot shall be construed to be the portion nearest the street. In the case of a corner lot, lot frontage shall be measured along either street line from the side lot line to the point of intersection of the abutting street lines. Lot width which is divided by a separate lot or otherwise noncontiguous shall be calculated as a sum total if on the same street.

(92) *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;

b) *Rear*. The lot line opposite and most distant from the front lot line, or in the case of triangular or otherwise irregularly shaped lots, an assumed line at least ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line; and

c) *Side*. Any lot line other than a front or rear lot line. On a corner lot, a side lot line may be a street lot line, depending on the determination of the front lot line.

(93) *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.

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

(95) *Lunchroom*. A small scale eating establishment intended for take out that may or may not be equipped with a kitchen and has less than 10 seats. If ancillary to a recreation use no parking is required.

(96) *Major repair (of an ISDS)*. Any work performed on an ISDS, excluding minor repairs, to a system.

(97) *Marina*. A waterfront facility providing mooring and/or dockage space for recreational pleasure boats; which may also provide other services such as launching ramps, fuel, repairs, sales of boats and accessories, boat haul-out facilities and personal services.

(98) *Minor repair (of an ISDS)*. Any work performed on an ISDS 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.

(99) *Marsh*. A place wholly or partly within the state where a vegetational community shall exist in standing or running water during the growing season and/or shall be made up of one or more of, but not limited to nor necessarily including all of the following plants or groups of plants: hydrophytic reeds (Phragmites), grasses (Cramineae),

mannagrasses (Glyceria), cutgrasses (Leersia), pickerelwoods (Pontederiaceae), sedges (Cyperaceae), rushes (Juncaceae), cattails (Typha), water plantains (Alismataciae), burreeds (Sparganiaceae), pondweeds (Zosteraceae), frog's bits (Hydrocharitaceae), arums (Araceae), duckweeds (Lemmaceae), water lilies (Nymphaeaceae), water-milfoils (Haloragaceae), water-starworts (Callitrichaceae), bladder-worts (Utricularia), pipeworts (Eriocaulon), sweet gale (Myrica gale), [and] buttonbush (Cephalanthus occidentalis).

(100) *Mere inconvenience*. As set forth in G.L. 1956, § 45-24-41, the standard which a petitioner must demonstrate in order to be granted a dimensional variance from the requirements of this ordinance [chapter].

(101) *Mixed use*. A mixture of land uses and or occupancies within a single development, building, or tract.

(102) *Mobile home*. A transportable, single-family dwelling unit suitable for year round occupancy with or without a permanent foundation, and having a water supply and waste disposal system comparable to immobile housing. A mobile home is designed to be transported on streets and highways on its own wheels and to arrive at the site where it is to be occupied as a dwelling unit complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on racks or permanent foundations, and connection to utilities and water supply and waste disposal systems. Removal of wheels and/or axles shall not change its status as a mobile home.

(103) *Modification*. Permission granted and administered by the zoning enforcement officer for a dimensional variance other than lot area requirements from the ordinance [this chapter] to a limited degree as determined by the ordinance [this chapter], but not to exceed 25 percent of each of the applicable dimensional requirements.

(104) *Moped*. Motorized multi-wheel vehicles which are or may be propelled by human power and/or motor power, or by both, and which have motors/engines not more than 1.5 brake horsepower or two (S.A.E.) horsepower, and not more than 50 cc displacement, and which are capable of a maximum speed of not more than 30 miles per hour.

(105) *Motel*. A building or group of buildings, whether detached or in connected units, used as individual sleeping units and designed primarily for transient automobile travelers, and providing for accessory off-street parking facilities and which may include one dwelling unit for a bona fide caretaker or operator. The term "motel" includes buildings designated as auto courts, tourist courts, motor lodges and similar terms.

(106) *Multifamily dwelling structure*. A small-scale single building upon a single lot, used exclusively for residential purposes, and housing not less than three nor more than 12 dwelling units. Permitted accessory uses include storage, laundry, and recreation facilities for use of tenants of the building, and such other accessory uses as are commonly permitted in the district.

(107) *Multifamily dwelling project*. A large-scale complex of two or more duplexes or multifamily dwelling structures located upon a single lot which are planned, developed and managed as a unit, with required open spaces, recreation areas, off-street parking and related accessory uses.

(108) *Municipal Subsidy*. assistance the Town provides for construction or rehabilitation of low and moderate income housing to encourage the creation of that housing, and to

mitigate the cost of the development, pursuant to R.I. Gen. Laws § 45-53-3 (5). Municipal subsidies may include, but are not limited to, density bonuses, permission to construct multi-unit dwelling structures where not otherwise permitted, payments from the Town's restricted account containing fees in lieu of construction to not-for-profit developers for the creation of additional low and moderate income dwelling units, waiver of impact fees, waiver of growth control regulations, and property tax reduction.

(109) *New individual sewage disposal system (ISDS)*. The installation of an ISDS on property where none had previously existed.

(110) *Nonconformance*. A building, structure, or parcel of land, or use thereof, lawfully existing at the time of the adoption or amendment of this ordinance [chapter] and not in conformity with the provisions of the ordinance [this chapter] or amendment.

Nonconformance shall be of only two types:

a) *Nonconforming by use*. A lawfully established use of land, building, or structure which is not a permitted use in that zoning district. A building or structure containing more dwelling units than are permitted by the use regulations of the ordinance [this chapter] shall be nonconforming by use; or

b) *Nonconforming by dimension*. A building, structure, or parcel of land not in compliance with the dimensional regulations of the ordinance [this chapter]. Dimensional regulations include all regulations of the ordinance [this chapter], other than those pertaining to the permitted uses. A building or structure containing more dwelling units than are permitted by the use regulations of the ordinance [this chapter] shall be nonconforming by use; a building or structure containing a permitted number of dwelling units by the use regulations of the ordinance [this chapter], but not meeting the lot area per dwelling unit regulations, shall be nonconforming by dimension.

(111) *Office, professional in the home*. The use as a professional office of not more than 200 square feet of floor area in a building in which the proprietor, manager, owner or tenant maintains a full-time residence, or in an accessory building, and which employs no more than one person not a resident of the premises.

(112) *Office, general commercial*. A commercial establishment in which the principal use is a personal or professional service, and which does not include the sale of commodities at wholesale or retail. Included in the definition of office are medical, insurance, finance, law, engineering or similar professional services.

(113) *Official zoning map*. See "Zoning map."

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

(115) *Ordinance*. See "Zoning ordinance."

(116) *Original grade*. The level of the top of the geologically deposited mineral surface. This specifically excludes soil deposits which have been placed as fill and/or do not exhibit soil structure.

(117) *Outbuilding*. an Accessory Building, usually located toward the rear of the same Lot as a Principal Building, and sometimes connected to the Principal Building by a Backbuilding.

(118) *Overlay district*. A district established in the ordinance [this chapter] that is superimposed on one or more districts or parts of districts and that imposes specified requirements in addition to, but not less than, those otherwise applicable for the underlying zone.

(119) *Passive recreation*. Any leisure time activity not considered active. [Passive recreation] includes bird watching, photography, hiking, walking, beachcombing, swimming, fishing, picnicking, bicycle riding and cross-country skiing.

(120) *Performance standards*. A set of criteria or limits relating to elements which a particular use or process either must meet or may not exceed.

(121) *Permitted use*. A use by right which is specifically authorized in a particular zoning district.

(122) *Personal watercraft*. A vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than the conventional method of sitting or standing inside the vessel. (121) *Planned development*. A land development project, as defined herein [in this section], and developed according to plan as a single entity and containing one or more structures and/or uses with appurtenant common areas.

(123) *Pond*. A place, natural or manmade, wholly or partly within the state, where open standing or slowly moving water shall be present for at least six months a year.

(124) *Planning commission*. The body established by the Town of Jamestown which has the responsibility, among other things, to prepare a comprehensive plan and make recommendations concerning that plan to the town council.

(125) *Pre-application conference*. A review meeting of a proposed development held between applicants and reviewing agencies as permitted by law and municipal ordinance, before formal submission of an application for a permit or for development approval.

(126) *Principal Building*. The main building on a Lot, usually located toward the Frontage.

(127) *Principal Entrance*. The main point of access for pedestrians into a building.

(128) *Principal Frontage*. On corner Lots, the Private Frontage designated to bear the address and Principal Entrance to the building, and the measure of minimum Lot width. Prescriptions for the second and third Layers pertain only to the Principal Frontage. Prescriptions for the first Layer pertain to both Frontages of a corner Lot. (See Frontage)

(129) *Private Frontage*. The privately held Layer between the Frontage Line and the Principal Building Facade.

(130) *Public and semipublic structures.* Radio towers, transmissions lines, and other similar structures which are owned by a utility company or other public or semipublic agency.

(131) *Public Frontage.* The area between the Curb or edge of the vehicular lanes and the Frontage Line.

(132) *Rain Garden.* A natural or dug shallow depression generally planted with native plants and trees designed to capture and infiltrate stormwater runoff and protect water quality.

(133) *Restaurant.* An establishment that serves food and beverages primarily to persons seated within the building. This includes cafes, tea rooms and outdoor cafes.

(134) *Retail Frontage.* Frontage designated on the Zoning Map that requires or recommends the provision of a Shopfront, encouraging the ground level to be available for Retail use. (See Special Requirements Section 1106)

(135) *Satellite dish.* A device greater than 18 inches in diameter which is used for radio, television, or other wireless communication.

(136) *Seasonal high groundwater table.* The seasonal high groundwater table shall be as determined by soil evaluation methodology found in the most current RIDEM ISDS rules and regulations and shall be determined by a RIDEM licensed Class IV Soil Evaluator. RIDEM depth to verified water table shall be used as the seasonal high groundwater table when available.

(137) *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.

(138) *Shopfront.* A Private Frontage conventional for Retail use, with substantial glazing and an awning, wherein the Facade is aligned close to the Frontage Line with the building entrance at Sidewalk grade.

(139) *Sign.* Any device, whether freestanding or attached to a building or a structure, or which is erected, painted, represented, or reproduced upon or in any building or structure, which displays, reproduces or includes any letter, word, name, number, model, insignia, design, device, or representation used for one or more of the following purposes: to identify the premises or occupant or owner of the premises; to advertise the sale or rental or use of all or part of any premises, including that upon which it is displayed; to direct vehicular or pedestrian traffic other than state or municipal highway and roadway markers; and shall include any announcement, declaration, demonstration, display, illustration, insignia, or any representation used to advertise or intended to advertise or promote the interests of any person or corporation.

(140) *Sign area.* The area of a sign is calculated as the total area within a line circumscribing all surfaces or structures used for display purposes, including spaces between letters and/or pictorial matter but not including supporting posts. As used in this ordinance [chapter], the area of a two-sided, freestanding sign shall be calculated as the area of one side of a sign.

- (141) *Sign, freestanding.* A sign supported by a pole, uprights, braces, or frames on the ground and not supported by any wall, building, or similar structure.
- (142) *Sign, illuminated.* A sign designed to give forth artificial light from an artificial source in such a manner as to be an integral part of the construction of the sign, including neon signs and signs illuminated from within, or a sign illuminated with an artificial light directed primarily toward such sign from an exterior source.
- (143) *Sign, off-site directional.* Any sign giving directions to the location of any use or activity not located upon the property upon which the sign is erected, and which may contain only the name of the use and necessary information giving directions to the use; provided, however, that no advertising shall be contained in such sign.
- (144) *Site plan.* The development plan for one or more lots on which is shown the existing and/or the proposed conditions of the lot.
- (145) *Special use.* A regulated use which is permitted pursuant to the special-use permit issued by the authorized governmental entity pursuant to G.L. 1956, § 45-24-42. (Formerly referred to as a special exception).
- (146) *Street.* [Street] includes street, avenue, highway, boulevard, parkway, road, lane, alley, and other way, which has been dedicated to the public and accepted by the Town of Jamestown or State of Rhode Island.
- (147) *Street line.* The line separating the street right-of-way from other property.
- (148) *Street Screen.* A freestanding wall, hedge or fence built along the frontage line, or coplanar with the façade. It may mask a parking lot from the thoroughfare, provide privacy to a side yard, and/or strengthen the spatial definition of the public realm.
- (149) *Story.* a habitable level within a building, excluding an Attic, less than 14 feet high or raised basement.
- (150) *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.
- (151) *Substandard lot of record.* Any lot lawfully existing at the time of adoption or amendment of the ordinance [from which this chapter is derived] and not in conformance with the dimensional and/or area provisions of the ordinance [this chapter].
- (152) *Substantial Modification.* Alteration to a building that includes one or more of the following: 1) That is valued at more than 50% of the replacement cost of the entire building; 2) New construction other than single family; 3) Fifty percent or greater alteration of a building exterior 4) Fifty percent or greater alteration of street façade; 5) New use; or 6) expansion of use which requires more than 15 parking spaces.
- (153) *Swale.* A low or slightly depressed area for drainage purposes.
- (154) *Swamp.* A place wholly or partly where groundwater shall be near or at the surface of the ground for a significant part of the growing season or runoff water from surface drainage shall collect frequently and/or where vegetational community shall be made up of a significant portion of one or more of, but not limited to nor necessarily including all of, the following: red maple (*Acer rubum*), elm (*Ulmus americana*), black spruce (*Picea mariana*), white cedar (*Chamaecyparis thyoides*), ash (*Fraxinus*), poison sumac (*Rhus*

vernix), larch (*Larix laricina*), spice bush (*Lindera Benzoin*), alders (*Alnus*), skunk cabbage (*Symplocarpus foeditus*), hellebore (*Veratrum veride*), hemlock (*Tsuga canadensis*), sphagnum (Sphagnum), azaleas (*Rhododendron*), black alder (*Ilex verticillata*), coast pepperbush (*Clethra alnifolia*), marsh marigold (*Caltha palustris*), blueberries (*Vaccinium*), buttonbush (*Cephalanthus occidentalis*), willow (*Salix*), water willow (*Decodon verticillatus*), swamp white oak (*Quercus bicolor*), or species indicative of marsh. .

(155) *Technical Review Committee (TRC)*. Lead by the Planning Office, a committee comprised of officials from each office having jurisdiction over the permitting of a project, including the Town Planner, the Building Official, the Public Works Director and/or the Town Engineer, the Environmental Scientist as needed, a rotating member of the Planning Commission selected by the Planning Commission Chair either by project or other method as determined by the Chair, and an architectural consultant as needed, to make recommendations or process administratively applications and plans for proposed projects.

(156) *Time-share*. A unit in which a time-share estate exists which was established in accordance with the Rhode Island Real Estate Time-Share Act, G.L. 1956, § 34-41, as may be amended.

(157) *Town*. Town of Jamestown.

(158) *Town council*. The town council of the Town of Jamestown.

(159) *TRC*. Technical Review Committee.

(160) *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.

(161) *Variance*. Permission to depart from the literal requirements of the ordinance [this chapter]. 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 the ordinance [this chapter]. There shall be only two categories of variances, a use variance or a dimensional variance.

a) *Use variance*. Permission to depart from the use requirements of the ordinance [this chapter] where the applicant for the requested variance has shown by evidence upon the record that the subject land or structure cannot yield any beneficial use if it is to conform to the provisions of the zoning ordinance [this chapter].

b) *Dimensional variance*. Permission to depart from the dimensional requirements of a zoning ordinance [this chapter], 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.

(162) *Wall*. A structure which encloses an area or delineates separate areas. [A structure] may be constructed of stone, masonry, wood, or other material.

(163) *Waters*. As defined in G.L. 1956, § 46-12-1(b).

(164) *Wetland, coastal*. A salt marsh bordering on the tidal waters of the State of Rhode Island and contiguous uplands extending no more than 50 yards inland therefrom. As defined in G.L. 1956, § 2-1-14, as may hereafter be amended.

(165) *Wetland, freshwater*. Those lands defined in G.L. 1956, § 2-1-20 and in any subsequent amendments hereto, and in any regulations propounded by the Rhode Island Department of Environmental Management and/or Rhode Island Coastal Resources Management Council and subsequent amendments thereto, including but not limited to marshes, swamps, bogs, ponds, rivers, river and stream flood plains and banks, areas subject to storm flowage, emergent and subemergent plant communities in any body of fresh water, special aquatic sites, vernal pools.

(166) *Wind generator*. A machine that runs on the energy generated by a wheel of blades or slats rotated by the wind.

(167) *Underground storage tanks*. Any receptacle used for the storage of gasoline, diesel oil, fuel oil, kerosene, natural gas, or any other toxic substance which is located fully or partially below ground levels.

(168) *Video arcade*. Any place of business where more than five coin-operated mechanical amusement devices and/or electronic video games are located for use by the general public.

(169) *Yard*. A required open space on a lot, unoccupied and unobstructed by any structure or portions of a structure from the general ground level of the graded lot upward; provided that drives, walks, and customary yard accessories and other structures or projections as specifically allowed by this ordinance [chapter] may be allowed in any yard. The following yards are specifically defined in this ordinance [chapter]:

a) *Yard, corner side*. A side yard on that side of a lot located at the corner or intersection of two street lines, nearest the side street.

b) *Yard, front*. A required yard extending between side lot lines across the full width of the lot adjacent to any street line, and to the depth of the required front yard setback.

c) *Yard, rear*. A required yard extending across the full width of the lot adjacent to any rear lot line(s), and to the depth of the required rear yard setback.

d) *Yard, side*. A required yard extending from the rear of the required front yard to the required rear yard and to the depth of the required side yard setback; and if there is no rear yard, then extending from the required front yard to another required front yard or required side yard or to another part of the same required front yard.

(170) *Zoning*. The reservation of certain specified areas within a community for building and structures, or use of land, for certain purposes with other limitations such as height, lot coverage, and other stipulated requirements.

(171) *Zoning board of review or zoning board*. The governing body which hears and decides appeals of the requirements of the zoning ordinance [this chapter] and decisions of the zoning enforcement officer.

(172) *Zoning certificate*. A document signed by the zoning enforcement officer, as required in the zoning ordinance [this chapter], which acknowledges that a use, structure, building or lot either complies with or is legally nonconforming to the provisions of the zoning ordinance [this chapter] or is an authorized variance or modification therefrom.

(173) *Zoning enforcement officer*. The appointed official of the Town of Jamestown responsible for the enforcement of the ordinance [this chapter].

(174) *Zoning map*. The map or maps which are a part of the zoning ordinance [this chapter] and which delineate the boundaries of all mapped zoning districts within the physical boundary of the Town of Jamestown.

(175) *Zoning ordinance*. This ordinance [chapter] enacted in accordance with the Rhode Island Zoning Enabling Act of 1991, as may be amended.

(176) *Zoning use districts*. The basic unit in zoning, either mapped or unmapped, to which a uniform set of regulations applies, or a uniform set of regulations for a specified use. The districts include, but are not limited to: commercial, open space, residential, and rural residential, or downtown mixed-use. Each district may include sub-districts. Districts may be combined.

(Ord. of 12-14-1998; Ord. of 3-22-1999, § 1; Ord. of 8-10-1999; Ord. of 2-10-2003; Ord. of 3-22-2004; Ord. of 4-26-2005); **Cross References:** Definitions generally, § 1.2.

Sec. 82-104. Regulation.

The use of any land or the erection, modification, enlargement or use of any building, structure or sign conform to all applicable provisions of this ordinance [chapter].

Every building, structure or sign hereafter erected and every use hereafter initiated shall be located on a lot as defined by this ordinance [chapter].

ARTICLE 2.
ZONING DISTRICTS AND ZONING MAP

Sec. 82-200. Zoning districts.

For the purpose of this ordinance [chapter], the Town of Jamestown is hereby divided into 12 zoning districts as set forth below. The general intent of each zoning district is as follows:

OS-I conservation preserve. Intended to preserve, protect and enhance where appropriate environmentally sensitive and natural resource areas such as conservation areas, watersheds, reservoirs, wildlife refuges and wetlands.

OS-II park and recreation. The purpose of this zone [district] is to allow agriculture as well as recreation activities that will not substantially impact the historic, scenic and/or environmental character of the zoning district, nor compromise natural resources.

Rural residential, 200,000 square feet (RR-200). This district is intended to protect the town water supply reservoir while permitting residential dwellings at low density.

Rural residential, 80,000 square feet (RR-80). Designed to allow land uses which will not substantially impact the rural character of the zoning district, nor compromise natural resources.

Residential, 40,000 square feet (R-40). Intended to limit the growth of densely settled neighborhoods which rely on individual sewage disposal systems (ISDS) and private wells. The small-lot subdivisions, which would be illegal under current regulations, present potential groundwater contamination problems if not adequate[ly] restricted.

Residential, 20,000 square feet (R-20). Designed to allow controlled growth in outlying areas of the village which are served by municipal water and/or sewer.

Residential, 8,000 square feet (R-8). Intended to maintain the neighborhood integrity of traditionally densely developed sections of the village. Most of this area is developed, so infill housing should generally conform to the character of the neighborhoods.

Commercial limited (CL). The purpose of this zone [district] is to be a transitional area between strictly residential and commercial uses. Many of the uses which are permitted in the commercial district cannot be located in this district except by special use permit.

Commercial downtown (CD). Jamestown's central business district. This district should encourage business which generates pedestrians on a regular basis. Zoning requirements should encourage construction to the curb, and be retail-only at the street level.

Commercial waterfront (CW). [This] district is intended to restrict land use to water-dependent uses, including business which utilizes the scenery as an attraction for customers.

Downtown condominium (DC). A single lot. One structure containing no more than 36 residential condominium units of not more than two bedrooms each, and accessory parking for residents, their guests and municipal parking purposes. Intended to allow residential uses compatible with the compressed location at the corner of the commercial downtown district.

Public (P). A zone accommodating a range of public and semi-public uses.
(Ord. of 3-22-1999, § 2; Ord. of 6-25-2001, § a; Ord. of 8-26-2002)
Sec. 82-201. Official zoning map.

The boundaries of zoning districts in the Town of Jamestown are hereby designated on the official zoning map of the Town of Jamestown, which is on file in the office of the town clerk and dated November 28, 1995. The official zoning map, together with all explanatory matter thereon, is hereby adopted and declared to be a part of this zoning ordinance [chapter].
(Ord. of 8-26-2002)

Editors Note: Ord. of Aug. 26, 2002, amended the official zoning map. Said zoning map is not set out herein, but is on file and available in the office of the town clerk.

Sec. 82-202. Interpretation of zoning districts.

Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules shall apply:

- A. Where zoning districts are separated by highways, streets, alleys, watercourses or bodies of water, the boundaries of said zoning districts shall be construed to be the centerline or middle of said highway, street, alley, watercourse or body of water.
- B. Boundaries shown as approximately following lot lines shall be construed as following such lot lines.
- C. Boundaries shown as following shorelines shall be construed to follow such shorelines, and in the event of a change in shoreline, [such change] shall be construed as moving with the actual shoreline.
- D. Boundaries indicated as parallel to or extensions of features indicated in the above subsection (C) [C.] shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- E. Where physical or cultural features existing on the ground differ from those shown on the official zoning map, or in other circumstances not covered by the above subsections, the zoning board of review shall interpret zoning district boundaries.

ARTICLE 3.

APPLICATION OF DISTRICT REGULATIONS

Sec. 82-300. Regulation of structures and land.

The regulations set forth by this ordinance [chapter] within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

- A. No structure or land shall hereinafter be used or occupied and no structure, including signs, or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
- B. No structure shall hereafter be erected or altered [to]:
 - 1. Be greater in height or volume;
 - 2. Accommodate or house a greater number of families;
 - 3. Occupy a greater percentage of lot area;
 - 4. Have narrower or smaller front yards, rear yards, side yards, frontage or other open spaces; than herein provided, or in any other manner contrary to the provisions of this ordinance [chapter].
- C. No yard or lot legally existing at the time of passage of this ordinance [chapter] shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance [from which this chapter is derived] shall meet at least the minimum requirements established by this ordinance [chapter].
- D. No required yard or open space use provided around any building for the purpose of complying with the provisions of this ordinance [chapter] shall again be used as a yard or open space for any other building.

Sec. 82-301. Uses and districts.

The uses listed in table 3-1 are permitted only in the zoning districts marked "Y." Uses permitted by special use permit under the provisions of article 6 are marked with an "S." Where the letter "N" appears, the use is prohibited in that district.

Any use which is not specifically included in the use provisions of this section is prohibited, unless the zoning enforcement officer rules that such use is included in any of the general classifications or subclassifications set forth herein. Appeals from a decision of the zoning enforcement officer may be made to the zoning board of review in accordance with the provisions of article 5.

Sec. 82-302. District dimensional regulations.

The district dimensional regulations set forth in table 3-2 shall be met for all uses of land permitted under this ordinance [chapter].

Table 3-1

Permitted Uses

Use		District											
		P	OS-I**	OS-II**	RR-200	RR-80	R-40	R-20	R-8	CL	CD	CWe CWw *****	DC
I. RESIDENTIAL													
1.	Single-family dwelling	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
2.	Single-family cluster*	N	N	N	Y	Y	Y	Y	N	N	N	N	Y

Use		District											
		P	OS-I**	OS-II**	RR-200	RR-80	R-40	R-20	R-8	CL	CD	CWe CWw *****	DC
3.	Two-family dwelling or duplex	N	N	N	N	N	N	S	Y	Y	Y	N	Y
4.	Multifamily dwelling structure 3-12 units	N	N	N	N	S	S	S	S	S	S	S	S
5.	Multifamily dwelling project	N	N	N	N	S	S	S	S	S	S	S	S
6.	Community residence	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
7.	Family day care home	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
8.	Mobile Home/Manufactured Home/Trailer Park	N	N	N	N	N	N	N	N	N	N	N	N
9.	Transient Trailer Park	N	N	N	N	N	N	N	N	N	N	N	N
10.	Mixed use +	N	N	N	N	N	N	N	N	Y	Y	Y S	S
11.	Accessory Dwelling Unit – See 1104 1.	N	N	N	N	N	N	N	N	N	N	N	N
II. LODGING													
1.	Motel or hotel	N	N	N	N	N	N	N	N	S	S	N	S
2.	Bed and breakfast house***	N	N	N	N	N	N	N	N	S	S	S	S
III. AGRICULTURAL													
1.	Field crop farms	Y	N	S	Y	Y	Y	Y	Y	Y	Y	N	N
2.	Livestock farms	Y	N	S	Y	Y	S	S	N	N	N	N	N
3.	Horticulture nursery	Y	N	S	Y	Y	Y	Y	Y	Y	Y	N	N
4.	Keeping and raising of livestock and poultry accessory to permitted use on one acre or greater	Y	N	S	Y	Y	Y	Y	Y	N	N	N	N
5.	Keeping and raising of livestock and poultry accessory to permitted use on less than one acre	Y	N	S	Y	Y	S	S	S	N	N	N	N
6.	Aquaculture	S	N	S	S	S	S	S	S	S	N	S	S
IV. GOVERNMENT, EDUCATION, INSTITUTIONAL													
1.	School or college	S	N	N	N	S	S	S	S	S	S	N	N
2.	Religious institution	N	N	N	N	S	S	S	S	S	S	N	N
3.	Library, museum, etc.	S	N	S	N	S	S	S	S	S	S	N	N
4.	Cemetery	S	N	N	N	S	S	S	S	S	S	N	N
5.	Hospital or clinic	N	N	N	N	S	S	S	N	S	S	N	S
6.	Rest, convalescence, or nursing home	N	N	N	N	S	S	S	S	S	S	N	S
7.	Emergency counseling service or drop-in center	N	N	N	N	N	N	N	N	S	S	N	N
8.	Fire or police station	S	N	N	N	S	S	S	S	Y	Y	N	N
9.	Government facility (except penal, utility or garage)	S	N	N	N	S	S	S	S	S	S	S	S
10.	Government-owned penal, garage or utility facility	S	N	N	N	N	N	N	N	S	S	N	N
11.	Halfway house	N	N	N	N	N	N	N	N	N	N	N	N
12.	Recreation hall	N	N	N	N	N	N	N	N	S	S	N	N

Use		District											
		P	OS-I**	OS-II**	RR-200	RR-80	R-40	R-20	R-8	CL	CD	CWe CWw *****	DC
13.	Charitable or fraternal organization	S	N	N	N	N	N	N	N	S	S	N	N
14.	Recreational ballfields	S	N	S	N	S	S	S	S	S	S	N	N
15.	Park and recreation use, including skateboard or ice rinks and playgrounds	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
V. TRANSPORTATION AND UTILITIES													
1.	Off-street parking (accessory)	Y	N	S	Y	Y	Y	Y	Y	Y	N	Y	Y
2.	Off-street parking (commercial)	N	N	N	N	N	N	S	S	Y	N	N	Y
3.	Seasonal off-site marina parking	N	N	N	N	N	S	S	N	Y	Y	Y	N
4.	Off-site parking (municipal)	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
5.	Special event parking	Y	N	S	N	Y	Y	Y	S	Y	Y	N	N
6.	Ship and boat storage (noncommercial)	N	N	S	Y	Y	Y	Y	Y	Y	Y	Y	N
7.	Motor freight terminal	N	N	N	N	N	N	N	N	N	N	N	N
8.	Bus passenger shelter	S	N	N	N	N	N	S	S	Y	Y	Y	N
9.	Public utility structure	S	N	N	S	S	S	S	S	Y	Y	N	N
10.	Power generating station (commercial)	N	N	N	N	N	N	N	N	N	N	N	N
11.	Sewage treatment plant (publicly owned)	S	N	N	N	N	N	N	N	N	N	N	N
12.	Transmission lines, towers or substations	S	N	N	S	S	S	S	S	S	S	N	N
13.	Incinerator, landfill or waste disposal facility	N	N	N	N	N	N	N	N	N	N	N	N
14.	Radio or TV studios	N	N	N	N	N	N	N	N	S	Y	N	N
15.	Solid waste transfer station	S	N	N	N	S	N	N	N	N	N	N	N
16.	Nuclear power facility	N	N	N	N	N	N	N	N	N	N	N	N
17.	Satellite dish	S	N	N	S	S	S	S	S	S	S	S	S
18.	Wind generator	S	N	S	S	S	S	S	S	S	S	S	S
19.	Heliport/Helistop ¹	N	N	N	N	N	N	N	N	N	N	N	N
VI. COMMERCIAL, RETAIL													
A.	Heavy equipment												
1.	Lumber and building materials	N	N	N	N	N	N	N	N	Y	S	S	N
2.	Heating, plumbing, electrical or hardware	N	N	N	N	N	N	N	N	Y	Y	N	N
3.	Farm or heavy equipment	N	N	N	N	N	N	N	N	S	S	N	N
4.	Construction equipment	N	N	N	N	N	N	N	N	S	S	N	N
5.	Equipment rental agency	N	N	N	N	N	N	N	N	S	S	N	N

¹ Heliport and/or Helistop are prohibited uses, and have always been prohibited in all districts, no matter whether the use is a principal or accessory use of the property.

Use		District											
		P	OS-I**	OS-II**	RR-200	RR-80	R-40	R-20	R-8	CL	CD	CWe CWw *****	DC
B.	Food												
1.	Grocery, bakery, dairy, fruit and vegetable, meat and fish, etc.	N	N	N	N	N	N	N	N	Y	Y	S	S
2.	Sale of produce raised on premise	N	N	S	Y	Y	Y	Y	Y	Y	Y	N	N
3.	Packaged liquor stores	N	N	N	N	N	N	N	N	S	Y	N	N
C.	Eating and drinking places												
1.	Lunchroom or restaurant (no alcoholic beverages)	N	N	N	N	N	N	N	N	Y	Y	Y S	Y
2.	Tavern, bar or nightclub (alcoholic beverages)	N	N	N	N	N	N	N	N	N	S	N	N
3.	Lunchroom or restaurant (alcoholic beverages)	N	N	N	N	N	N	N	N	S	S	S	Y
4.	Drive-in restaurant (no alcoholic beverages) see article I	N	N	N	N	N	N	N	N	N	N	N	N
D.	Motor vehicles												
1.	Motor vehicle dealers, including repairs conducted in a building	N	N	N	N	N	N	N	N	S	N	N	N
2.	Tire, battery and accessories	N	N	N	N	N	N	N	N	Y	Y	N	N
3.	Gasoline service station	N	N	N	N	N	N	N	N	S	S	N	N
4.	Auto body or paint shop	N	N	N	N	N	N	N	N	S	N	N	N
5.	General auto repair	N	N	N	N	N	N	N	N	S	S	N	N
6.	Vehicle rental agency	N	N	N	N	N	N	N	N	S	S	N	N
7.	Moped, motorized bicycles, rental	N	N	N	N	N	N	N	N	N	N	N	N
8.	Personal water craft, rental	N	N	N	N	N	N	N	N	N	N	N	N
E.	Commercial indoor recreation												
1.	Swimming pools	N	N	N	N	N	N	N	N	S	S	N	N
2.	Recreation hall	N	N	N	N	N	N	N	N	S	S	N	N
3.	Tennis or other indoor court games	N	N	N	N	N	N	N	N	S	S	N	N
4.	Theater or concert hall	N	N	N	N	N	N	N	N	S	Y	N	N
5.	Casino gambling, gaming, wagering or any gaming of any type	N	N	N	N	N	N	N	N	N	N	N	N
6.	Adult businesses	N	N	N	N	N	N	N	N	N	N	N	N
7.	Amusement arcades	N	N	N	N	N	N	N	N	N	N	N	N
F.	Commercial outdoor recreation												

Use		District											DC
		P	OS-I**	OS-II**	RR-200	RR-80	R-40	R-20	R-8	CL	CD	CWe CWw *****	
1.	Golf course, including clubhouse outdoor lawn tennis courts (unlighted), maintenance facility, all accessory to operation of a golf course	N	N	S	S	S	S	S	N	N	N	N	N
2.	Miniature golf, driving ranges, pitch and putt, etc.	N	N	N	N	N	N	N	N	N	N	N	N
3.	Tent or recreational vehicle camps	N	N	S	N	N	N	N	N	N	N	N	N
4.	Riding academies	N	N	N	S	S	S	N	N	N	N	N	N
5.	Roller, ice skating or skateboard rink	N	N	N	N	N	N	N	N	N	N	N	N
6.	Amusement parks	N	N	N	N	N	N	N	N	N	N	N	N
7.	Drive-in theater	N	N	N	N	N	N	N	N	N	N	N	N
8.	Marina	S	N	S	N	S	S	S	S	Y	Y	Y	N
9.	Ship and boat storage, and repair	S	N	N	N	S	S	S	S	Y	S	Y	N
10.	Swimming pools	N	N	N	N	N	N	N	N	S	S	N	N
11.	Yacht clubs and beach clubs (no alcoholic beverages)	N	N	N	N	S	S	S	S	S	S	N	S
12.	Yacht clubs and beach clubs (alcoholic beverages)	N	N	N	N	N	N	N	N	S	S	N	N
13.	Beach cabanas and bath (no alcoholic beverages)	N	N	N	N	S	S	S	S	S	N	N	N
G.	Miscellaneous retail												
1.	Miscellaneous apparel and apparel accessory stores	N	N	N	N	N	N	N	N	Y	Y	N	N
2.	Yarn, fabric or sewing	N	N	N	N	N	N	N	N	Y	Y	N	N
3.	Furniture, floor covering and furnishings	N	N	N	N	N	N	N	N	Y	Y	N	N
4.	Radio, TV, records and tapes	N	N	N	N	N	N	N	N	S	Y	N	N
5.	General merchandise, department store including storage up to 30 percent of floor area	N	N	N	N	N	N	N	N	Y	Y	N	N
6.	Drugstores	N	N	N	N	N	N	N	N	Y	Y	N	N
7.	Fuel oil, bottled gas, etc., including storage	N	N	N	N	N	N	S	N	S	S	S	N
8.	Marine supplies, bait and accessories	N	N	N	N	N	N	N	N	Y	Y	Y	N
9.	Gift, souvenir and tobacco shops	N	N	N	N	N	N	N	N	Y	Y	Y	S
10.	Sale of horticultural and agricultural products raised on premises	N	N	S	Y	Y	Y	S	N	Y	Y	N	N

Use		District											
		P	OS-I**	OS-II**	RR-200	RR-80	R-40	R-20	R-8	CL	CD	CWe CWw *****	DC
11.	Sale of home crafts products manufactured on premises	N	N	N	S	S	S	S	S	Y	Y	S	S
12.	Florist shops	N	N	N	N	N	N	N	N	Y	Y	N	N
13.	Video arcade	N	N	N	N	N	N	N	N	N	N	N	N
VII. COMMERCIAL SERVICES													
A.	Professional office												
1.	General commercial office	N	N	N	N	N	N	N	N	Y	Y	N	S
2.	Temporary real estate office or model home****	N	N	N	N	S	S	S	S	S	S	N	S
3.	Office in the home (for use by resident of the premises)	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.	Customary home occupation	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
5.	Bank or finance office	N	N	N	N	N	N	N	N	Y	Y	N	N
6.	Freestanding automated teller machine (ATM)	N	N	N	N	N	N	N	N	S	S	S	N
7.	Office for wholesale or manufacturer's use	N	N	N	N	N	N	N	N	Y	Y	N	N
8.	Day care center	N	N	N	N	N	N	N	S	Y	Y	N	N
B.	Personal services												
1.	Laundry or dry cleaners pickup (no plant)	N	N	N	N	N	N	N	N	Y	Y	N	N
2.	Self-service laundromat	N	N	N	N	N	N	N	N	Y	Y	N	N
3.	Mortuary or funeral home	N	N	N	N	N	N	N	N	Y	Y	N	N
4.	Caterer	N	N	N	N	N	N	N	N	S	S	N	S
5.	Kennels	N	N	N	N	N	N	N	N	N	N	N	N
6.	Beautician, barber, shoe repair and similar services	N	N	N	N	N	N	N	N	Y	Y	N	N
7.	Boarding of animals (excluding dogs)	N	N	N	S	S	N	N	N	N	N	N	N
VIII. INDUSTRIAL, NON-MANUFACTURING													
1.	Earth removal	N	N	N	N	N	N	N	N	N	N	N	N
2.	Extractive industries	N	N	N	N	N	N	N	N	N	N	N	N
3.	Welding/sheet metal	N	N	N	N	N	N	N	N	S	S	S	N
4.	Wholesale business and storage of nonhazardous materials in a building	N	N	N	N	N	N	N	N	S	S	S	N
5.	Open lot storage of building materials or machinery	N	N	N	N	N	N	N	N	S	N	N	N
6.	Open storage of sand and gravel	N	N	N	N	N	N	N	N	S	N	N	N
7.	Open storage of junk or scrap materials	N	N	N	N	N	N	N	N	N	N	N	N

Use		District											
		P	OS-I**	OS-II**	RR-200	RR-80	R-40	R-20	R-8	CL	CD	CWe CWw *****	DC
8.	Open or enclosed storage of hazardous materials	N	N	N	N	N	N	N	N	N	N	N	N
9.	Storage or transfer of fishery products	N	N	N	N	N	N	N	N	S	S	Y	N
10.	Storage or transfer of fishery equipment (fishing industry, limited to storage and transfer)	S	N	S	Y	Y	Y	S	S	Y	Y	Y	N
11.	Underground storage tanks	N	N	N	N	N	N	N	N	S	S	S	N
IX. INDUSTRIAL, MANUFACTURING													
1.	Manufacturing industries except those specifically regulated herein	N	N	N	N	N	N	N	N	N	N	N	N
2.	Fish packing or processing	N	N	N	N	N	N	N	N	N	N	S	N
3.	Petroleum refining and related industries	N	N	N	N	N	N	N	N	N	N	N	N
4.	Ship and boat building including sales	N	N	N	N	N	N	N	N	S	N	Y	N
5.	Acetylene gas	N	N	N	N	N	N	N	N	N	N	N	N
6.	Ammonia or bleach	N	N	N	N	N	N	N	N	N	N	N	N
7.	Asphalt	N	N	N	N	N	N	N	N	N	N	N	N
8.	Glue	N	N	N	N	N	N	N	N	N	N	N	N
9.	Rubber	N	N	N	N	N	N	N	N	N	N	N	N
10.	Smelter, blast furnace or blooming mill	N	N	N	N	N	N	N	N	N	N	N	N
11.	Pulp mill	N	N	N	N	N	N	N	N	N	N	N	N
12.	Wooden boat building	N	N	N	N	N	N	N	N	Y	S	Y	N

* Special conditions apply, refer to subdivision regulations for further instructions. Also refer to article 16 of this chapter.

** Added by Amendment 3-22-99

*** See article 15 of this chapter for special conditions.

**** One year only.

***** CW e refers to the Commercial Waterfront District at East Ferry and CWw refers to the Commercial Waterfront District at West Ferry

+ Mixed use refers only to a mix of uses. The individual uses being mixed shall be governed separately in the use table.

Y = Permitted use
N = Not permitted
S = Permitted by special use permit

(Ord. of 11-28-1995, § 301; Ord. of 3-22-1999, § 4; Ord. of 8-10-1999; Ord. of 6-25-2001, § b; Ord. of 8-26-2002)

Table 3-2

Public Zoning District

Use	Minimum Lot Size		Lot Coverage	Building Height		Minimum Yards				Accessory Buildings	
	Area in square feet	Lot width		Principal	Accessory	Front	Corner	Side	Rear	Side Lot Line	Rear Lot Line
Library, museum	40,000	150	25 percent	35	25	0* 50	10* 50	10* 30	10* 30	10	10
School or college	120,000	200	25 percent	35	25	50* 100	50* 100	20* 100	30* 100	15* 50	15* 50
Off-site parking (municipal)	8,000	50	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Recreation hall	80,000	200	25 percent	35	25	20* 50	20* 50	20* 50	30* 50	10* 20	10* 20
Park and recreation use	0	0	N/A	N/A	N/A	0	0	0	0	0	0
Fire or police station	40,000	100	50 percent	35	25	20* 50	20* 50	20	30	10	10
Government facility (except penal, utility or garage)	40,000	100	50 percent	35	25	0* 50	0* 50	0* 50	30* 50	10* 20	10
Government-owned penal, garage or utility facility	80,000	200	25 percent	35	25	50* 75	50* 75	20* 75	30* 75	10* 20	10
Sewage treatment station (publicly owned)	80,000	200	25 percent	35	25	50* 75	50* 75	20* 75	30* 75	15* 50	15* 50
All other permitted uses	40,000	100	25 percent	35	25	50	50	50	50	10	10

* =Use these setbacks when directly adjacent to commercial districts. When a street directly abuts a property boundary, the lesser setback will apply.

OS Open Space Zoning District

Use	Minimum Lot Size		Lot Coverage	Building Height		Minimum Yards				Accessory Buildings	
	Area in square feet	Lot width		Principal	Accessory	Front	Corner	Side	Rear	Side Lot Line	Rear Lot Line
Single-family dwelling	200,000	300	5 percent	35	25	50	40	40	50	20	20
Golf course	200,000	300	5 percent	35	25	50	40	40	50	20	20
Other permitted uses	40,000	150	5 percent	35	25	50	40	40	50	20	15

RR-200 Zoning District

Use	Minimum Lot Size		Lot Coverage	Building Height		Minimum Yards				Accessory Buildings	
	Area in square feet	Lot width		Principal	Accessory	Front	Corner	Side	Rear	Side Lot Line	Rear Lot Line
Single-family dwelling	200,000	300	5 percent	35	25	50	40	40	50	20	20
Other permitted uses	200,000	300	5 percent	35	25	50	40	40	50	40	50

RR-80 Zoning District

Use	Minimum Lot Size		Lot Coverage	Building Height		Minimum Yards				Accessory Buildings	
	Area in square feet	Lot width		Principal	Accessory	Front	Corner	Side	Rear	Side Lot Line	Rear Lot Line
Single-family dwelling	80,000	200	20 percent	35	25	40	40	30	40	20	20
Multifamily dwelling	200,000	300	25 percent	35	25	100	100	100	100	50	50
School, college, religious institution	10 acres	300	25 percent	45	40	100	100	100	100	50	50
Other governmental, educational, institutional uses	200,00	200	25 percent	45	40	50	40	40	50	40	50
Other permitted uses	80,000	200	20 percent	35	25	40	40	30	40	25	25

R-40 Zoning District

Use	Minimum Lot Size		Lot Coverage	Building Height		Minimum Yards				Accessory Buildings	
	Area in square feet	Lot width		Principal	Accessory	Front	Corner	Side	Rear	Side Lot Line	Rear Lot Line
Single-family dwelling	40,000	150	25 percent	35	25	40	30	20	30	15	10
Multifamily dwelling	200,000	100	25 percent	35	25	100	100	100	100	50	50
School, college, religious institution	10 acres	300	25 percent	45	40	100	100	100	100	50	50
Other governmental, educational, institutional uses	80,000	200	20 percent	35	25	40	40	30	40	25	25
Other permitted uses	40,000	150	25 percent	35	25	40	30	20	30	20	15

Note: All lots located in an R-40 zoning district which at the time of adoption of this chapter were 20,000 square feet or less in area shall be governed by the district dimensional requirements set forth in Table 3-2 for the R-20 zoning district; provided, nevertheless, that the minimum lot size set forth in such Table 3-2 for the R-20 zoning district shall not apply to such lots.

CW Zoning District

Use	Minimum Lot Size		Lot Coverage	Building Height		Minimum Yards				Accessory Buildings	
	Area in square feet	Lot width		Principal	Accessory	Front	Corner	Side	Rear	Side Lot Line	Rear Lot Line
Other permitted uses	8,000	80	40 percent	35	25	30	20	10	30	7	10

DC Zoning District

Use	Minimum Lot Size		Lot Coverage	Building Height		Minimum Yards				Accessory Buildings	
	Area in square feet	Lot width		Principal	Accessory	Front	Corner	Side	Rear	Side Lot Line	Rear Lot Line
Other permitted uses	0	40	100 percent	35	25	0	0	0	15	0	0

Table 3-2 for the Village Special Development District Zones R-8, R-20, CL and CD

ZONING DISTRICT	R-20	R-8	CL	CD
Lot Size:	20,000 sq. ft.	8,000 sq. ft.	8,000 sq. ft.	5,000 sq. ft.
Duplex	40,000 sq. ft.	15,000	8,000 sq. ft.	5,000 sq. ft.
Multifamily Dwelling (see Article 10)	200,000 sq. ft.	25,000 sq. ft.	25,000 sq. ft.	20,000 sq. ft.
Lot Occupation:				
Lot Width	100' min.	80' min	80' min. – 120' max.*	40' min. 96' max.*
Lot Coverage	25% max.	30% max.	35% max.	55% max.
Setbacks – Principal Building:				
Front Setback – Principal	30' min.	18' min.	12' min. – 24' max.	0' min. – 12' max. 18' max. for outdoor seating café with 3' wall, fence or planting at frontage
Front Setback – Secondary (corner lot)	15' min.	9' min.	6' min. – 18' max.	0' min. – 12' max.
Side Setback	10' min.	7' min.	6' min.	0' min. – 24' max.
Rear Setback	30' min.	30' min.	12' min.	12' min.
Frontage buildout	N/A	N/A	40% min. at setback	60% min. at setback
Setback – outbuilding:				
Front setback	20' min. + bldg. setback	20' min. + bldg. setback	20' min. + bldg. setback	20' max. from rear prop. line
Side setback	10' min.	7' min.	10' min.	10' min.
Rear setback	10' min.	10' min.	10' min.	3' min.
Building Placement: See Table 11-2				
Edgeyard	Permitted	Permitted	Permitted	Not permitted
Sideyard	Not permitted	Not permitted	Permitted	Permitted
Rearyard	Not permitted	Not permitted	Permitted	Permitted
Courtyard	Not permitted	Not permitted	Not permitted	Permitted
Private Frontages: See Table 11-3				
Common yard	Permitted	Permitted	Not permitted	Not permitted
Porch and fence	Permitted	Permitted	Permitted	Permitted
Terrace or Dooryard	Not permitted	Not permitted	Permitted	Permitted
Forecourt	Not permitted	Not permitted	Permitted	Permitted
Stoop	Not permitted	Not permitted	Permitted	Permitted
Shopfront	Not permitted	Not permitted	Permitted	Permitted
Building Height:				
Principal building	2 stories max. – Max. 35'	2 stories max. - Max. 35'	2 stories max, – Max. 35'	2 stories max,– Max. 35'
Outbuilding	2 stories max. – Max. 25'			

(Ord. of 3-22-1999, § 5; Ord. of 6-25-2001; Ord. of 8-26-2002)

* Lots existing as of October 22, 2009 shall not be considered non-conforming by lot width maximum.

Sec. 82-303. Number of residential structures per lot.

Not more than one principal residence shall be permitted on a lot in any residential district. This provision, however, shall not be construed to limit the number of multifamily residential structures, hotels, or motels constructed in full accordance with all applicable provisions of this ordinance [chapter].

Sec. 82-304. Screening of residential areas.

Whenever a nonresidential use is located within or adjacent to a residential zoning district or use, it shall be effectively screened on all sides which adjoin any property used for residential purposes by a solid wall, opaque fence, or compact planting screen not less than five feet in height. Use of vegetative screening materials is encouraged. In the event that terrain or other natural features are such that the erection of said screen will not serve the intended purpose, the building official may allow the use without said screen.

Sec. 82-305. Exceptions to height regulations.

[Exceptions to height regulations are as follows:]

- A. The following structures or parts of structures may be erected above the specified height regulations in accordance with subsection (B) [B. of this section]: chimney; church spire, tower, or belfry; elevator or air conditioning penthouse; flagpole; radio or television antenna; silo; water tower; windmill.
- B. Structures or parts of structures in any OS, RR, P or C districts, and public and semipublic structures or their parts in an R district may exceed the height regulations of the zone in which they are located, provided they are set back from all lot lines in addition to the required yards, one foot for each foot of such excess. Any such structure in excess of 50 feet shall be required to receive a special use permit from the zoning board of review. At a minimum, all such structures shall be set back a minimum of one foot for every foot of height of the structure.

Sec. 82-306. Authorized departures from yard regulations.

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

- A. Ordinary projections of window sills, cornices and other structural features may extend not more than 12 inches into the space above a required yard.
- B. Landscape features such as trees, fences, shrubs and patio may be placed in any yard area.
- C. In C districts only, an outdoor telephone booth may be located in a front yard area provided it is adjacent to a permitted curb parking area or an off-street parking facility.
- D. Fences and walls not exceeding six feet in height in any district may be constructed in any yard.

Sec. 82-307. Front yards on through lots.

When a lot has frontage on a street at both ends of the property, the lot shall be considered to have two front yards, and shall adhere to front yard setbacks along both streets.

Sec. 82-308. Setback from freshwater wetlands.

- A. No sewage disposal trench, drain field, bottomless effluent filter, nor any component of a system designed to leach liquid wastes into the soil shall be located within 150 feet

from a freshwater wetland edge, excluding the state designated perimeter wetland and riverbank wetland. For the purposes of this section, the freshwater wetland edge shall be the RIDEM verified edge of wetland. If the wetland is not on the subject property and in the absence of RIDEM verified wetland mapping on the adjacent property, then best available mapping should be utilized, as determined by the building official.

B. *Requests for dimensional variances.* Application may be made to the zoning board of review for a dimensional variance seeking relief from the setback requirement contained in this section. All such applications shall be first referred to the planning commission for development plan review for an advisory opinion, per the requirements for development plan outlined in section 82-314 C. However, where the applicant is requesting less than 25 percent relief the town planner shall administratively process the application for recommendation to the zoning board of review. The planning commission and/or town planner and the zoning board shall consider the following minimum development standards:

- In addition to the standards contained elsewhere in this section and in article 6 hereof the applicant shall demonstrate that the implementation of the proposal:
1. Will not degrade the quality of groundwater or any wetland or surface water body, either directly or indirectly, on site or off site;
 2. Will result in the least site disturbance and removal of vegetation as possible, every attempt shall be made to site the wastewater treatment system and the associated dwelling as far as possible from the wetland edge;
 3. Will not obstruct floodways or reduce the net capacity of the site to retain floodwaters;
 4. Will not cause any sedimentation of wetlands, and will include all necessary erosion and sediment control measures; plans for erosion and sediment control and stormwater management shall be completed which meets standard requirements for such plans and also includes:
 - a. The limits of disturbance during construction including areas to be cleared and/or graded, construction easements, temporary stockpiles and material/equipment storage areas, and protection of individual trees and groups of trees to avoid construction injury by fencing off trees at the drip line. In critical areas the limits of disturbance will be fenced off in the field.
 - b. A plan for revegetation, stamped by a landscape architect of wetland buffers, slopes and erodible areas.
 5. Will not reduce the capacity of any wetland to absorb pollutants;
 6. Will not degrade the recreational or educational value of any wetland or water body;
 7. Will not reduce the capacity of any wetland to recharge groundwater; and
 8. Will not degrade the value of any wetland or water body as a spawning ground or nursery for fish and shellfish, or habitat for wildlife and wildfowl. In considering the above, the cumulative impact of all land within a 500-foot radius must be addressed. Where vernal pools are found, the applicant will identify mitigating measures to protect such habitat.

(Ord. of 2-10-2003; Ord. of 4-26-2005)

Sec. 82-309. Vision clearance at street corners.

At street intersections in all districts, no building or structure shall be erected and no vegetation shall be maintained between a height of 2.5 feet and ten feet above street

level of the triangle formed by the two street lines and a third line joining points on the street line of 15 feet from the intersection.

Sec. 82-310. Reduction of street frontage regulations.

Street frontage regulations in any R district may be reduced to not less than 60 feet for those lots entirely fronting on cul-de-sacs at the end of dead-end streets.

Sec. 82-311. Maximum size of accessory buildings.

The following shall apply to the footprint of all Accessory Buildings

<u>Lot Size</u>	<u>Maximum Size of Accessory Buildings</u>
0 – 8,000 sq. feet	600 square feet
8,001-20,000 sq. ft.	700 square feet
20,001 – 40,000 sq. ft.	900 square feet
40,001 + sq. ft.	1,200 square feet

Accessory buildings in excess of 1,200 square feet shall seek a Special Use Permit per Article 6 of this Ordinance.

In addition, the following shall apply to all Accessory Buildings:

- A. In no case shall any combination of accessory buildings have a gross floor area which is greater than 50% of the gross living area of the principal building.
- B. The height of an accessory building shall not exceed the height of the principal building.
- C. Agricultural buildings within the RR-80 and RR-200 are exempt from these provisions.

Sec. 82-312. Lighting.

All external lighting shall be directed or shielded in such a manner that the illuminated areas are confined essentially to the property on which the illumination originates. Pole lighting shall not exceed 15 feet in height.

No sodium vapor lighting shall be permitted on private commercial or residential properties.

Sec. 82-313. Development within open space zones.

OS-I conservation preserve zone. Enhancements are restricted and may include, but are not necessarily limited to, items such as trails, boardwalks and observation platforms.

OS-II park and recreation zone. Certain state- and town- owned properties are further governed by deed restrictions which may limit development of facilities that are normally allowed under zoning.

(Ord. of 3-22-1999, § 3)

Sec. 82-314. High groundwater table and impervious layer overlay district.

This district encompasses specific areas of the town as shown on the attached map depicting the High Groundwater Table and Impervious Layer Overlay District where natural physical limitations render the land unsuitable for development without restrictions. These are areas where nonconforming lots predominate, no public sewer and water are available, and the water table is within four feet below the original grade or where the depth to impervious layer is within five feet below original grade. These conditions create severe limitations for development and require special design and/or infrastructure in order to be safely developed. Lots 40,000 square feet or greater are exempt from this section.

The purpose of this district is to invoke development standards for development within these areas. Applications for development meeting these development standards may be reviewed administratively. The district shall be broken into two subdistricts.

Subdistrict "A" shall consist of those lots where the seasonal high groundwater table has been determined, to be less than or equal to 18 inches or the impervious layer is less than or equal to 42 inches below the original grade.

Subdistrict "B" shall consist of those lots where the seasonal high groundwater table has been determined to be greater than 18 inches and equal to or less than 48 inches or the impervious layer is greater than 42 inches and up to and including 60 inches below the original grade.

The decision as to whether a particular lot is located in either subdistrict "A" or subdistrict "B" shall be made by the zoning enforcement officer based on evidence the town determines to be sufficient and/or which is submitted to the town by a RIDEM Class IV Soil Evaluator engaged by the lot owner or a potential developer of the lot. A submission to the zoning enforcement officer shall include all of the results of examination or testing conducted on the lot and shall be accompanied by a written representation by the soil evaluator that no such results are being withheld. Where the examination and/or testing of multiple areas of a lot yield different results, the zoning enforcement officer shall make a determination: (1) that the lot is in subdistrict "A" if any of the multiple areas examined or tested meet the subdistrict "A" criteria; (2) if the lot is not in subdistrict "A", that the lot is in subdistrict "B" if any of the multiple areas examined or tested meet the subdistrict "B" criteria; or, (3) if none of the multiple areas examined or tested meet either the subdistrict "A" or the subdistrict "B" criteria, that the lot is not in the Overlay District.

For any development in subdistrict "A" and for any development in subdistrict "B" which includes the construction of a new dwelling or which requires a septic suitability determination from the Department of Environmental Management, the number and location of test holes shall be in accordance with the following Table:

Criteria for Test Hole Location Within Subdistricts "A" and "B"

Criteria for Test Hole Location (# Indicates Test Holes in That Location)						
Lot Size (s.f.)	# of Test Holes	Within 25' of ISDS Leachfield	Within 10' of Building Foundation	Within Footprint of Building Foundation	Evenly Spaced Over Remaining Area	Central to the Remaining Area
0--7200	3		2*			1
7201--14400	4		2*	1		1
14401--21600	5		2*	2**		1
21601--39,999	6		2*	2**		2

*Minimum 10 ft. apart**Minimum 20 ft. apart

For development in subdistrict "B" which does not involve a new dwelling and which does not require a septic suitability determination from the Department of Environmental Management, a single test hole in the area of the proposed development shall be required,

but such development may be relieved by the zoning enforcement officer after review with the town planner and the town engineer of any test hole requirement upon presentation of existing water table and impervious layer data.

A. *Prohibited uses.* The following activities are prohibited:

1. In subdistrict "A":

a. The installation of basements associated with either new construction or additions to existing construction where the finished or unfinished level of the basement floor is within 12 inches of the seasonal high groundwater table.

b. In-ground swimming pools.

2. In subdistricts "A" and "B":

The installation of subsurface drains designed to intercept and lower the groundwater table for the installation of an ISDS.

B. *Development within subdistrict "B".* Development within subdistrict "B" shall comply with the development standards below in section 82-314. B.1.--6. Development proposals that meet these standards will be reviewed administratively by the zoning enforcement officer after review with the town planner and the town engineer. The town may engage professional assistance to assist with the professional review of applications and advise with the applicant responsible for such cost. Applications failing to meet one or more of the development standards in 1.--6. below shall require a special use permit per article 6 and meet the development standards for subdistrict "A" in section 82-314 C.1.--4. below.

1. The slab, not including pilings/footings, of a dwelling shall have a 12-inch separation between the bottom elevation of the structure and the seasonal high groundwater table. Footings and foundation walls that extend below the seasonal high groundwater table shall be constructed to allow groundwater to pass. All Foundation elements below the seasonal high-groundwater table shall be engineered to allow for free passage of water.

2. All new ISDSs and ISDSs requiring major repair shall have been approved by RIDEM and provide for either denitrification or enhanced pathogen removal. Denitrification or pathogen treatment levels, measured at the outlet of the treatment unit prior to discharge to a drainfield shall achieve:

a. Minimum total nitrogen removal of 50 percent and a reduction to less than or equal to 19mg/l total nitrogen.

b. TSS and BOD5 shall be equal to or less than 10mg/l each.

c. For pathogen removal fecal coliform treatment achieving minimum fecal coliform removal to less than or equal to 1,000 fecal coliform MPN/100 ml.

Approved technologies shall be those listed by the Department of Environmental Management and capable of achieving the above treatment levels.

3. Where RIDEM approves the separation between a the leach field and a potable well which is less than 100 feet, the ISDS design shall provide for microbiological treatment of the effluent which shall result in a final concentration of fecal coliform of less than or equal to 200 mpn/100ml.

4. All ISDS and any well serving new dwellings shall be located on the same lot as the structure it/they serves.

5. Total impervious surface coverage shall not exceed 15 percent.

Elevated structures with roofs allowing for groundwater infiltration that are less than 120 square feet in size are exempt when calculating this percentage the amount of impervious surface coverage in sub-district B or sub-district A .

6. Proposals shall provide stormwater controls demonstrating that the increase in the difference between the predevelopment and post development volume of runoff from a ten-year 24-hour storm will be contained on site. For the purposes of this calculation the following table will be used:

Percent of Rainfall Which Becomes Runoff

Bare soil	40%
Grassland	35%
Cultivated	30%
Timber/Forest	15%
Lawn 0--5% slope	15%
>5% slope	30%
Roofs	95%
Paved areas (conc, asphalt, brick etc)	85%
Gravel surfaces (constructed)	60%

There shall be a ten-foot separation between a leachfield and the edge of any stormwater infiltration system.

Elevated structures with roofs allowing for groundwater infiltration and structures less than 120 square feet in size are exempt from this standard.

- C. *Development within subdistrict "A"*. Any development within subdistrict "A" shall, after review by the Planning Commission, require a special use permit per article 6 from the zoning board of review, after review and recommendation by the planning commission, in accord with the development standards Special Use Permit contained in this section.

A development plan shall be filed with the zoning enforcement officer and shall be at a suitable scale, to show the following information:

- Property boundary lines, with area and dimensions of the property to be developed;
- Vicinity plan showing adjacent or nearby properties, uses, ISDS's, wells, wetlands, streams or surface water reservoirs within a 500-foot radius;
- Topography map of the property;
- Site specific soils map of the property;
- Stormwater management plan;
- Wetlands map (wetlands on site shall be verified by DEM);
- The applicant shall provide a copy of the RIDEM ISDS approval; and
- The planning commission may require additional information that they determine to be necessary to act on the application.

The applicant shall also indicate proposed use and development. For the purposes of this section, development shall be defined as any manmade change to improved or unimproved real estate, including but not limited to buildings or other

structures, mining, dredging, filling, grading, paving, excavation, or drilling operations upon the lot.

1. *Development standards* Criteria for the issuance of Special Use Permits.

The development standards Special Use Permit criteria contained in this section are implemented in recognition of:

- The natural characteristics of the land, including its suitability for use based on soil characteristics, geology, topography and susceptibility to surface and groundwater pollution;
- The values of unique or valuable natural resources and features;
- The availability and capacity of existing and planned public and/or private services and facilities;
- The goals and pattern of land use contained in the Jamestown Comprehensive Plan;
- The need to protect the island's vulnerable and limited water supplies by maintaining maximum groundwater recharge of rainfall and treated wastewater to replenish drinking water supplies and avoid salt water intrusion;
- The need to prevent further impacts and restore impaired areas where intense development and water use, in combination with limited land development suitability, have resulted in localized flooding, incidents of groundwater contamination, low well yields, and salt water intrusion.
- All efforts should be made to maintain original grade while minimizing cut and fill. All grading and filling should benefit the stormwater management plan for the site and surrounding area.

All proposals for the granting of special use permit under this section 82-314 C shall, in addition to the requirements of article 6 hereof, meet the following criteria and development standards in addition to the standards outlined in section 83-314 B.1—6, which ever are greater:

2. *Subsurface structures.*

- The design of the subsurface structures shall minimize the problems and hazards created by the seasonal high groundwater table and/or impervious layer and result in the least grading, filling, or other disturbance to the site and to any wetland buffer as possible. Any foundation elements below the seasonal high groundwater table shall be engineered to allow for free passage of water.
- The seasonal high groundwater table will not damage, interfere or reduce the potential for the proper functioning of the subsurface structure.
- The subsurface structure will not pose any threat to public health or safety or to the water resources of the town, including groundwater
- The siting and design of the ISDS and dwelling it serves shall result in the least disturbance to the site and to the wetland buffer as possible.

3. *Individual sewage disposal systems.*

- All proposals relating to the installation of an ISDS shall insure that the system, once in use, will not pose a threat to the public health and safety nor cause any degradation of ground or surface water quality, including adverse effects due to cumulative impact.

- All proposals relating to the installation of an ISDS shall demonstrate that the design, siting and selection of technologies for the treatment and dispersal units are the most appropriate for the site.
- All proposals relating to the installation of an ISDS shall demonstrate that the project has been designed so as to minimize combined impacts related to the ISDS, stormwater runoff, and potential disturbances to wetland buffers.

4. *Stormwater management.*

- The applicant shall demonstrate that runoff control measures have minimized site disturbance, maximized nonstructural controls, and have not adversely affected subsurface flow of groundwater.
- All proposals shall show, to the greatest extent possible that the proposed site improvements shall minimize fill and grading, and maintain, to the greatest extent possible, the existing overland flow of runoff from the site to surrounding areas.
- All stormwater management measures will maintain the water quality function of wetland buffers and avoid any encroachment that might impair the wetland's pollutant removal capacity such as directing channelized flow to the wetland, reducing subsurface flow through the buffer, increasing sedimentation, reducing shade cover, or any alteration that would result in fluctuating water levels that negatively impact sensitive habitat.

The Percent of Maximum Impervious Cover for Sub-District A Lots shall be as follows:				
Water Table	0 - 10"	10.1 - 14"	14.1 - 18"	Greater than 18"
Impervious Layer				
0 - 20"	8%	9%	10%	11%
21 - 31"	9%	9%	10%	12%
32 - 42"	9%	10%	10%	13%
Greater than 42"	9%	10%	10%	see Sub-District B

Where the examination and/or testing of multiple areas of a lot yield different results as to the Water Table and/or Impervious Layer, the percent of maximum impervious cover for the lot shall be calculated on the most restrictive result. No lot in Sub-District A shall be allowed impervious cover in excess of 2,000 square feet, regardless of lot size. Freshwater wetlands shall be subtracted from total lot size prior to calculating maximum impervious cover above.

- D. *Variances for prohibited development in subdistrict "A".* Applicants proposing uses prohibited pursuant to section A hereof shall, after development plan review by the planning commission, be required to obtain a use variance pursuant to article 6 hereof. In addition to the standards contained in article 6 hereof, all applicants shall demonstrate that the proposal meets, to the greatest extent possible, all of the development standards contained in subsections B and C hereof.

Applicants shall file a development plan with the zoning enforcement officer which shall be at a suitable scale and which shall show the following information:

1. Property boundary lines, with area and dimensions of the property to be developed;
2. Vicinity plan showing adjacent or nearby properties, uses, ISDS's, wells, wetlands, streams or surface water reservoirs within a 200-foot radius;
3. Topography map of the property;
4. Site specific soils map of the property;
5. Stormwater management plan;
6. Wetlands map (wetlands on site shall be verified by DEM); and
7. The planning commission or the zoning board may require additional information that they determine to be necessary to act on the application.

(Ord. of 2-10-2003; Ord. of 3-22-2004(2); Ord. of 4-26-2005; 2007)

Sec. 82-315. Temporary/Portable Storage Containers

- A. Definition. Any container used for the storage of personal property that is typically rented to owners or occupants of real property, but may be owned by such, for their temporary use and which customarily is delivered and removed by truck. Containers and/or trailers used for the purpose of storing construction equipment on an active construction site shall be exempt from this section.
- B. Permit. No person shall place a container on private property without first obtaining a permit from the Building Official.
- C. Size. There shall be no more than one container allowed per dwelling unit and/or property. The maximum size of said container shall not be larger than eight (8) feet wide, twenty (20) feet long and eight (8) feet high.
- D. Duration. No container shall remain on a property with a primary use in excess of 120 consecutive days or in excess of 180 days in any calendar year. Provided however, that the Building Official shall have the authority to grant a one time extension of up to 60 days.
- E. Location. Containers shall be located, where practical, within driveways and not in required parking spaces, fire lanes, loading zones or public rights-of-way. Discretion on location of containers shall be given to the Building Official.
- F. Use. No hazardous materials of any kind including flammable shall be stored in the storage container.
- G. Other. All other temporary and mobile facilities for residential, commercial or industrial use are prohibited in all districts, except as allowed in Section 82-315 above.
- H. Signage on Temporary/Portable Storage Containers shall not exceed 2 square feet.

Sec. 82-316. Swimming Pools and Tennis Courts

Swimming Pools and Tennis Courts

- A. Swimming Pools (measured at the water surface), Tennis Courts, the outer fence of tennis courts or other permanent ball courts (measured by playing surface) shall meet setbacks for accessory buildings and shall be included as part of the Lot Coverage calculation. This section shall include decks associated with swimming pools. Driveways used also for court activities shall not be regulated under this section.
- B. All swimming pools shall be provided with a safety enclosure which shall comply with the following:

1. The top of the safety enclosure shall be at least 48 inches above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches measured on the side of the barrier which faces away from the swimming pool.
 2. Openings in the barriers shall not allow passage of a 4 inch diameter sphere.
- C. Lighting of private tennis courts or other permanent ball courts is permitted only by Special Use Permit per Article 6 of this Ordinance.

Sec. 82-317 Community flood plain ordinance for special flood hazard areas.

A. Definitions

Unless specifically defined below, words and phrases used in this ordinance pertain to floodplain management, have the same meaning as they have in common usage and to give this ordinance it's most reasonable application.

Accessory Structure – A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of Special Flood Hazard – see definition for “Special Flood Hazard Area”.

Base Flood – The flood having a one (1) percent chance of being equaled or exceeded in any given year, also referred to as the one hundred (100) year flood, as published by the Federal Emergency Management Agency (FEMA) as part of a Flood Insurance Study (FIS) and depicted on a Flood Insurance Rate Map (FIRM).

Base Flood Elevation (BFE) – The elevation of the crest of the base flood or 100-year flood. The height, as established in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum where specified), in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

Basement – Any area of the building having its floor subgrade (below ground level) on all sides.

Building – see definition for “Structure”.

Cost – As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor's estimate. The estimate shall *include*, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor's overhead; contractor's profit; and grand total. Items to be *excluded* include: cost of plans and specifications, survey costs, permit fees, costs to

correct code violations subsequent to a violation notice, outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.

Development – Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings or structures; the construction of additions, alterations or substantial improvements to buildings or structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

Federal Emergency Management Agency (FEMA) - The federal agency that administers the National Flood Insurance Program (NFIP).

Flood or Flooding – A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) – The official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas (100-year floodplain) and the insurance risk premium zones applicable to a community. FIRM published after January 1990 may also show the limits of the regulatory floodway.

Flood Insurance Study (FIS) – The official study of a community in which the Federal Emergency Management Agency (FEMA) has conducted a technical engineering evaluation and determination of local flood hazards, flood profiles and water surface elevations. The Flood Insurance Rate Maps (FIRM), which accompany the FIS, provide both flood insurance rate zones and base flood elevations, and may provide the regulatory floodway limits.

Flood Proofing – Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. For the purposes of these regulations, the term “Regulatory Floodway” is synonymous in meaning with the term “Floodway”.

Functionally Dependent Use or Facility – A use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term

does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.

Highest Adjacent Grade (HAG) – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure – Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

Lowest Floor – The lowest floor of the lowest enclosed area (including basement).

Mobile Home – (Prohibited in Zoning Sec. 82-302, Table 3-1) A transportable, single-family dwelling unit suitable for year-round occupancy with or without a permanent foundation, and having a water supply and waste disposal system comparable to immobile housing. A mobile home is designed to be transported on streets and highways on its own wheels and to arrive at the site where it is to be occupied as a dwelling unit complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on racks or permanent foundations, and connection to utilities and water supply and waste disposal systems. Removal of wheels and/or axles shall not change its status as a mobile home.

Market Value – Market value is the price of a structure that a willing buyer and seller agree upon. This can be determined by an independent appraisal by a professional appraiser; the property's tax assessment, minus land value; the replacement cost minus depreciation of the structure; the structure's Actual Cash Value.

New Construction – Structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Recreational Vehicle – A vehicle which is: (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed

primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway – see definition for “Floodway”.

Special Flood Hazard Area (SFHA) – The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. SFHAs are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. SFHAs include, but are not necessarily limited to, the land shown as Zones A, A1-30, AE, AO, AH, and the Coastal High Hazard Areas shown as Zones V, V1-30, and VE on a FIRM. The SFHA is also called the Area of Special Flood Hazard.

Start of Construction – For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, substantial improvement or other improvement was within one hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erections of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure – A walled and roofed building which is principally above ground, including a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

Substantial Damage – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement – Any combination of repairs, reconstruction, rehabilitation, alterations, additions or other improvements to a structure, taking place within any twelve (12) month period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure (§ 23-27.3-106.1). This term includes structures that have incurred “substantial damage”, regardless of the actual repair work performed. For

purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

Variance - A grant of relief by a community from the terms of the floodplain management ordinance that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

Violation – Failure of a structure or other development to be fully compliant with the community’s floodplain management ordinance. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

B. Statement Of Purpose

The purpose of this ordinance is to ensure public safety; minimize hazards to persons and property from flooding, to protect watercourses from encroachment, and to maintain the capability of floodplains to retain and carry off floodwaters. The Town of Jamestown elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

C. Applicability

The Special Flood Hazard Areas are herein established as a floodplain overlay district. The District includes all special flood hazard areas within the Town of Jamestown designated as Zone A, AE, AH, AO, A99, V, or VE on the Newport 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 Newport County FIRM that are wholly or partially within the Town of Jamestown are panel numbers 0059, 0067, 0069, 0078, 0086, 0087, 0088, 0089, 0157, 0159, 0176 dated **April 5, 2010**. 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 Newport County Flood Insurance Study (FIS) report dated **April 5, 2010**. The FIRM and FIS report and any revisions thereto are incorporated herein by reference and are on file with the Town Clerk, Planning Board, and Building Official.

D. Administrative Provisions

Use Permit. All proposed construction or other development within a Special Flood Hazard Area shall require a permit.

If the construction or other development within a Special Flood Hazard Area is not covered by a building or other approved permit application, a flood hazard development permit shall be required. The application for a flood hazard development permit shall be submitted to the Building Official and shall include:

1. The name and address of the applicant;
2. An address or a map indicating the location of the construction site;
3. A site plan showing location of existing and proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and the dimensions of the lot;
4. A statement of the intended use of the structure;
5. A statement as to the type of sewage system proposed;
6. Specification of dimensions of the proposed structures;
7. The specific datum used for all elevations;
8. The elevation (in relation to mean sea level) of the lowest floor, including basement, and if the lowest floor is below grade on one or more sides, the elevation of the floor immediately above;

9. Base flood elevation data for all new, relocated or substantially improved structures;
10. The elevation (in relation to mean sea level) to which the structure will be floodproofed;
11. The description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

Prior to the issuance of a building or development permit, the applicant shall submit evidence that all necessary permits and approvals have been received from all government agencies from which approval is required by federal or state law.

A permit fee (based on the cost of the construction) may be required to be paid to the Town of Jamestown and a copy of a receipt for the same shall accompany the application. An additional fee may be charged if the code enforcement officer and/or board of appeals needs the assistance of a professional engineer.

Disclaimer of Liability. The degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

Severability. If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

Abrogation and Greater Restriction. This ordinance shall not in any way impair/remove the necessity of compliance with any other applicable laws, ordinances, regulations, etc. Where this ordinance imposes a greater restriction, the provisions of this ordinance shall control.

E. Notification Of Watercourse Alteration

In a riverine situation, The Building Official shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- Bordering States (optional)
- NFIP State Coordinator
Rhode Island Emergency Management Agency
645 New London Avenue
Cranston, RI 02920
- NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

The carrying capacity of the altered or relocated watercourse shall be maintained.

F. Use Regulations

1. Reference To Existing Regulations

The Special Flood Hazard Areas are established as a floodplain overlay district. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with the following:

- Rhode Island State Building Code (SBC-1-2007 as established under Rhode Island General Law § 23-27.3);
- Coastal Resources Management Program, Coastal Resource Management Council (RIGL § 46-23)
- Freshwater Wetlands Act, Department of Environmental Management (RIGL § 46-23-6)
- Minimum Standards Related to Individual Sewage Disposal Systems, Department of Environmental Management (RIGL § 46-12)

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

2. Other Use Regulations

- 1) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town of Jamestown FIRM or Flood Boundary & Floodway Map encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2) All subdivision proposals must be designed to assure that:
 - a.) such proposals minimize flood damage;
 - b.) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - c.) adequate drainage is provided to reduce exposure to flood hazards.
- 3) Detached accessory structures in Zones A, AE, A1-30, AO, and AH (i.e., garages, sheds) do not have to meet the elevation or dry flood-proofing requirement if the following standards are met:
 - a.) The structure is no more than 100 square feet in size and has a value less than \$1000.
 - b.) The structure has unfinished interiors and must not be used for human habitation. An apartment, office or other finished space over a detached

garage is considered human habitation and would require the structure to be elevated.

- c.) The structure is used solely for parking of vehicles and/or limited storage.
 - d.) The accessory must be wet floodproofed and designed to allow for the automatic entry and exit of flood water.
 - e.) The accessory structure shall be firmly anchored to prevent flotation, collapse and lateral movement.
 - f.) Service facilities such as electrical, mechanical and heating equipment must be elevated or floodproofed to or above the base flood elevation.
 - g.) The structure must not increase the flood levels in the floodway.
- 4) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

3. Base Flood Elevation And Floodway Data

- 1) Floodway Data. In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2) Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than fifty (50) lots or 5 acres, whichever is the lesser, within unnumbered A zones.
- 3) Base Flood Elevations in A Zones. In the absence of FEMA BFE data and floodway data, the best available Federal, State, local, or other BFE or floodway data shall be used as the basis for elevating residential and non-residential structures to or above the base flood level and for floodproofing non-residential structures to or above the base flood level.

ARTICLE 4.
ADMINISTRATION AND ENFORCEMENT*

* Cross References: Administration, ch. 2.

Sec. 82-400. Zoning enforcement officer.

It shall be the duty of the zoning enforcement officer to administer and enforce the provisions of this ordinance [chapter].

Sec. 82-401. Building permit required.

No structure shall hereafter be erected, enlarged or relocated until a permit authorizing the same shall have been issued by the zoning enforcement officer. Such permit shall expire one year from the date of issue unless the applicant commences construction and diligently pursues the construction until completed. Regardless of completion, any permit shall expire within three years.

Sec. 82-402. Zoning certificates.

The zoning enforcement officer shall require that the application for a building permit be accompanied by a plot or lot layout and such other information that is necessary for the enforcement of the provisions of this ordinance [chapter]. The zoning certificate shall be issued on the basis of the application and accompanying plans and shall authorize only the use, arrangement, and construction set forth in approved plans and applications.

Any use, arrangement, or construction at variance with that authorized under this ordinance [chapter] shall be deemed in violation of this ordinance [chapter]. A record of all applications, plans, and zoning certificates shall be kept on file in the office of the zoning enforcement officer and shall be available for public inspection during regular office hours.

Sec. 82-403. Publication of zoning certificates.

The zoning enforcement officer shall publish weekly a list of all zoning certificates in a newspaper of general circulation in Jamestown. Such list shall show the zoning certificates issued during the preceding week, the applicant, assessor's plat and lot, street name and proposed use.

Sec. 82-404. Zoning certificates--Relationship to other codes, regulations, and ordinances.

The issuance of a zoning certificate shall, in no way, relieve the applicant of the responsibility of obtaining such permits or approvals as may be required under the provisions of other codes, regulations, and ordinances relating to the use, erection, alteration or modification of a building or structure, or to the use or subdivision of land. However, all other permits or approvals shall conform to this ordinance [chapter].

Sec. 82-405. Expiration of a zoning certificate.

A zoning certificate shall be valid for the duration of the use which was the subject of the original application and issuance, and shall expire upon the termination of that use.

Sec. 82-406. Work previously authorized.

Nothing in this ordinance [chapter] shall prevent the completion of any construction for which a valid building permit has been heretofore issued, except that such construction shall be initiated within three months after the adoption of this

ordinance [chapter] and shall be completed within two years after such adoption. Where such a valid building permit exists, no zoning certificate shall be required.

Sec. 82-407. Penalty for violation.

Any person, group of persons, or corporation that violates any of the provisions of this ordinance [chapter] or any requirement attached to the granting of a special use permit or variance may be fined not more than \$500.00 for each offense. Each day of the existence of the violation shall be deemed a separate offense. Any such fine shall inure to the Town of Jamestown. Immediately upon notification of any violation, the town shall institute appropriate action to prevent, enjoin, abate or remove such violation.

Sec. 82-408. Appeal of a decision of the zoning enforcement officer.

Any person, group of persons, or corporation, aggrieved by a decision of the zoning enforcement officer concerning this ordinance [chapter], may file an appeal in accordance with the provisions of article 5 of this ordinance [chapter].

Sec. 82-409. Maintenance of the zoning ordinance.

The town clerk shall be the custodian of the zoning ordinance and zoning map. It shall be the responsibility of the town clerk to maintain and update the text and the zoning map comprising the ordinance [this chapter]. Changes to the zoning map shall be depicted on the map within 90 days of the authorized change(s).

The planning commission shall be responsible for reviewing the ordinance [from which this chapter is derived] not less than once every five years, and whenever changes are made to the comprehensive plan. The planning commission shall identify necessary changes and forward these changes to the town council.

Sec. 82-410. Project Review Fees.

All submissions for site plan approval, also known as development plan review, involving residential developments of more than five (5) dwelling units, non-residential developments involving more than 2,500 square feet of building area and/or mixed use developments may be required by the planning commission to pay a project review fee for costs incurred by the town to retain technical consultant(s) review(s) of such projects. At the initial meeting on any such application, it shall be determined whether the planning commission will require outside technical review(s) of such projects to assist the planning commission in their project review. The planning commission shall not be precluded from obtaining different and/or additional outside technical project review assistance if during the project review the planning commission determines issues have arisen which requires such different and/or additional outside project technical review. Any such outside technical project review assistance fee shall be paid for by the applicant and be equal to the actual amount expended by the planning commission to hire the needed professional resources necessary to perform an adequate review of such projects. The planning commission shall provide a good faith estimate of said project review fees and such estimated costs shall be paid by the applicant prior to the planning commission proceeding further with the project review. Upon completion of the project review, any excess funds shall be refunded to the applicant or any fund shortage shall be paid by the applicant prior to receiving final plan approval.

The planning commission may also charge an inspection fee to the applicant of a development plan to determine compliance of the as-built project with the approved development plan. Any and all costs incurred pursuant to the inspection subject to this section and authorized by the planning commission shall be separate from any project

review fee. The applicant for development plan approval shall pay any such inspection fee to the town prior to the issuance of a certificate of occupancy for the project. The zoning board of review is also authorized to impose such project review fees to obtain outside technical assistance for any special use permit and/or variance zoning relief petition submitted for their review. It shall be determined at the initial meeting on the application for zoning relief whether project review assistance is required. The zoning board of review shall provide a good faith estimate of said project review fees and such estimated costs shall be paid by the applicant prior to the zoning board of review proceeding further with the zoning relief application. Upon completion of the project review, any excess funds shall be refunded to the applicant or any fund shortage shall be paid by the applicant prior to receiving final plan approval.

(Amended 2007)

Sec. 82-411. Technical Review Committee.

A. Establishment

There is hereby established a sub-committee appointed by the Planning Commission, to be known as the Technical Review Committee (TRC). The TRC is established to conduct technical reviews of applications such as subdivisions, land development projects, zone changes, and applications within the Village Special Development District. Unless authorized in this Ordinance as an administrative approval, all such reviews shall be advisory in nature, and in no case shall the recommendations of the TRC be binding on the Planning Commission in its activities or decisions.

B. Membership

Membership of the Technical Review Committee shall consist of officials from each office having jurisdiction over the permitting of a project, including the Town Planner, the Building Official, the Public Works Director and/or the Town Engineer, the Environmental Scientist as needed, a rotating member of the Planning Commission, and an architectural consultant as needed. The Chairman of the Planning Commission shall assign one rotating Member of the Commission either (1) to each subdivision, development project or project or (2) monthly, for all projects being heard on the agenda, depending on the current workload of the Commission. The Chairman shall have the authority to assign or reassign the Rotating Member for good cause. Written procedures shall be adopted by the Planning Commission establishing the Committee's responsibilities and procedures as part of the Planning Commission's by-laws.

C. TRC Advisory Review

The following type of applications shall be subject to full Planning Commission review as specified in this Article. The TRC shall review such applications and shall make a written advisory recommendation to the Planning Commission; but in no case shall the recommendations of the TRC be binding on the Planning Commission in its activities or decisions:

- Any application or action requiring a public hearing before the Planning Commission;
- Major Subdivision or Land Development Project;
- Minor Subdivisions or Land Development Project;
- Zone Change recommendations to the Town Council;
- Pre-application review of Major Subdivisions

- Development Plan Review under Article 11 of the Zoning Ordinance for applications meeting the definition of a Substantial Modification in the CL, CD, CW and P and including one or more of the following criteria:
 - 1) Is valued at more than 50% of the replacement cost of the entire building;
 - 2) New construction other than single family;
 - 3) Fifty percent or greater alteration of a building exterior
 - 4) Fifty percent or greater alteration of street façade;
 - 5) New use; or
 - 6) Expansion of use which requires more than 15 parking spaces.

D. TRC Administrative Review

The application types listed below shall be administratively reviewed and an administrative decision rendered by the TRC. With a majority vote of the TRC, they shall have the authority to defer Administrative applications to the Planning Commission for full Planning Commission review described in C. above if they feel the application does not meet the criteria for Administrative Review or has a project element(s) that render such public review appropriate or necessary.

- Pre-application review of Minor Subdivisions (if requested)
- Setting, reducing or releasing performance bonds
- Requests for reinstatement or extension of applications as required by Regulation
- Recommendations to the Town Council on matters other than zoning amendments as requested.
- Development Plan Review under Article 11 of the Zoning Ordinance for applications meeting one or more of the following criteria in the CL, CD, CW and P.
 - 1) the development of new single family dwellings;
 - 2) a change in parking layout or the addition of up to 15 parking spaces; or
 - 3) a change in site design or lot coverage that changes the on-site drainage patterns and how stormwater may impact abutting or nearby properties.

E. Appeals

If an applicant is aggrieved by an administrative decision of the TRC on an Administrative Review, an applicant may request that the application be heard by the Planning Commission at a regular Planning Commission meeting, with all required items for submittal, as a full application for Advisory Review in C. above. Additional TRC review will not be necessary in such situations unless significant changes to the application have been made prior to being heard by the Planning Commission. TRC recommendations are not subject to appeal as they are not binding on the Planning Commission.

F. Records

Advisory recommendations of the Technical Review Committee to the Planning Commission shall be in writing and shall be kept as part of the permanent documentation of the development application. Administrative Review applications shall be provided a formal written decision that will be reported to the Planning Commission at the next regular Planning Commission meeting.

ARTICLE 5.
ZONING BOARD OF REVIEW*

* **Charter References:** Zoning board of review, §§ 705--710.

Cross References: Boards, committees, and commissions, § 2-41 et seq.; housing board of review to act as zoning board of review, § 14-56.

Sec. 82-500. Establishment and procedures.

There is hereby created a zoning board of review, hereinafter called the zoning board, which shall consist of five members, each to hold office for the term of five years; provided, however, that the original appointments shall be made for terms of one, two, three, four and five years, respectively.

The zoning board shall also include three alternates to be designated as the first and second and third alternate members, for a term of one year. These alternate members shall sit and may actively participate in hearings. The first alternate shall vote if a member of the board is unable to serve at a hearing and the second shall vote if two members of the board are unable to serve at a hearing and the third alternate shall vote if three members of the board are unable to serve at a hearing. In the absence of the first alternate member, the second alternate member shall serve in the position of the first alternate. In the absence of the first and second alternate member, the third alternate shall serve in the position of the first and second. No member or alternate may vote on any matter before the zoning board unless they have attended all hearings concerning that matter.

The zoning board may engage legal, technical or clerical assistance to aid in the discharge of its duties.

Members of the zoning board of review serving on the effective date of adoption of this ordinance [from which this chapter is derived] shall be exempt from provisions of this chapter [article] respecting terms of originally appointed members until the expiration of their current terms. The town council may remove a member for cause based on a majority vote of the town council membership. The town council may fill any vacancy in the zoning board for an unexpired term.

The chairperson [chair], or in his or her absence, the acting chairperson [chair], may administer oaths and compel the attendance of witnesses by the issuance of subpoenas.

(Ord. of 11-25-1996)

Sec. 82-501. Powers and duties of zoning board of review.

The zoning board of review shall:

A. Have the following powers and duties [to]:

1. Hear and decide appeals in a timely fashion where it is alleged there is error in any order, requirement, decision or determination made by an administrative officer or agency in the enforcement or interpretation of the act, or the ordinance [this chapter] hereto;
2. Hear and decide appeals from a party aggrieved by a decision of an [a] historic district commission, pursuant to G.L. 1956, §§ 45-24.1-7.1 and 45-24.1-7.2;
3. Authorize, upon application, in specific cases of hardship, variances in the application of the terms of the ordinance [this chapter], pursuant to G.L. 1956, § 45-24-41;

4. Authorize, upon application, in specific cases, special use permits, pursuant to G.L. 1956, § 45-24-42(A), where the zoning board is designated as a permit authority for special use permits;
5. Refer matters to the planning commission, or to other boards or agencies of the town as the zoning board may deem appropriate, for findings and recommendations;
6. Provide for issuance of conditional zoning approvals where a proposed application would otherwise be approved except that one or more state or federal agency approvals which are necessary are pending. A conditional zoning approval shall be revoked in the instance where any necessary state or federal agency approvals are not received within a specified time period; and
7. Hear and decide other matters, according to the terms of the ordinance [this chapter] or other statutes, and upon which the zoning board may be authorized to pass under the ordinance [this chapter] or other statutes; and

B. Be required to vote as follows:

1. 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;
2. The concurring vote of three of the five members of the zoning board sitting at a hearing shall be necessary to reverse any order, requirement, decision, or determination of any zoning enforcement officer from whom an appeal was taken; and
3. The concurring vote of four of the five members of the zoning board sitting at a hearing shall be required to decide in favor of an applicant on any matter within the discretion of the board upon which it is required to pass under the ordinance [this chapter], including variances and special-use permits.

Sec. 82-502. Use of powers.

In using the powers listed in section 82-501, the zoning board, in conformance with the provisions of this ordinance [chapter] and in the proper exercise of its discretion, may reverse or affirm wholly or partly or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the zoning enforcement officer.

Sec. 82-503. Procedure[s] for appeals, special use permits and variances.

[Procedures for appeals, special use permits and variances are as follows:]

- A. Appeals to the zoning board may be taken by any person aggrieved or by any officer, department, board or bureau affected by any decision of the zoning enforcement officer in the enforcement of this ordinance [chapter]. Such appeal shall be taken within 30 days as provided by the rules of the zoning board by filing with the zoning enforcement officer and with the board a notice of appeal specifying the grounds thereof. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning enforcement officer certifies to the zoning board, after notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would in his opinion, cause imminent peril to life or property. In such cases, proceedings shall be stayed only by a restraining order which may be granted by the zoning board or by a court of competent jurisdiction on application

thereof and upon notice to the officer from whom the appeal is taken and on due cause shown.

- B. Applications for special use permits or variances shall be filed directly with the town clerk as provided by the rules of the zoning board.
- C. The zoning board shall fix a reasonable time for the hearing of the application; shall publish notice thereof in a newspaper of general circulation in the Town of Jamestown at least once each week for three successive weeks prior to the date of such hearing; shall give due notice to the applicant and the owners of property surrounding the property in question by registered or certified mail at least seven days prior to the date set for the hearing. The cost of any notice required for the hearing shall be borne by the appellant.
 - 1. In all zoning districts, a list of the owners of property within 200 feet of the property in question shall be determined from public record and submitted by the applicant. The board shall hear and decide the appeal, special use permit, or variance within a reasonable time. Any party may appear at the hearing in person, by agent or by attorney.
- D. Following a public hearing, the zoning board shall render a decision within a reasonable period of time. The board shall include in its decision all findings of fact and conditions, showing the vote of each member participating thereon, and the absence of a member or his or her failure to vote. Decisions shall be recorded and filed in the office of the zoning board within 30 days from the date when the decision was rendered, and shall be a public record. The zoning board shall keep written minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations, findings of fact, and other official actions, all of which shall be recorded and filed in the office of the zoning board in an expeditious manner upon completion of the proceeding. For any proceeding in which the right of appeal lies to the superior or supreme court, the zoning board shall have the minutes taken either by a competent stenographer or recorded by a sound recording device.

Any decision by the zoning board, including any special conditions attached thereto, shall be mailed to the applicant, the zoning enforcement officer, and the associate director of the division of planning of the Rhode Island Department of Administration. Any decision evidencing the granting of a variance, modification or special use shall also be recorded in the land evidence records of the Town of Jamestown.
- E. The zoning board shall establish written rules of procedure, a mailing address to which appeals and correspondence to the zoning board shall be sent, and an office where records and decisions shall be filed. The zoning board shall also establish appropriate forms and submission and resubmission requirements, which shall be reviewed not less than once every five years and amended, if necessary.

Sec. 82-505. Reapplication to zoning board.

After a decision has been made by the zoning board, the applicant may not file a similar application for at least 12 months after the date of the original decision.

Sec. 82-506. Appeals--Participation in zoning hearing.

Participation in a zoning hearing or other proceeding by a party shall not be a cause for civil action or liability except for acts not in good faith, intentional misconduct,

a knowing violation of law, transactions where there is an improper personal benefit, or malicious, wanton or willful misconduct.

Sec. 82-507. Same--Appeals to superior court.

An aggrieved party may appeal a decision of the zoning board of review to the superior court for [of] Newport County by filing a complaint setting forth the reasons of appeal within 20 days after the decision has been recorded and posted in the office of the town clerk. The decision shall be posted in a location visible to the public in the town hall for a period of 20 days following the recording of the decision. The zoning board of review shall file the original documents acted upon by it and constituting the record of the case appealed from, or certified copies thereof, together with such other facts as may be pertinent, with the clerk of the court within 30 days after being served with a copy of the complaint. When the complaint is filed by someone other than the original applicant or appellant, the original applicant or appellant and the members of the zoning board shall be made parties to the proceedings. The appeal shall not stay proceedings upon the decision appealed from, but the court may, in its discretion, grant a stay on appropriate terms and make such other orders as it deems necessary for an equitable disposition of the appeal.

ARTICLE 6.

SPECIAL USE PERMITS AND VARIANCES

Sec. 82-600. Considerations of the zoning board.

In granting any special use permit or variance, the zoning board shall consider whether or not satisfactory provisions and arrangements have been or will be made concerning, but not limited to, the following matters, where applicable:

- A. Ingress and egress to the lot and to existing or proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire, emergency, or other catastrophe;
- B. Off-street parking and loading areas where required, with particular attention to the items in (A) [subsection A. of this section] above, and the economic, noise, glare or odor effects of the special use on adjoining lots;
- C. Trash, storage, and delivery areas with particular reference to the items in (A) and (B) [subsections A. and B. of this section] above;
- D. Utilities and surface water drainage with reference to locations, availability and suitability;
- E. Screening and buffering with reference to type, dimensions and character;
- F. Signs, if any, and exterior lighting with reference to glare, traffic safety, economic effect on and compatibility and harmony with lots in the zoning district;
- G. Required yards and other open spaces;
- H. General compatibility with lots in the same or abutting zoning districts;
- I. Environmental compatibility and safeguards to protect the natural environment;
- J. Electrical, electronic or noise interference;
- K. Water saving devices and/or ISDS inspection or servicing.

Sec. 82-601. Special use permits authorized by this ordinance [chapter].

In accordance with the procedure established in article 5 hereof [of this chapter], the zoning board may, in appropriate cases and subject to conditions and safeguards as further provided in this ordinance [chapter], make exceptions to the terms of this ordinance [chapter] in harmony with the general purposes and intents of this ordinance [chapter] and the comprehensive plan. Special use permits may be granted by the zoning board for the uses listed as special use in section 82-301 herein, and for change of a nonconforming use as provided in article 7 [of this chapter].

Sec. 82-602. Burden on the applicant.

Before any special use permit shall be granted, the applicant shall show to the satisfaction of the zoning board:

- A. That the granting of the special use permit will not result in conditions inimical to the public health, safety, morals and welfare; and
- B. That the granting of such special use permit will not substantially or permanently injure the appropriate use of the property in the surrounding area or district.

In granting a special use permit, the zoning board may impose such special conditions as are deemed necessary to maintain harmony with other lots in the same or abutting zoning districts and to promote the objectives of this ordinance [chapter].

Sec. 82-603. Expiration and extension of special use permits.

A special use permit shall expire one year from the date of granting by the zoning board unless the applicant exercises the permission granted or receives a building permit

to do [so], and commences construction, and diligently pursues the construction until completed.

A special use permit granted by the zoning board may not be extended or enlarged beyond the limits authorized by the zoning board, except by the granting of a further special use permit by the zoning board.

Sec. 82-604. Continuation of special use permits.

It is hereby declared that any special use permits heretofore granted under this ordinance [chapter] shall continue to be a special use, and shall not be construed to become, by the passage of this ordinance [chapter], a nonconforming use or structure.

Sec. 82-605. Variances authorized by this ordinance [chapter].

An application for relief from the literal requirements of this ordinance [chapter] because of hardship may be made by any person, group, agency, or corporation by filing with the building official an application describing the request and supported by such data and evidence as may be required by the zoning board or by the terms of this ordinance [chapter]. The building official or agency shall immediately transmit each application received to the zoning board and shall transmit a copy of each application to the planning commission.

The zoning board of review, immediately upon receipt of an application for a variance in the application of the literal terms of the zoning ordinance [this chapter], may request that the planning commission and/or staff shall report its findings and recommendations, including a statement on the general consistency of the application with the goals and purposes of the comprehensive plan, in writing to the zoning board within 30 days of receipt of the application from that commission. The zoning board shall hold a public hearing on any application for variance in an expeditious manner, after receipt, in proper form, of an application, and shall give public notice thereof at least 14 days prior to the date of the hearing in a newspaper of general circulation in the town. Notice of hearing shall be sent by first class mail to the applicant, and to at least all those who would require notice under G.L. 1956, § 45-24-53. The notice shall also include the street address of the subject property. The cost of notification shall be borne by the applicant.

Sec. 82-606. Conditions for granting a variance.

In granting a variance, the zoning board of review shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

1. That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant;
2. That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;
3. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the ordinance [this chapter] or the comprehensive plan upon which the ordinance [this chapter] is based; and
4. That the relief to be granted is the least relief necessary.

Sec. 82-607. Variances--Additional restrictions.

The zoning board of review shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:

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 ordinance [this chapter]. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance; and
2. In granting a dimensional variance, the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience. 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.
3. An applicant may apply for, and be issued, a dimensional variance in conjunction with a special use. If the special use could not exist without the dimensional variance, the Zoning Board of Review shall consider the special use permit and the dimensional variance together to determine if granting the special use is appropriate based on both the special use criteria and the dimensional variance evidentiary standards.

(Ord. of 12-26-2001)

Sec. 82-608. Expiration of variances.

A variance from the provisions of this ordinance [chapter] shall expire one year from the date of granting by the zoning board unless the applicant exercises the permission granted or receives a building permit to do so and commences construction, and diligently pursues the construction until completed.

Sec. 82-609. Modifications granted by building official.

The zoning enforcement officer shall be permitted to grant modification or adjustment from literal dimensional requirements of the zoning ordinance [this chapter] listed in article 3 [of this chapter], up to 25 percent.

1. A modification shall not include moving of lot lines, building height (principal only), lot frontage or modifications to existing nonconforming dimensions as specified in article 3 of this ordinance [chapter].
2. Within ten day[s] of the receipt of a request for modification, the zoning enforcement officer 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 uses;
 - (b) If the modification is granted, neighboring property will neither be substantially injured nor its appropriate use substantially impaired;
 - (c) The modification requested is in harmony with the purposes and intent of the comprehensive plan and zoning ordinance [this chapter];
 - (d) The modification requested does not require a variance of a flood hazard requirement.
3. Upon an affirmation determination, the zoning enforcement officer shall notify, by registered or certified mail, all property owners within 200 feet of the property which is the subject of the modification request, and shall publish in a newspaper of general circulation that the modification will be granted unless written objection is received within 30 day[s] of the public notice.
4. If written objection is received, the request for a modification shall be denied. In that case the changes requested will then be considered a request for a variance. The

applicant shall then choose whether to pursue the variance. A variance may only be issued by the zoning board of review following the standard procedures for variances.

5. If no written objections are received within 30 days, the zoning enforcement officer shall grant the modification. The zoning enforcement officer may apply special conditions to the permit as may, in the opinion of the officer, be required to conform to the intent and purposes of the zoning ordinance [this chapter].
6. Costs of any notice or advertising required under this section shall be borne by the applicant.

(Ord. of 11-30-1998)

ARTICLE 7.
NONCONFORMING USES

Sec. 82-700. General intent.

Nonconforming uses are incompatible with and detrimental to permitted uses in the zoning districts in which they are located, cause disruption of the comprehensive land use pattern of the town, inhibit present and future development of nearby properties, and confer upon their owners and uses a position of unfair advantage. It is a fundamental principle of this chapter [article] that nonconformities may be continued as allowed by law. It is also the intent of this ordinance [chapter] that existing nonconformities shall not be a reason for authorizing uses otherwise prohibited in the same zoning district.

Sec. 82-701. Completion of construction.

Nothing in this ordinance [chapter] shall be deemed to require a change in the plans, construction, or authorized use of any structure for which a building permit was lawfully issued prior to the effective date of the adoption or amendment of this ordinance [from which this chapter is derived].

Sec. 82-702. Prior illegal establishment.

Any nonconforming use or structure illegally established prior to the effective date of [the ordinance from which] this chapter [is derived] shall not become legally established by virtue of such enactment or subsequent amendment.

Sec. 82-703. Restrictions on nonconforming uses.

The nonconforming use of a building or structure may be continued, subject to the following regulations:

- A. The building or structure is not enlarged, extended, structurally altered or reconstructed, except for alteration, maintenance and repair work as is required to keep the building or structure in a safe condition.
- B. No nonconforming use of a building or structure shall be changed to another nonconforming use.

Sec. 82-704. Alteration of a nonconforming use.

Any alteration of a nonconforming use shall make the use more closely adhere to the intent and purposes of this ordinance [chapter]. Applications for alteration of a nonconforming use shall be made as a request for a special use permit to the zoning board. The board shall ensure that no alteration is permitted which would increase the degree of nonconformity, except in the CD and CW zoning districts where the zoning board may allow alteration or expansion at its discretion.

Sec. 82-705. Alteration of a nonconforming structure.

Any alteration of a nonconforming structure shall be in accordance with the provisions of this ordinance [chapter].

Sec. 82-706. Reconstruction of a nonconforming structure.

If a nonconforming building or structure is damaged or destroyed by fire, explosion or natural disaster, it may be rebuilt or restored and the nonconforming use continued, provided that:

- A. The reconstructed building is no larger in volume or footprint than before being destroyed or damaged.
- B. The reconstructed building does not result in an increase in the degree of nonconformity.

C. The reconstruction is commenced within one year after occurrence of the damage and is actively pursued until completion.

D. Where reconstruction can be accomplished so as to result in greater conformity with this ordinance [chapter], then it shall be so done.

Sec. 82-707. Discontinuance of nonconforming use.

A nonconforming use which has been halted for a period of one year shall be presumed to be abandoned. No such nonconforming use shall be reestablished, and any future use must be in conformance to the provisions of this ordinance [chapter]. The owner of the nonconforming use which is presumed abandoned may rebut by presentation of sufficient evidence of intent not to abandon the use. Such appeals will be made to the zoning board.

Sec. 82-708. Single nonconforming lots of record.

Where no adjacent land is in the same ownership so as to form a larger land parcel, a lot smaller than the minimum dimensions and area required by this ordinance [chapter] which was a lot of record on the effective date of the ordinance [from which this chapter is derived] and is on a publicly accepted street may be used for a single-family dwelling.

Sec. 82-709. Merger of contiguous nonconforming lots of record.

Where land adjacent to a substandard lot is owned by the owner of said substandard lot, said substandard lot shall, for the purposes of this ordinance [chapter], be combined with said adjacent land to establish a lot or parcel of land having at least the required minimum dimensions and area set forth in article 3 of this ordinance [chapter] for the applicable district, without retaining a substandard lot. If all such adjacent land so combined is not sufficient to permit the enlargement of said lot to conforming area and dimensions, then the largest lot or parcel, which the adjoining common ownership will permit, shall be established. By way of example, if all such adjacent land so combined is sufficient to meet the applicable area and dimensional requirements for at least one lot but not for two or more fully conforming lots, then all such lots shall be combined to create a single lot only.

In the event that adjacent substandard lots of record have structures located thereon, which said structures are related to a principal use located on one or more of such lots, then all lots related to said use that have structures located thereon shall be deemed combined.

(a) *Standards for merger of substandard lots on a district-by-district basis.* The Town of Jamestown is primarily a residential island community. All of the town drinking water is derived from precipitation that collects in watersheds flowing into two surface reservoirs or which seeps into the ground, reaching cracks in the underlying bedrock. The island's bedrock aquifers have limited yield and its public water supply is at maximum capacity. Much of the town was laid out or platted decades ago and many of the recorded plats contain street layouts, never built, or which were originally created for a less dense population, and are already over-taxed in many neighborhoods. The need for preserving or protecting the town water supplies and preserving open space is evident. Accordingly, the merger provisions of this section shall apply in every district within the Town of Jamestown herein designated. The following districts shall be applicable for merger:
(1) The North End merger district is defined as all lands in the Town of Jamestown extending from the northernmost tip of the island, southerly to Great Creek, excluding the

Shores district, on the west side of the island and Carr Lane on the East side of the island including all of tax assessor's plats 1, 2, 3, 4 and 6.

A less dense land use pattern and residential zoning districts as well as farmland generally characterize the North End merger district. However, much land exists as nonconforming platted lots upon streets that have not been improved (paper streets). Full build-out of this area would result in development beyond the district's carrying capacity. Public sewer does not serve the district and only a few lots in the Weeden Lane area are serviced by public water. Merger of substandard lots in this area is required.

(2) The Shores merger district is defined as those lands in the Town of Jamestown located south of Capstan Street bordered on the west by Narragansett Bay, on the east by North Road, and to the south by the Northerly boundary of tax assessor's plat 6. The Shores district includes all of tax assessor's plats 3A, 5, 14, 15, 16.

The Shores merger district is characterized by a dense land use pattern in an environmentally sensitive neighborhood. It is composed entirely of residential zoning districts. The district is composed primarily of nonconforming lots, upon which have been built summer cottages that have been converted to year round use and newer homes. Public water or sewer does not service the district. Much of the land within the district is subject to seasonal high water tables. Roads are generally narrow and were originally created for seasonal use and a less dense population and are overtaxed in many areas. Merger of substandard lots is required in this area.

(3) The East Shore Road merger district is defined by tax assessor's plat 7, bounded on the west by North Road and on the East by Narragansett Bay, south of Eldred Avenue and north of the Newport Bridge.

This district is characterized by farmland as well as non-conforming undersized lots that developed as a summer cottage area and has transitioned into a year round neighborhood. Excluding a few houses in the southern East Shore Road area, public sewer and water does not support the majority of this dense area where problems with potable drinking water have been documented. Full build-out in this district would result in development beyond the area's carrying capacity. Merger of substandard lots in this area is required.

(4) The Village merger district is defined as the area between Great Creek and Hamilton Avenue that extends between the east and west shorelines of the island, excluding Beavertail. This district includes all of tax assessor's plat 8 and most of assessors plat 9. This district contains Jamestown's highest density, which is supported by the presence of public water and sewer. It is characterized by historically and architecturally sensitive neighborhoods. Although there is an overall relationship of lot sizes within the Village, they vary in size from 5,000 square feet to over 30,000 square feet. The density and diversity of the Village area supports the small town village character desired by its residents. Traffic and parking congestion continue to increase each year. Merger is required in this district to preserve the small town village character and reduce stress on the Village infrastructure including traffic congestion and parking.

(5) The South End/Beavertail merger district is defined as all lands in the Town of Jamestown extending south of Hamilton Avenue to the southern end of Conanicut Island and all of Beavertail. The South End district includes all of plats 10, 11, 12, 13 and the southern portion of 9.

The South End merger district is characterized by a discontinuous pattern of low-medium density residential development separated by undeveloped open space/state parks and

medium-high density nonconforming residential lots. These areas are in residential zoning districts. In many of these areas, wetlands and high water tables present severe constraints to sewage disposal, and protection of coastal and fresh water wetlands is vital. Portions of the district are served by public water; however, the town's supply of water is severely limited. Public sewer services no portion of the district. As in the North End merger district, merger of lots is required.

In all districts, merger is appropriate to preserve and protect the natural resources of the town, including its fragile water supply, to ensure that the existing town infrastructure within each district is not overburdened, to preserve the character of the neighborhoods within each district, and to ensure compliance with the Jamestown Comprehensive Plan. (Ord. of 8-26-2002)

ARTICLE 8.
REGULATIONS FOR RR-200 ZONING DISTRICTS

Sec. 82-800. Exempted activities.

Exempted from the provisions of this section providing for development standards in an RR-200 zoning districts are the following uses:

1. New single-family residential uses and their customary accessory uses on lots of 200,000 square feet area or greater;
2. Agricultural use of lands when operated in accordance with a farm conservation plan approved by the Eastern Rhode Island Conservation District or when it is determined by the district that such use will not reduce the quality of a public water supply;
3. Existing single-family dwellings and their customary accessory uses.

Sec. 82-801. Development plan approval required.

Within any RR-200 zoning district, special standards of site development shall apply in order to protect surface water reservoirs or their tributary streams and/or groundwater aquifers. Prior to the issuance of any building permit within an RR-200 zoning district, the zoning enforcement officer shall require a development plan to be filed, at a suitable scale, to show the following information:

1. Property boundary lines, with area and dimensions of the property to be developed;
2. Vicinity plan showing adjacent or nearby properties, uses, wetlands, streams or surface water reservoirs;
3. Topography map of the property;
4. Soils map of the property.

The applicant for a building permit shall also indicate proposed uses and development. For the purposes of this section, development shall be defined as any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations upon the lot.

The applicant shall be required to show, to the extent necessary, the likely impact which the proposed development will have upon surface and subsurface water quality. In particular, the following issues shall be addressed:

1. Methods to be used during construction to control soil erosion and sedimentation of wetlands;
2. Provision for disposal of stormwater runoff, including an estimate of the existing and proposed release rates, drainage system and stormwater detention measures (if proposed);
3. Sewage disposal methods, including an evaluation of the impacts of disposal methods on surface water, soils and vegetation;
4. Amount of paved and other impervious surfaces and measures for the preservation of vegetation, impervious surfaces and groundwater infiltration;
5. If storage of toxic substances is proposed, methods for prevention of contamination of surface and subsurface water.

Sec. 82-802. Review by planning commission.

Upon receipt of an application for development within an RR-200 zoning district, the zoning enforcement officer shall transmit to the planning commission, who shall review said [the] information and file, within 45 days of receipt thereof, an advisory report to the zoning enforcement officer, together with any recommendations thereon.

Sec. 82-803. Minimum development standards.

At a minimum, the following standards of development shall be required:

1. Erosion and sediment control measures shall be designed to meet at least the minimum standards and specifications of the Rhode Island Soil Erosion and Sediment Control Handbook, U.S. Department of Agriculture, Soil Conservation Service, and Rhode Island State Conservation Committee, 1989;
2. All buildings, parking areas and sewage disposal systems shall be set back at least 300 feet from any reservoir, or tributary stream used to supply or transport public water supplies;
3. Driveways, parking lots, and other impervious surfaces are minimized, or specified as porous surfaces, such as crushed stone, spaced paving block, etc.;
4. Permanent vegetation cover is provided in unpaved areas; temporary vegetation is provided in areas which will remain open for more than six months;
5. All earth changes shall be designed, constructed, and completed in such manner so that the exposed area of any disturbed level shall be limited to the shortest possible period of time;
6. Stormwater storage and/or retention facilities are provided to prevent significant increases in volume and rate beyond existing conditions.

ARTICLE 9.
NEWSRACK REGULATIONS

Sec. 82-900. General.

Portable and seasonal newsracks serve a legitimate public purpose by providing convenient access to printed news publications. The Town of Jamestown recognizes that news dealers must be permitted to affix newsracks at intersections and places of high pedestrian traffic. Because they are generally placed on public property, the following regulations apply to all newsracks in Jamestown.

Sec. 82-901. Permit required.

No newsrack shall be placed in Jamestown, either on public or private property, unless the owner or agent has secured a permit for the newsrack from the town council. The application for a permit shall include the location, size, and description of the newsrack and shall be approved by the zoning enforcement officer prior to approval by the town council. A permit is valid for one year.

The cost of a permit shall be \$30.00. This amount may be amended from time to time, such as is sufficient to cover the cost of removing hardware and repairing the sidewalk to its original condition.

Sec. 82-902. Permissible locations.

The town council shall have discretion over the location of newsracks placed on public streets or sidewalks. Newsracks shall only be placed in such locations and in such a manner so as not to obstruct pedestrian or vehicular traffic, or create a similar nuisance. On sidewalks, sufficient space shall be maintained to permit safe passage of pedestrians, including disabled people.

A dealer may place no more than one newsrack at any one location. Each location is considered to have a circulation radius of 400 feet.

No newsrack may be placed within three feet of a street crosswalk or sidewalk ramp, or within ten feet of a fire hydrant or fire/police callbox.

Sec. 82-903. Size requirements.

Newsracks shall be of reasonable size and shall not be so large as to permit more than one stack of published material at a time. All newsracks shall be less than 48 inches tall.

Sec. 82-904. Fixed newsracks.

All newsracks shall be fixed in place by an approved means. A dealer may secure the fixture by means of bolts in the sidewalk, provided the method may be easily corrected by the town when the permit has expired.

Sec. 82-905. Discontinued use.

If no application has been received to continue an expired permit, the newsrack shall be presumed to be abandoned. An abandoned newsrack may be removed by the town at the expense of the owner.

ARTICLE 10.
MULTIFAMILY DWELLINGS

Sec. 82-1000. Purpose.

It is the purpose of this article to permit multifamily residential areas of long-term desirability within the town. It is intended to regulate the location, design and intensity of such areas by utilizing the potential advantages of the site, including placement of buildings and related facilities in relation to the site and surrounding areas. The establishment of multifamily dwellings appropriate to the character of the site and its location in the anticipated community pattern is described herein and in the comprehensive plan.

Sec. 82-1001. Special use permit required.

The zoning board of review may permit, in the zoning districts specified in section 82-301, the establishment of multifamily dwellings by the granting of a special use permit in accordance with the provisions of article 6 [of this chapter]. The applicant for such a special use permit shall demonstrate that:

1. The development will constitute an environment of sustained desirability and stability, and the design will be harmonious with its surroundings and in substantial conformity with the policies and goals of the comprehensive plan and the intent of this ordinance [chapter]; and
2. The development plans have been reviewed by the planning commission prior to application for a special use permit.

Sec. 82-1002. Development plan review.

Prior to the hearing for a special use permit, an application shall be submitted to the planning commission for development plan review. The planning commission shall have the administrative duty to review the plans for the proposed multifamily development and make a written report to the zoning board. The zoning board may then hear and make a decision on the application.

Sec. 82-1003. Action on development plan.

Not more than 90 days after receipt of the development plan, the planning commission shall determine whether the proposed development would comply with all applicable requirements of this ordinance [chapter] and on such basis shall:

1. Notify the zoning board and the applicant in writing that the plan meets the requirements of the zoning ordinance [this chapter]; or
2. Notify the zoning board and the applicant in writing that the plan does not meet the requirements of the zoning ordinance [this chapter], together with a statement of recommended amendments necessary to meet said requirements; and make any recommendations or suggest any changes it may feel are necessary in order to further the intent of these regulations or the policies contained within the 1991 comprehensive community plan.

The applicant may then amend the plan for resubmission to the planning commission as specified in section 82-1005, or may appeal to the zoning board for a review of the findings of the planning commission.

The zoning enforcement officer shall grant no building permit or certificate of occupancy except for construction and occupancy in strict compliance with conditions required by the zoning board of review. Such building permits must be requested within one year of the date of approval.

Sec. 82-1004. Development plan requirements.

Development plan submissions. Plans for the multifamily development shall be presented to the planning commission for review. The development plans shall be prepared by a licensed architect, landscape architect or engineer registered in the State of Rhode Island, and shall show the following, together with appropriate dimensions:

All plans:

1. Proposed name of the development;
2. Location by legal description;
3. Names and addresses of applicant and designer of the plan;
4. Scale of plan, one inch to 40 feet or larger;
5. Date, north arrow, contours at two-foot intervals;
6. Boundary line of development indicated by a solid line, and the total acreage encompassed thereby;

Existing conditions plan:

7. Location, widths, and names of all existing or prior platted streets, utility rights-of-way, parks, and other public open spaces, salt[water] or freshwater wetlands, permanent buildings and structures, houses or permanent easements and zoning boundary lines of abutters up to a maximum of 200 feet of the development;
8. Existing sewers, water mains, culverts, and other underground facilities within the tract, indicating pipe sizes, grades, manholes and location;
9. Location of undevelopable areas and areas of secondary importance, as described in section 82-1006.3;

Proposed development plan:

10. Location, arrangement and dimensions of automobile parking spaces, width of aisles, width of bays, [and] angle of parking;
11. Location and dimensions of vehicular drives, entrances, exits, acceleration and deceleration lanes; location and dimensions of pedestrian entrances, exits, and walkways;
12. Number of dwelling units and number of bedrooms and identification of residential type, whether rental or condominium;
13. Location, height and materials of walls, fences and screen planting;
14. Ground cover, finished grades, slopes, banks and ditches;
15. Proposed utilities, including sewers, water, lighting, electricity and communications;
16. Drainage plan showing methods of disposal and/or control of surface water runoff;
17. The stages, if any, to be followed in the construction of the development, if it is to be developed in sections;

Building plans:

18. Typical floorplans and exterior elevation drawings of all proposed buildings, with exterior dimensions.

Sec. 82-1005. Change of approved development plan.

If the applicant wants to make any amendment to an approved plan, a written request shall be submitted to the planning commission. If, in the opinion of the planning commission, a requested change is sufficiently substantial, the planning commission shall require the submission of an amended development plan. The procedure for the consideration of such written request or of such amended development plan shall be the same as that for consideration of plans under sections 82-1003 and 82-1004.

Sec. 82-1006. Standards of development.

The following standards of development shall apply to any multifamily dwelling structure or project:

Sec. 82-1006.1. Permitted uses.

Uses permitted in multifamily developments shall be limited to uses permitted in the zoning district in which the development is located. Permitted accessory uses include laundry and drying facilities, refuse collection, recreation facilities, community rooms, single rental offices, or model units, etc., which are intended primarily for use of the residents thereof and are not commercial in nature. Other accessory uses such as a marina, golf course, beach, clubhouse, etc., which may be used by nonresidents may only be permitted if allowed in the zoning district under the provisions of section 82-301, and shall meet all of the regulations of this ordinance [chapter] applicable to that use.

Sec. 82-1006.2. Dimensional regulations.

All regulations with regard to lot size, yards, lot coverage and any other dimensional requirements shall be as set forth in section 82-1006.3, and as further provided in table 3-2.

Sec. 82-1006.3. Density regulations--Multifamily dwelling projects.

The density of residential land uses which may be developed within any multifamily dwelling project shall be determined by table 10-1. This table prescribes the minimum developable land area required per bedroom for multifamily dwelling building/projects in excess of 3 units. No dwelling shall contain less than one bedroom.

For purposes of this article, a bedroom shall be defined as a room or portion of a room of at least 80 square feet floor area within a dwelling unit allocated to sleeping, dressing and personal care.

For the purposes of this ordinance [chapter], the terms used in table 10-1 shall be as follows:

Water. Public water service by the Town of Jamestown.

Sewer. Public sanitary sewer service by the Town of Jamestown.

Developable land area. [Developable land area] shall be defined as gross land area within the zoning lot being developed for multifamily dwellings, less any land unsuitable for development, which is defined in section 82-103.

Areas of secondary importance.

In addition to the undevelopable land listed above, the developer shall also note the location of any of the following natural and cultural features of the landscape: mature woodlands, significant wildlife habitats, prime farmland or open meadows and their defining treelines, hedgerows and/or stonewalls, historic structures or community landmarks, and scenic views to, from or within the property. These features add character and value to the community, and help maintain the rural character. Efforts shall be made by the developer to minimize adverse impacts to these areas by use of design which is sensitive to existing site conditions.

Table 10-1
Density Regulations

Multifamily Dwelling Projects

Zoning District	Services	Minimum Developable Area Per Bedroom (square feet) added to minimum lot size for multifamily in excess of 3 dwelling units
R-8	Water and sewer required	3,000
R-20	Water and sewer required	7,000
R-40	No water or sewer	14,000
R-40	Water only	11,000
R-40	Sewer only	11,000
R-40	Water and sewer	10,000
R-80	No water and sewer	27,000

Sec. 82-1006.4. Same--Multifamily structures.

Not more than 12 dwelling units shall be permitted in a multifamily dwelling structure in any district where permitted. The zoning board may allow a structure to contain more than 12 dwelling units, provided the following conditions are met to the satisfaction of the zoning board:

1. That there is an existing need for the type of housing proposed, pursuant to G.L. 1956, § 45-53-1;
2. The dwelling units will be available to meet that unmet need long term; and
3. There are no practical means to construct an additional structure or structures on the site for the additional dwelling units.

Sec. 82-1006.5. Open space requirements.

Within any multifamily dwelling project, permanently maintained open space shall be required for the use and enjoyment of residents of the project. Open space shall not be used for parking, buildings, driveways or aboveground utilities, but may be used for walks, playgrounds, outdoor recreation areas, landscaping or natural areas. Water bodies, wetlands and covered open space (e.g., roofed patios, balconies, etc., which are open on the sides and closed to the sky) shall count as half for required open space area. Open space shall be provided in the amount of two square feet of open space per square foot of gross floor area.

Clustering of structures shall be encouraged in order to increase the benefits of open space.

Within any multifamily dwelling structure upon a single zoning lot, open space as defined above [in this section] shall be provided in the amount of one square foot of open space per square foot of gross floor area. In CD zoning districts only, open space as defined above [in this section] shall not be required.

Sec. 82-1006.6. Landscaping and screening.

Fences, walls, or vegetative screening shall be provided along the perimeter of any multifamily dwelling where needed to provide a buffer to minimize incompatibility with surroundings. In particular, but not limited to, the following uses and area within a multifamily dwelling structure or project shall be screened from adjacent residential districts or public streets, except in CD zoning districts only:

- A. Off-street parking areas containing more than ten spaces. When nearest portions of noncontiguous parking areas are separated by less than 50 feet of landscaped space, as

measured from their nearest points, they shall be considered as combined for computing number of spaces.

- B. Service areas for loading and unloading vehicles other than passengers, and for storage and collection of trash and garbage.
- C. Utility areas such as pumping stations, electric utility substations and the like.

ARTICLE 11.
JAMESTOWN VILLAGE
SPECIAL DEVELOPMENT-DISTRICT

Sec. 82-1100. Purpose and Intent.

This Article is based on and was calibrated from the SmartCode Version 9.0. The SmartCode is a model ordinance that incorporates Smart Growth and New Urbanism principles, guiding the form of the built environment to create and protect compact, walkable, and mixed use development patterns. It was calibrated for Jamestown based on citizen and consultant analysis of the existing character of the Village. Thus the standards found in this Article encourage traditional neighborhood patterns such as exist in Jamestown Village today. The implementation of Article 11 is intended to protect and complete these patterns while encouraging housing that is diverse and affordable for all Jamestowners, so that all new development will be harmonious and compatible with existing Village character. The Village, officially referred to in this Article as the Jamestown Village Special Development District, is defined as those areas within the R-20, R-8, CW, CL, CD, DC and P Zoning Districts as shown on the Zoning Ordinance Map.

Sec. 82-1101. Applicability.

- A. This Article is the exclusive and mandatory zoning code for the Jamestown Village Special Development District which is comprised of those areas within the R-20, R-8, CW, CL, CD and P Zoning Districts as shown on the Zoning Ordinance Map.
- B. Development or re-development of Substantial Modification within the DC District shall require Development Plan Review by the Planning Commission.
- C. Provisions of this Article are activated by "shall" when required; "should" when recommended but optional; and "may" when permitted but optional.
- D. The provisions of this Article, when in conflict, shall take precedence over those of other Sections or Articles of this Code.
- E. The existing Zoning Ordinance and Subdivision Regulations of the Town of Jamestown (the "Existing Local Codes") shall continue to be applicable to issues and geographic areas not covered by this Article except where the existing local codes would be in conflict with Section 82-1100 Purpose and Intent.
- F. Section 82-103 contains regulatory language that is integral to this Article. Those terms not defined in Section 82-103 shall be defined by the Zoning Enforcement Officer and should be generally in accord with their commonly accepted meanings. In the event of conflicts between these definitions and those of the existing local codes, those of Section 82-103 shall take precedence.
- G. The metrics of the tables are an integral part of this Article. However, the illustrations that accompany them (Tables 11-1, 11-2, and 11-3) should be considered guidelines.
- H. Where in conflict, numerical metrics shall take precedence over graphic metrics.
- I. Development within the R-20 and R-8 Zoning Districts shall be reviewed by the Building Official during the building permit process to determine compliance with the development standards in Article 11.

- J. All applications for development, redevelopment, or expansion shall be filed with the Town Planner and shall be reviewed per section 82-411 except as noted in 1106 B. and 1106 C.2.
- K. All applications that meet one or more of the following criteria and are within the CL, CD, CW and P Zoning Districts shall file a development application with the Town Planner per 82-1103. Applications shall be reviewed per 82-411 C. and D.
 - 1) Is valued at more than 50% of the replacement cost of the entire building;
 - 2) New construction including single family;
 - 3) Fifty percent or greater alteration of a building exterior
 - 4) Fifty percent or greater alteration of street façade;
 - 5) New use;
 - 6) Expansion of use which requires more than 15 parking spaces;
 - 7) A change in parking layout or the addition of up to 15 parking spaces; or
 - 8) A change in site design or lot coverage that changes the on-site drainage patterns and how stormwater may impact abutting or nearby properties.
- L. Buildings/sites that have been through full Planning Commission review under Article 11 shall not require re-review for a change in use as long as the following requirements are met or have received approval by the Zoning Board: 1) parking location and standards per 82-1111 and Article 12. 2) Natural drainage standards per 82-1113 A. 1. and 3) Signage standards per Article 13.

Sec. 82-1102. Public Roads Standards within the Jamestown Special Development District.

A. General

- 1. Public Roads are intended for use by vehicular and pedestrian traffic and to provide access to Lots and open spaces.
- 2. Public Roads shall generally consist of vehicular lanes and Public Frontages.
- 3. Public Roads shall be designed and maintained in context with the urban form and desired design speed of the Zoning District through which they pass. The Public Frontages of public roads that pass from one Zoning District to another shall be adjusted accordingly.
- 4. In all Zoning Districts pedestrian comfort shall be a primary consideration of the public road. Design conflict between vehicular and pedestrian movement generally shall be decided in favor of the pedestrian.

B. Public Frontage Standards within the Jamestown Special Development District

- 1. General to all zones R-20, R-8, CW, CL, CD, DC, AND P
 - a. The Public Frontage contributes to the character of the Zoning District, and includes the types of Sidewalk, Curb, planter, and street trees.
 - b. Trees should be planted below the grade of the sidewalk and the street in structural cells with sufficient root space. Street trees in the first layer should be selected from the list provided by the Tree Preservation and Protection Committee as updated periodically.

- c. Rain Gardens and Bioswales should be installed to infiltrate runoff from parking lots, thoroughfares, and other impervious surfaces.
- d. Where vegetative solutions are not feasible, porous concrete should be specified for Sidewalks and parking lots to infiltrate stormwater.
- 2. Specific to zones R-8 and R-20
 - i. The Public Frontage shall include trees of various species, naturalistically clustered, as well as understory.
- 3. Specific to zones CW, CL, CD AND P
 - a. The Public Frontage shall include compatible trees planted in a regularly-spaced allee pattern with shade canopies of a height that, at maturity, clears at least one Story.
 - b. The introduced landscape shall consist primarily of durable species tolerant of soil compaction.
 - c. Perennial landscapes should replace turf grass where possible and be very diverse. They should be placed lower than walkways, not mounded up to provide stormwater attenuation.

Sec. 82-1103. Site and Building Plans.

1. Instructions

- a. Lots and buildings located within the Jamestown Village Special Development District shall be subject to the requirements of this Article.
- b. Owners and developers may have the design plans required under this Section prepared on their behalf.
- c. Site Plans submitted under this Article for Minor or Substantial Modification shall show the following, in compliance with the standards described in this Article:
 - Building Placement
 - Building Form
 - Building Function
 - Parking Location Standards
 - Special Requirements
 - Landscape Standards
 - Natural Drainage Standards
 - Signage Standards
 - Architectural Standards

Sec. 82-1104. Affordable Housing.

The Town of Jamestown, in compliance with the 2005 Comprehensive Plan Element, Jamestown Affordable Housing Plan allows the development strategies as listed in Section 82-1704 to encourage the development of Affordable Housing in Jamestown including the Village Special Development District. All units developed under this section shall meet the definition of Affordable Housing in this Ordinance and meet the affordability requirements in Section 82-1705 h. The increase in density permitted by this section shall be considered a Municipal Subsidy.

A. Accessory Dwelling Units – shall be permitted in the CL, CD, R-8 and R-20 Zoning districts as a type of Affordable Housing. Accessory Dwelling Units shall meet the definition of Affordable Housing as defined by this ordinance. As required, each unit shall have a deed restriction to insure affordability and a monitoring agent throughout the period of the deed restriction. Also as required, the Monitoring Agent shall be approved by Rhode Island Housing and follow the responsibilities regarding income eligibility of tenants as well as recording of such documents with Rhode Island Housing. A tenant who becomes “non-income qualified”, due to an increase in income for a 5 year period, shall terminate occupancy of that “affordable” unit since it no longer counts towards the 10% affordable housing number for the Town.

1. Notice Requirements

The administrative officer shall be permitted to approve the establishment of an Accessory Dwelling Unit, as set forth in this Section.

a. Within ten day[s] of the receipt of a request to establish an Accessory Dwelling Unit by an applicant, the administrative officer shall make a decision as to the suitability of the request based on the following factors:

- (1). The application meets all the requirements of this Section;
- (2). If the application is granted, neighboring properties will neither be substantially injured nor their appropriate use substantially impaired;
- (3). The application is in harmony with the purposes and intent of the comprehensive plan and zoning ordinance;
- (4). The application does not require a variance of a flood hazard requirement.

b. Upon an affirmation determination of the preceding factors, the administrative officer shall notify, by registered or certified mail, all property owners within 200 feet of the property which is the subject of the Accessory Dwelling Unit request, and shall publish in a newspaper of general circulation that the application will be approved unless a written objection from a party entitled to object is received within 30 days of the public notice.

c. If no written objection is received within the 30 days notice period, the administrative officer shall approve the Accessory Dwelling Unit application. The administrative officer may apply special conditions to the approval as may, in the opinion of the administrative officer, be required to conform to the intent and purposes of the zoning ordinance.

d. If a written objection is received, the request for the Accessory Dwelling Unit shall be denied. In that case the application shall then be considered a request for a special use permit. The applicant shall then choose whether to pursue the special use permit application. A special use permit may only be issued by the zoning board of review following the standard procedures for the issuance of a special use permit, pursuant to the provisions of Article 5, Sec. 82-601.

e. Costs of any notice or advertising required under this section shall be borne by the applicant.

B. Affordable lots and homes

The 2005 Jamestown Affordable Housing Plan recommends the establishment of a Special Development District (SDD) for Affordable Housing that allows the minor subdivision of existing lots that are not otherwise eligible for subdivision. This special development district is as shown on the Jamestown Zoning Map. The Town recognizes that the increased density necessary to make affordable housing work in Jamestown, which has high land costs, is most appropriate in the areas of the Village currently served by public water and sewer. This is due to the environmental constraints on development in the non public service areas of the Town. The Jamestown Planning Department estimates that there are numerous lots in the R-8 and R-20 districts that could support subdivision, where the lot is undersized for subdivision under current zoning but where nevertheless both new lots would be compatible with the existing character of the neighborhood, in terms of size and frontage. The table below provides dimensional regulations for the new “affordable” lots. This strategy provides for a moderate increase over existing allowed density. Such lots/housing thus created shall remain affordable through a land lease (land trust model) which insures affordability in perpetuity and/or a deed restriction for a minimum of 99 years. Lots/homeownership units using a land lease shall be put in CCHC’s Land Trust program (or one accepted by the Town of Jamestown) using a ground lease to ensure long term affordability. All new lots shall be created pursuant to the process and notice requirements in the Jamestown Subdivision Regulations.

Due to the infill intent of this affordable housing strategy only one new “affordable lot” shall be created per existing lot.

District	Minimum Lot Size for new “affordable” lot	Minimum Lot Width for new “affordable” lot
R-8	New Lot - 6,000 – 7,999 sf	50 feet
R-20	13,000 – 19,999 square feet	70 feet
CL	New Lot - 6,000 – 7,999 sf	50 feet
CD	*	

* The Attic space of buildings may be a separate unit of Affordable Housing as defined and in accordance with 1104.A. above. This allowance does not preclude compliance with any state or local life safety codes/requirements.

Sec. 82-1105. Pre-Existing Conditions.

- A. Existing buildings and appurtenances that do not conform to the provisions of this Section may continue in use and form as they are until a Substantial Modification is requested, at which time the TRC shall determine the provisions of this section that shall apply.
- B. The modification of existing buildings is permitted By Right if such changes result in greater conformance with the specifications of this Section as determined by the Building Official. The Building Official may consult the TRC in making this determination.

- C. Any addition to or modification of a Building of Value that has been designated as such or to a building actually or potentially eligible for inclusion on a state, local or national historic register, shall be subject to approval by the Jamestown Planning Commission.
- D. The restoration or rehabilitation of an existing Building of Value to National Park Service Historic standards or any local historic district standards shall not require the provision of (a) parking in addition to that existing or (b) on-site stormwater retention/detention in addition to that existing.

Sec. 82-1106. Special Requirements.

- A. The Jamestown Zoning Map may designate the following Special Requirements for the Village Special District when recommended by the Planning Commission and approved by the Town Council per Article 18 of this ordinance:
 - 1. Retail Frontage designations, advising that a building provide a Shopfront at Sidewalk level along the entire length of its Private Frontage. The Shopfront should be no less than 70% glazed in clear glass. The first floor shall be confined to Retail use through the depth of the second Layer (Table 11-1).
 - 2. Recommended View Corridor designation, advising that views remain open and visible from the Public Frontage
 - 3. A Building of Value designation requiring that the building or structure may be altered or demolished only after demonstration to and approval by the Planning Commission that restoration, preservation or renovation of the building is unfeasible. Such buildings should be eligible for reductions in parking requirements, and may be more readily considered for Bed and Breakfast or Guest House permits. Standards shall be developed for Buildings of Value in conjunction with or prior to designation.
- B. Commercial development on lots within the CD district that are adjacent to residential zoning districts (s) are strongly encouraged to utilize the setbacks as prescribed in the CL Zone to allow a transition from the more dense CD district into the Village residential districts. Development that meets this requirement and has no other permitting need shall be approved administratively by the TRC. Development that does not meet these setbacks shall seek approval from the Planning Commission to demonstrate how the development plan mitigates impacts to the adjacent residential area.
- C. Specific to R-8 and R-20 Zoning Districts – Development of Undersized Lots

1. “A Jamestown Vision – Pattern Book and Design Guidelines for Building in the Village, June 19, 2008” (Village Design Guidelines) notes that the predominant building style in the Village are of traditional style and construction. In addition, it was the consensus of the participants of the 2007 Jamestown Village Vision Charrette that the preservation of the Village character means a continuation of the patterns of design and the materials and methods of traditional architecture. The Town has determined that there are a number of undersized lots that exist today in the Village and more will be created as a strategy to increase the stock of Affordable Housing in Jamestown. The guidelines outlined in this section are to insure the preservation of existing neighborhood character in the development of these undersized lots for residential development.
2. Development of existing vacant or new vacant lots or development of accessory buildings on lots that do not meet the required 20,000 square foot minimum lot size in the R-20 Zone and 8,000 square foot minimum lot size in the R-8 Zone shall adhere to the basic residential design guidelines in Village Design Guidelines as summarized below in 82-1106.
 3. Prior to Building Permit approval, applications for new construction that meet these guidelines shall be reviewed and approved administratively by the TRC. In cases where applications do not meet these guidelines the TRC shall determine whether review by the Town Architectural Consultant is appropriate or review by the Planning Commission is appropriate or both. The cost associated with review by the Town Architectural Consultant shall be borne by the applicant per Section 82-410 of the Zoning Ordinance – Project Review Fees.
3. Summary of Residential Design Guideline elements for undersized lots in the R-8 and R-20 Zoning Districts. For more specific direction or additional guidance on other building elements please refer to “A Jamestown Vision – Pattern Book and Design Guidelines for Building in the Village, June 19, 2008”, which is available on the Town Web-Site at www.jamestownri.net or from the Planning Office.
 - a. Parking – (page 5 in the Village Design Guidelines). Parking shall be on the rear or side of the house, well behind the plane of the front door.
 - b. Building Massing and Roof Form – (page 7 and 8 in the Village Design Guidelines). Smaller homes shall be one simple clear form where larger homes may incorporate a second or a third volume. Roof forms shall have a clearly legible dominant roof form with roofs of secondary volumes deferring in scale to the main body of the building.
 - c. Building Types (pages 9 and 12 in the Village Design Guidelines). Simple building shapes are preferred for the dominant structure and then add smaller, secondary forms for additional space.
 - d. Openings (pages 11, 21, 22 in the Village Design Guidelines). Windows and doors are generally organized in an ordered fashion dividing the primary façade into thirds, fourths and fifths.

- e. Garages and Ancillary Structures (page 13-14 in the Village Design Guidelines). The design of the outbuilding should be harmonious with that of the main house and designed in a way that does not compete in scale or volume with the primary building mass. Garage doors (page 20 in the Pattern Book) deserve design attention and single 16' or larger wide doors should be avoided.
- f. Walls (page 15-16 in the Village Design Guidelines). Exterior walls of individual buildings and multiple buildings on one site should be consistent in material throughout a major building form or volume. Where changes in material do occur they should follow the guidelines on page 15 and 16.

Sec. 82-1107. Building Placement.

A. General to zones R-20, R-8, CW, CL, CD, AND P

- a. Newly platted Lots shall be dimensioned according to Table 3-2.
- b. Buildings shall be dimensioned according to Table 3-2.
- c. Lot coverage by building shall not exceed that recorded in Table 3-2.
- d. Setbacks for Principal Buildings and outbuildings shall be as shown in Table 3-2. Setbacks may otherwise be adjusted by Variance.

B. Specific to CW, CL, CD AND P

- 1. Facades shall be built parallel to a rectilinear Principal Frontage line or to the tangent of a curved Principal Frontage line, and along a minimum percentage of the Frontage length at the Setback, as specified on Table 3-2.
- 2. Building Placement types shall be permitted as listed-in Table 3-2 and as illustrated in 11-2.
- 3. One Principal Building at the Frontage, and one Outbuilding to the rear of the Principal Building, may be built on each Lot as shown in Table 11-1. No outbuildings or ancillary structures may be erected without a primary structure.

Sec. 82-1108. Building Form.

A. General to zones CW, CL, CD AND P

- 1. The Private Frontage of buildings shall conform to and be allocated in accordance with Table 11-2 and Table 11-3.
- 2. Buildings on corner Lots and Waterside Lots shall have two Private Frontages as shown in Table 11-1. Designation of one or two Principal Frontages for Waterside Lots shall be determined by the TRC. Prescriptions for the second and third Layers pertain only to the Principal Frontage. Prescriptions for the first Layer pertain to both Frontages.
- 3. The first Story of all Facades shall be glazed with clear glass no less than 30% unless designated a retail frontage per 1106 A.1.
- 4. Building Heights shall conform to Tables 3-2.

5. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial Function, which shall be a minimum of 11 feet and may be a maximum of 25 feet. A single floor level exceeding 14 feet, or 25 feet at ground level, shall be counted as two (2) stories. Mezzanines extending beyond 33% of the floor area shall be counted as an additional Story.
 6. The use of an attic, at its building limit height, shall be ancillary to the use on the level below except as permitted in 82-1104. 2.
 7. The minimum size of a dwelling within a Principal Building shall be 300 sq ft in interior space. Outbuildings may be developed, as provided in 82-311.
 8. Hedges may not encroach on the sidewalk.
 9. No flat-roofed buildings may be constructed unless they meet the definition of green roof. All roofs should have a minimum pitch of six inches on 12 inches (22.5 degrees).
 10. The net floor area of the third floor of a structure should not exceed 75 percent of the area of the ground floor.
- B. Specific to zones R-8 AND R-20
1. No portion of the Private Frontage may encroach the Sidewalk.
 2. Open covered porches may encroach the first Layer 50% of its depth. (Table 11-1)
 3. Balconies and bay windows may encroach the First Layer 25% of its depth.
- C. Specific to zone CL
- a. Balconies, open covered porches and bay windows may encroach the first Layer 50% of its depth. (Table 11-1)
- D. Specific to zone CW, CD AND P
1. Awnings may encroach the Sidewalk to within two feet of the Curb but must clear the Sidewalk vertically by at least 8 feet.
 2. Stoops, Lightwells, balconies, bay windows, and terraces may encroach the first Layer (Setback) up to 100% of its depth.
 3. Loading docks and service areas shall not be permitted on Frontages.
 4. In the absence of a building Facade along any part of a Frontage Line, a Streetscreen may be built co-planar with the Facade.
 5. Streetscreens should be between 3.5 and 6 feet in height. The Streetscreen may be replaced by a hedge or fence. Streetscreens shall have openings no larger than necessary to allow automobile and pedestrian access.

Sec. 82-1109. Building Function.

- A. General to zones R-20, R-8 CW, CL, CD AND P
 - a. Buildings in each Zone shall conform to the uses on Table 3-1. Uses that do not conform shall require approval by Special Use Permit or Variance in conformance with Article 6 herein.

Sec. 82-1110. Parking and Density Calculations.

- A. Specific to zones R-20, R-8

1. Buildable Density on a Lot shall be determined by the actual parking provided within the Lot as applied to the Uses permitted in Table 3-1.
- A. Specific to zones CL, CD
 1. Buildable Density on a Lot shall be determined by the sum of the actual parking calculated as that provided (1) within the Lot (2) along the parking lane corresponding to the Lot Frontage within the CD Zone, and (3) by Shared Parking Agreement, if feasible and negotiated.

Sec. 82-1111. Parking locations and Standards.

- A. Specific to zone CL
 1. All parking areas and garages shall be located at the second or third Layer. (Table 11-1)
- B. Specific to zone CW, CD AND P
 1. All parking lots, garages, and Parking Structures shall be located at least six feet behind the Principal Building Façade. (Table 11-1)
 2. Vehicular entrances to parking lots, garages, and Parking Structures shall be no wider than 18 feet at the Frontage.
 3. A minimum of one bicycle rack place shall be provided within the Public or Private Frontage for every ten vehicular parking spaces.

Sec. 82-1112. Landscape Standards.

- A. General to zones CW, CL CD AND P
 1. Landscaping should be designed and installed to attenuate and encourage infiltration of stormwater.
 2. Rain Gardens should be encouraged on site as a means to mitigate stormwater.
 3. Cisterns should be encouraged for use in landscape watering.
 4. The landscape installed shall consist primarily of durable native species tolerant of soil compaction and requiring minimal irrigation, fertilization, and maintenance.
- B. Specific to zone CL
 1. A minimum of one tree shall be planted within the first Layer for each 30 feet of Frontage Line or portion thereof. (Table 11-3) Trees shall be selected from the approved street tree list as developed and updated periodically by the Jamestown Tree Preservation and Protection Committee.
 2. Lawn shall be permitted by right.
- C. Specific to zone CW, CD AND P
 1. Trees shall not be required in the first Layer but shall occur in the tree lawn when one exists between the road surface and the sidewalk .
 2. The first Layer may have brick, stone, paver or may match the surface of the Public Frontage.
 3. Lawn shall be permitted by Right behind a 4 foot maximum fence, Streetscreen, stone wall, or hedge.

Sec. 82-1113. Natural Drainage Standards.

- A. General to Zones CW, CL, CD AND P

1. Site design shall not permit a point discharge of stormwater onto a sidewalk or street.
2. Buildings may be equipped with Green Roofs of shallow 4-inch soils and drought-tolerant plants. Buildings approved for Intensive Green Roofs may hold soils deeper than 4" and larger plants and trees.
3. Balconies may be equipped with planter boxes designed to capture runoff from the balcony.
4. Cisterns are strongly encouraged and should be used to capture and re-circulate storm water from buildings.
5. Native plant perennial landscapes should replace turf grass wherever possible and be highly diverse. These should be placed lower than walkways to encourage stormwater infiltration, not mounded up.

Sec. 82-1114. Signage Standards.

All signage within the Jamestown Village Special Development District shall conform to Article 13. Sign Regulations.

Sec. 82-1115. Architectural Standards.

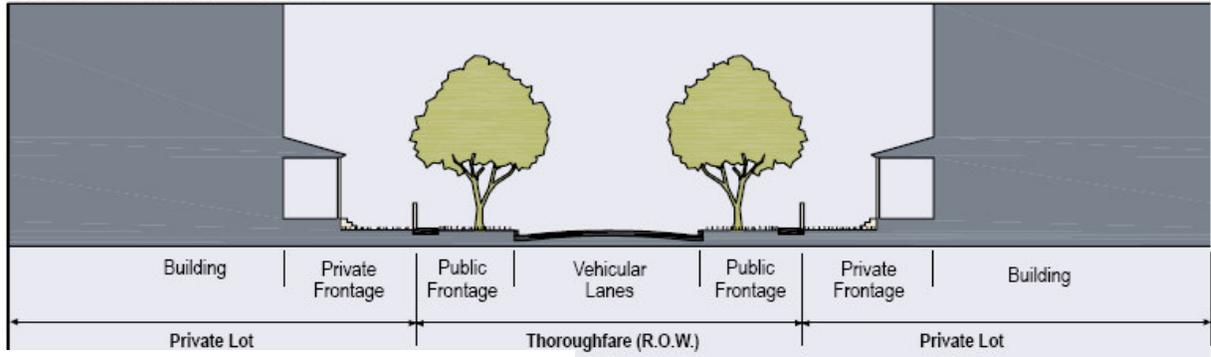
A. Specific to zones CW, CL, CD and P

- a. Vinyl and aluminum siding may be permitted with review and approval by the Planning Commission.
- b. Doors and windows that operate as sliders are prohibited on Facades and side Elevations.
- c. Window trim (casings and sill) shall be of paintable material where muntins are integral to the window and the window must install like a traditional window with separate casings applied.

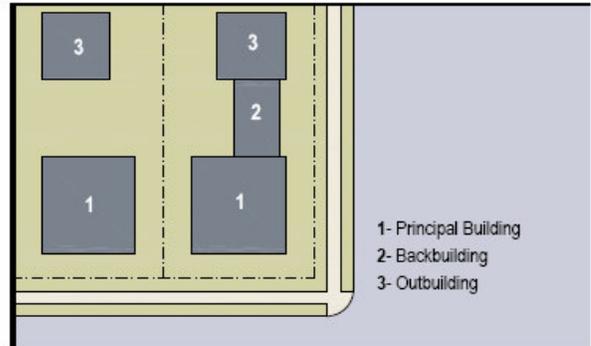
TABLE 11-1: DEFINITIONS ILLUSTRATED.

This Table illustrates important concepts described in Article 11, Jamestown Village Special Development District, and the Definitions provided in Section 82-103.

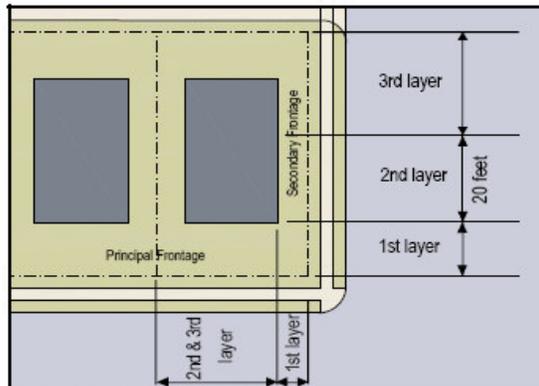
a. THOROUGHFARE & FRONTAGES



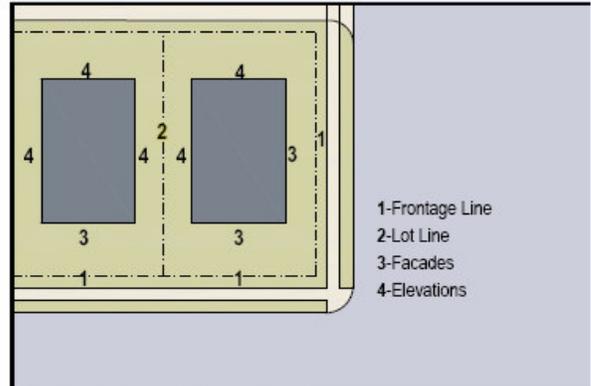
c. BUILDING DISPOSITION



d. LOT LAYERS



e. FRONTAGE & LOT LINES



f. SETBACK DESIGNATIONS

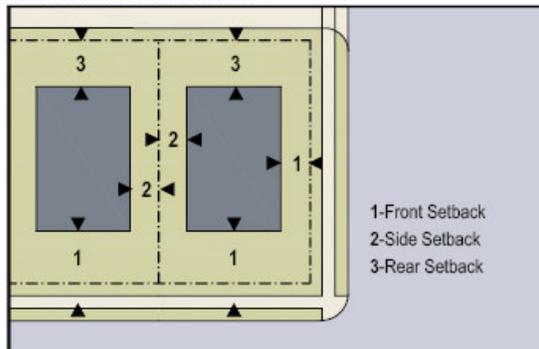


TABLE 11-2: BUILDING PLACEMENT. This Table approximates the location of the building relative to the boundaries of each individual Lot. See Table 3-2 for setbacks. Each of these general types is intrinsically more or less urban, depending on the extent that it completes the Frontage.

- a. **Edgeyard:** Specific Types - single-family House, Cottage, villa, Estate House, urban villa. A building that occupies the center of its Lot with Setbacks on all sides. This is the least urban of types as the front yard sets it back from the Frontage, while the side yards weaken the spatial definition of the public Thoroughfare space. The front yard is intended to be visually continuous with the yards of adjacent buildings. The rear yard can be secured for privacy by fences and a well placed Backbuilding and/or Outbuilding.
- b. **Sideryard:** Specific Types - Charleston single-House, double house, zero-lot-line house, twin. A building that occupies one side of the Lot with the Setback to the other side. A shallow Frontage Setback defines a more urban condition. If the adjacent building is similar with a blank side wall, the yard van be quite private. This type permits systematic climatic orientation in response to the sun or the breeze. If a Sideryard House abuts a neighboring Sideryard House, the type is known as a Twin or double house. Energy costs, and sometimes noise, are reduced by sharing a party wall in this disposition.
- c. **Rearyard:** Specific Types - Townhouse, Rowhouse, Live-work unit, loft building, Apartment House, Mixed use Block, Flex Building, perimeter Block. A building that occupies the full Frontage, leaving the rear of the Lot as the sole yard. This is a very urban type as the continuous Facade steadily defines the public Thoroughfare. The rear Elevations may be articulated for functional purposes. In its Residential form, this type is the Rowhouse. For its Commercial form, the rear yard can accommodate substantial parking.
- d. **Courtyard:** Specific Types - patio House. A building that occupies the boundaries of its Lot while defining one or more private patios or courtyards. This is the most urban of types, as it is able to shield the private realm from all sides while strongly defining the public Thoroughfare. Because of its ability to accommodate incompatible activities, masking them from all sides, It is recommended for workshops, Lodging and schools. The high security provided by the continuous enclosure is useful for crime-prone areas.

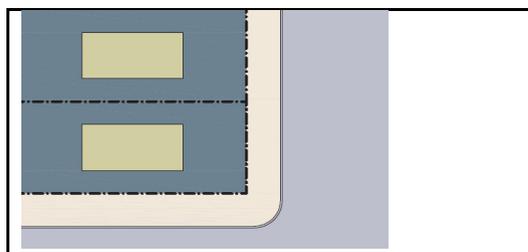
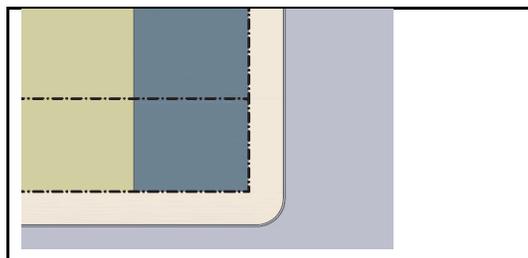
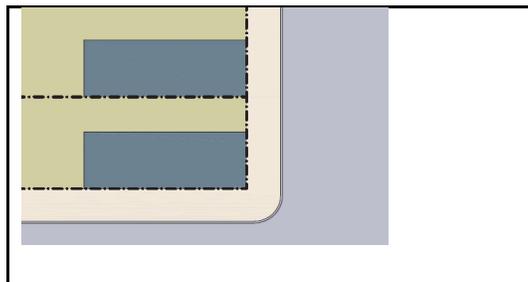
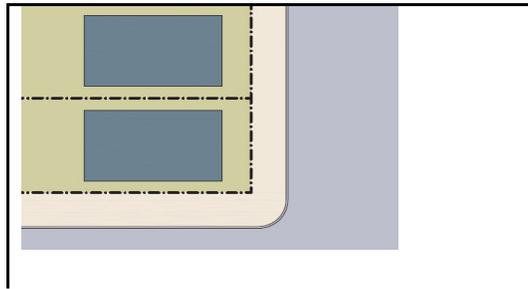


TABLE 11-3: PRIVATE FRONTAGES.

The Private Frontage is the area between the building Façade(s) and the Lot line(s).

	SECTION	PLAN
<p>Common Yard: a planted Frontage wherein the Façade is set back substantially from the Frontage Line. The front yard created remains unfenced and is visually continuous with adjacent yards, supporting a common landscape. The deep Setback provides a buffer from the higher speed Thoroughfares.</p>		
<p>Porch & Fence: a planted Frontage where the Façade is set back from the Frontage Line with an attached porch permitted to Encroach. A fence at the Frontage Line maintains street spatial definition. Porches shall be no less than 8 feet deep.</p>		
<p>Terrace or Dooryard: a Frontage wherein the Façade is set back from the Frontage Line by a terrace or small front garden with a low wall. This type buffers Residential use from Sidewalks and removes the private yard from public Encroachment. Terraces are suitable for conversion to outdoor cafes. Syn: Dooryard.</p>		
<p>Forecourt: a Frontage wherein the Façade is close to the Frontage Line and the central portion is set back. The Forecourt created is suitable for vehicular drop-offs. This type should be allocated in conjunction with other Frontage types. Large trees within the Forecourts may overhang the Sidewalks.</p>		
<p>Stoop: a Frontage wherein the Façade is aligned close to the Frontage Line with the first Story elevated from the Sidewalk sufficiently to ensure privacy for the windows. The entrance is usually an exterior stair and landing. This type is recommended for ground-floor Residential use.</p>		
<p>Shopfront: a Frontage wherein the Façade is aligned close to the Frontage Line with the building entrance at Sidewalk grade. This type is conventional for Retail use. It has substantial glazing on the Sidewalk level and an Awning that may overlap the Sidewalk to within 2 feet of the Curb. Syn: Retail Frontage.</p>		

**ARTICLE 12.
PARKING REGULATIONS***

* **Cross References:** Streets, sidewalks and other public places, ch. 62; traffic and vehicles, ch. 70.

Sec. 82-1200. General requirements.

No building or structure shall be erected, substantially altered or its use changed, unless off-street parking and loading spaces have been provided in accordance with this ordinance [chapter].

Sec. 82-1201. Submission.

Plans and specifications for the required parking, loading facility and access drives shall be submitted at the time of application for the building permit for the primary use and must be approved by the zoning enforcement officer.

Sec. 82-1202. Location.

All parking facilities required under this article shall be constructed on the lot containing the primary use, or on abutting lot(s) which are located in the same zoning district as the main lot. No parking or loading facility, exclusive of driveways, shall be located within ten feet of a street or five feet of a sidewalk or abutting property line.

Parking spaces for all uses in commercial zoning districts (CD, CL and CW) for residential, multifamily, business, industrial or institutional purposes shall be located in the rear portion of the property.

Sec. 82-1203. Minimum off-street parking requirements.

For the purpose of this ordinance [chapter], the following minimum parking space requirements shall apply:

Type of Use		Minimum Parking Spaces
1.	Residential Single family Single family in CD Multifamily dwellings	2 spaces per dwelling unit 1 space per dwelling unit 1.5 spaces per dwelling unit
2.	Hotel, motel and bed and breakfast	1 space per unit or room
3.	Professional offices	5 spaces per 1,000 sq. ft. GLFA 2 spaces per 1,000 square feet* GLFA
4.	Personal services	5 spaces per 1,000 sq. ft. GLFA
5.	Retail trade	5 spaces per 1,000 sq. ft. GLFA 3 spaces per 1,000 square feet* GLFA
6.	Restaurants, theater, or commercial indoor recreation	1 space per 5 seats or per 5 persons of occupancy 1 space per 8 seats or 8 persons of occupancy*
7.	Manufacturing uses and industrial non-manufacturing uses	1 space per 2 employees, plus 1 for each motor vehicle kept on the premises; or 4 spaces per 1,000 square feet GLFA, whichever is greater
8.	Marina or yacht club with indoor facilities add	1 space per 1.5 boats or slips 1 space per 6 persons capacity
9.	Other commercial outdoor recreation	1 space per 4 persons capacity

10.	Government, educational and institutional uses	1 space per 5 persons capacity or per 5 seats, beds, etc., or per 400 square feet floor area, whichever is greater
11.	Noncommercial playground	1 space per 500 square feet area

* Applies to lots in CD with greater than 50% building lot coverage as of October 22, 2009.

GLFA = Gross leasable floor area

Sec. 82-1204. Parking standards.

Off-street parking facilities required by this ordinance [chapter] shall be constructed to the following minimum standards.

- A. Single space dimensions--Nine feet wide by 18 feet deep;
- B. Handicapped parking spaces shall be required and constructed for all parking areas in accordance with standards of the Americans with Disabilities Act;
- C. Up to 20 percent of required parking spaces may be of a size for compact cars. Such spaces shall be designated as such, and shall be at least eight feet wide by 16 feet deep. An additional compact space shall be permitted for each handicapped space which exceeds the minimum requirements of this section;
- D. Minimum aisle width in a parking lot is 23 feet. Minimum aisle widths for all other parking areas shall be in accordance with the following table:

Parking Angle (in degrees)	Aisle Width (in feet)
0-44	15
45-59	16
60-69	20
70-79	21
80-89	22
90	23

Entrance aisle widths for parking areas serving less than ten vehicles, or one-way parking lots shall be a minimum of 12 feet.

- E. Paving or a porous parking material which allows infiltration of stormwater into the surface of the ground shall be provided for all required facilities sufficient to provide a durable and dust free surface over a minimum base of 12 inches of compacted gravel, provided such design includes erosion control;
- F. Any parking area which is intended to be used during non-daylight hours shall be illuminated, and shall be so arranged as to reflect the light away from adjoining property and streets;
- G. Parking areas shall provide for proper drainage of surface water to prevent accumulation of water onto adjacent property or sidewalks;
- H. Bumper guards or wheel blocks shall be used where necessary to control parking and traffic, and to avoid encroachment upon a building or adjacent property or streets;
- I. For uses in the CD, CL and CW districts which require parking, the entry to the parking area may be shared with the entry to an adjacent property, provided that the entryway

has a minimum width of 12 feet for parking of up to ten vehicles; for parking for more than ten vehicles, one-way circulation may be used; otherwise, the minimum entry width shall be 20 feet. Easements for shared entries shall be required for both properties, and shall be recorded in the land evidence records of the town.

J. Lots in the commercial downtown district: On-street parking located directly in front of a lot on which a business use operates may be counted towards fulfilling the off-street parking space requirements of that use.

(Ord. of 4-26-2004)

Sec. 82-1205. Shared parking.

Shared parking permits an applicant who cannot meet parking requirements on-site to share existing parking spaces nearby which are in use at distinctly different times from those required by the applicant. Shared parking shall be allowed only by a special use permit granted by the zoning board, and shall be subject to the following requirements:

- A. The applicant cannot meet the parking standards of this ordinance [chapter] on the property where the use is proposed or utilizing shared parking provides a long term parking solution and the applicant provides a legal agreement signed by the recipient of the parking that runs with the land;
- B. The location of the proposed use and parking is in either the CD or CL districts and within 1000 feet of the proposed use for which shared parking is proposed;
- C. The proposed shared use will not interfere with the parking requirements of the existing use(s) currently served by the parking area;
- D. The shared use will not create traffic circulation problems or a safety hazard to pedestrians;
- E. The owner of the parking area agrees to permit a shared use of the parking area without restrictions other than times when the parking area may not be shared.

(Ord. of 4-26-2004)

[Sec.] 82-1205.1. Procedure for approval of shared parking.

An applicant for shared parking must submit an application to the zoning enforcement officer which contains a statement addressing each of the requirements set forth in section 82-1205. The zoning enforcement officer shall forward the application to the zoning board of review for consideration in accordance with article 6 of this ordinance [chapter].

In permitting shared parking, the zoning board shall require an agreement between the two property owners detailing the provisions for the shared parking which shall be recorded in the land evidence records of the town prior to commencement of the shared use.

[Sec.] 82-1205.2. Zoning enforcement officer maintains records.

The zoning enforcement officer shall maintain a record of all shared parking agreements. Specific provisions of the shared parking in terms of spaces available and hours of usage by the sharing parties shall be explicitly detailed in writing and attached to the certificate of use or occupancy. The zoning enforcement officer shall be responsible for enforcing the provisions of this ordinance [chapter].

[Sec.] 82-1205.3. Discontinued use.

When a use on either property which utilizes shared off-site parking is discontinued or changed, the shared parking shall be null and void. Any new use of any property subject to a shared parking agreement shall be subject to the provisions of this ordinance [chapter], or a new shared parking permit shall be required.

Sec. 82-1206. Off-street loading requirements.

Every building hereafter erected, altered, enlarged, or occupied for business, industrial, or institutional purposes which has over 1,000 square feet gross floor or ground area shall provide a minimum of one space for the loading and unloading of service vehicles. Loading and unloading spaces shall be provided in addition to off-street parking spaces and shall not be considered as supplying required parking spaces.

Each loading space shall be not less than 60 feet by 12 feet with a minimum overhead clearance of 14 feet. Loading and unloading spaces shall be surfaced with a dustfree, all-weather pavement, which shall be adequately drained.

The off-street loading spaces required by this ordinance [chapter] shall, in all cases, be on the same or contiguous lot or parcel of land as the or [sic] structure they are intended to serve. All loading and unloading spaces shall be designed so as to eliminate the need to back a vehicle out onto any public way.

Sec. 82-1207. Screening of residential areas.

Whenever a parking area for a nonresidential use is located within, across the street from, or adjacent to a residential zoning district, or use, it shall be effectively screened on all sides which adjoin any property used for residential purposes by a solid wall, opaque fence, or compact planting screen not less than five feet in height. Vegetative buffering is greatly encouraged. In the event that terrain or other natural features are such that the erection of said screen will not serve the intended purpose, the zoning enforcement officer may allow the parking without said screen. In no case shall such screening impede site distance from or to the property or across if necessary for vehicular safety.

Where an open storage or off-street loading area is located within, across the street from, or adjacent to a residential zoning district, the above screening requirements shall also be met.

Sec. 82-1208. Parking or storage of commercial and major recreational equipment.

[Requirements for parking or storage of commercial and major recreational equipment are as follows:]

- A. In any parking lot, driveway, or garage located in a residential district, no more than one commercial vehicle may be stored overnight. Such vehicle or bus shall be no more than 1 1/2 tons rated capacity. In an RR-200 or RR-80 district, registered farm vehicles and trucks may be stored provided they are 30 feet from any lot line.
- B. The parking or storing of major recreation equipment which includes travel trailers, pickup campers or coaches, motorized dwellings, tent trailers, boats and boat trailers, but does not include mobile homes in residential districts, must comply with the following regulations:
 - 1. Not more than one travel trailer, pickup camper or coach, motorized dwelling, tent trailer may be parked or stored per dwelling unit on the lot.
 - 2. Not more than one boat may be stored on a residential lot, not including dinghies, prams, canoes, rowboats or the like.

3. No major recreation equipment, while parked or stored, shall be used for living, sleeping, or housekeeping purposes.
4. No major recreational equipment not owned or operated by a person residing on the premises shall be parked or stored on a lot in a residential district for a period longer than 14 days in a calendar year.
5. Any equipment parked or stored shall be set back from any public or private street.

Sec. 82-1209. Storage of motor vehicles.

Not more than one unregistered motor vehicle may be stored outside on any lot in a residential district.

ARTICLE 13.
SIGN REGULATIONS*

* **Cross References:** Buildings and building regulations, ch. 14.

Sec. 82-1300. General intent.

It is the intent of this chapter to:

1. Establish rules and regulations to control and regulate all signs in the Town of Jamestown;
2. Maintain a high degree of excellence in the quality of all signs;
3. Prevent the proliferation of signs which cause visual clutter and disharmony; and
4. Encourage a rational pattern of signs with regard to the area where such signs are located.

Sec. 82-1301. Building permit required.

No sign shall be erected without the issuance of a building permit by the zoning enforcement officer. An application for a permit to erect a sign shall be made in writing upon forms prescribed and provided by the zoning enforcement officer, who may also require any drawings, descriptions, or plot plans of the sign and/or its location upon the lot, as may be reasonably necessary to administer the sign provisions of this ordinance [chapter].

Sec. 82-1302. Exempt signs.

The following signs are exempt from the provisions of this ordinance [chapter], and may be installed without a building permit:

1. Residence signs, not exceeding a total of two square feet, displaying the name and address of the occupant or resident of the premises.
2. Real estate signs advertising sale or rent, or signs naming the builder, architect, developer or engineer of a project in progress, placed on the premises, not exceeding eight square feet. All such signs must be removed within seven days of sale, rental, or completion of the project for which the sign was placed.
3. Notices of tag, yard, or garage sales may be erected. A maximum of four signs per sale, not to exceed a total of two square feet per sign, may be erected on their own post, provided the sale is licensed by the town clerk. All signs must be removed within 48 hours of the sale.
4. Signs prohibiting trespass, hunting and the like, signs warning of danger, such as high voltage, and necessary public utility signs, not to exceed a total area of two square feet.
5. Temporary window signs, such as advertising a sale. Normal displays of merchandise in windows shall not be considered signs.
6. Traffic and other governmental signs, erected by any public safety agency in the discharge of any governmental function. Such signs may be illuminated in accordance with section 82-1309.
7. Signs designating historical places or points of interest, erected by governmental authority or the like, not to exceed a total area of 12 square feet.
8. Signs indicating entrance, exit, parking, erected on a premise[s] for the direction of people and vehicles, not to exceed a total area of 1.5 square feet. Such signs shall

incorporate conventional instructions and symbols but shall be integrated by style and materials with other signage and landscape elements in the development.

9. Church, school or other public use may have one sign, not to exceed a total area of 12 square feet. Such signs may be illuminated in accordance with section 82-1309.

Sec. 82-1303. General prohibitions.

The following signs are prohibited in all zoning districts:

1. [*Advertising signs.*] Advertising signs tacked, posted, painted or otherwise attached to utility poles, trees, sidewalks, curbs or rocks.
2. [*Billboards.*] Billboards or any sign or advertising device which advertises a use or activity not located on, or a product not sold nor manufactured on the lot upon which the sign or device is located.
3. [*Interior-lighted signs.*] Interior-lighted signs, which are signs lighted by an interior lighting source and projected through a translucent sign material; provided that neon signs which do not fall within the definition of interior-lighted signs are permitted in accordance with section 82-1309.
4. [*Moving, revolving, flashing, mobile or animated signs.*] Moving, revolving, flashing, mobile or animated signs, or signs with any such visible parts; provided, however, that clocks, barber poles and time/temperature devices may be permitted if they comply with all other provisions of this ordinance [chapter]. Signs with any visible moving parts shall also be prohibited.
5. [*Roof signs.*] Roof signs or display signs placed above or supported on the top of a building or structure.
6. [*Trailer signs.*] Trailer signs, defined as any sign which is mounted or designed for mounting on wheels, or which is mounted or designed for mounting on a self-propelled or towed vehicle. Such signs shall include, but not be limited to, mobile advertising signs attached to a truck, chassis, detachable vehicle trailer or other such mobile signs, but shall not include signs painted or otherwise inscribed on a self-propelled vehicle or towed vehicle which identify the product, service or activity for which the vehicle is used, unless the principal use of such vehicle is for advertising purposes.

Sec. 82-1304. Signs permitted for special permit uses.

Signs in connection with a use permitted by a special use permit shall also be considered as special uses subject to review and approval of the zoning board of review.

Sec. 82-1305. Regulations for commercial districts.

The total number of signs, including wall, window, awning, ground, projecting and sandwich board signs shall not exceed three for any single commercial use on lots exceeding 10,000 square feet in size and two for any single commercial use on lots under 10,000 square feet in size, except multiple uses on a single lot, which shall not exceed the total number of commercial units on the lot plus one additional group sign.

The following signs may be erected in the CD, CL and CW districts (except as noted):

1. *Wall sign.* [Wall sign is] defined as a sign attached parallel to, or painted on, the vertical wall of a building exterior. One wall sign per established business for each street frontage not exceeding a total of 16 square feet.

2. *Window sign.* [Window sign is] defined as any sign affixed to, in contact with, or within 12 inches of a window thereof. Window signs permanently erected or maintained in the window of any building, which are visible from any public or private street or highway, are permitted provided such signs shall not occupy more than 25 percent of the area of said window. Normal displays of merchandise in store windows shall not be considered signs.
3. *Ground sign or ladder sign.* [Ground sign or ladder sign] is permitted in the CL District only and is a freestanding single- or double-faced sign, supported from ground level by posts or similar vertical supports. A ladder sign differs from a regular ground sign in that it has two or more horizontal crosspieces serving as individual signs for identification or advertising purposes. One ground [sign] or ladder sign, not to exceed five feet in height nor 20 square feet in area, shall be permitted for each lot.
4. *Projecting, overhanging blade signs.* [Projecting, overhanging blade signs] are signs which project over public ways. These signs installed perpendicular to the façade within the first layer shall be restricted to one per business, and shall not exceed eight square feet in area. In addition, they must have a clear height of eight feet above the sidewalk and be erected and secured in such a manner as to preclude their becoming a safety hazard to the public. The zoning enforcement officer shall require proof of adequate public liability coverage applicable to all signs extended over town property.
5. *Awnings and canopies.* The lowest portion of any awning or canopy shall be not less than eight feet above the level of a sidewalk or public right-of-way. No awning may extend beyond a point two feet inside the curbline. There is no limitation on the horizontal width of an awning.
There shall be no advertising on any awning or canopy, except that the business name may be painted on the vertical portion of the street apron which is geometrically parallel to the building front.
6. *Signs for multiuse commercial establishments.* A single lot containing more than one commercial unit as an identifiable group shall be allowed one group sign, up to 20 square feet in area, as well as one wall-mounted sign for each separate commercial unit, each sign not to exceed 12 square feet in area.
7. *Signs for gasoline stations, garages and commercial boating facilities.* Such businesses may, if they elect to do so, divide that one exterior sign affixed to the front wall of the building, to which they are entitled as herein above provided, into separate signs affixed to and parallel to such wall and indicating the separate operations or departments of the business; provided, however, that the total of the area of the separate signs shall not exceed the maximum area (16 square feet) permitted under this ordinance [chapter] for a single, exterior sign on such a wall.
In addition, one ground [sign] or ladder sign, subject to limitations as defined above [subsection 3. of this section] (up to 20 square feet), may be permitted. In addition, one sign, standing or otherwise, indicating the company whose gasoline is being sold, may be erected, subject to the approval of the zoning enforcement officer. The standard type of gasoline pump bearing thereon, in usual size and form, the name or type of gasoline and the price thereof, or any other sign required by state law, shall not be deemed to be in violation of this ordinance [chapter]. Temporary or movable signs of any and every type are specifically prohibited.

8. *Signs on town-owned property.* The town council shall have sole discretion as to the suitability of all signs erected, or to be erected on town-owned property, under lease of private enterprise, or otherwise. Any person wishing to place a sign on or over town property shall make a request for such to the town council. All said signs shall conform to the existing sign code. This provision shall include sandwich boards, and other signs which are customarily placed on the public sidewalks. Sandwich boards shall not exceed 24 inches in width nor 40 inches in height.

Sec. 82-1306. Regulations for residential districts.

[Regulations for residential districts are as follows:]

1. *Customary home occupations.* Other than a sign identifying the name and address of a resident, one single or double faced projecting, overhanging blade sign installed perpendicular to the façade within the first layer, to identify premises of a permitted customary home occupation, shall be permitted provided such sign does not exceed two square feet in area.
2. [*Ladder-type signs.*] Ladder-type signs for property owners are permitted for group listings of the residents sharing an unnamed driveway or private road.
3. [*Real estate developers.*] Real estate developers in the business of long-range property development for sale shall be restricted to one sign, single- or double-faced, not to exceed 20 square feet in area per development. When a development is sold, the sign shall be removed within 30 days.
4. [*Permanent signs.*] Permanent signs at major entrances to residential developments designed only to identify such developments shall be permitted provided such signs bear no commercial advertising, and do not exceed 15 square feet in area.
5. [*Real estate open house signs.*] Real estate open house signs, located off-premise[s], not to exceed six square feet in area, may be erected by permit for up to six hours. A maximum of four signs may be erected, including not more than three off-premises signs.
6. *Bed and breakfast house signs.* One single- or double-faced sign not to exceed two square feet in area.

Sec. 82-1307. Special permit signs.

Temporary signs, banners, posters and special promotions, except posters intended for window display, will require a special permit from the zoning enforcement officer. Permits for these signs are not to be issued more than 14 days prior to the scheduled event and are to be removed within 48 hours after the event.

Sec. 82-1308. Political signs.

Signs which express opinion regarding candidates for political office or political issues shall be permitted in all zoning districts; provided, nevertheless, [that if]:

1. Attached or affixed to the exterior of a building or other structure, or to a window thereof, shall not exceed 12 square feet in area;
2. Freestanding, shall not exceed 12 square feet in area;
3. Used in connection with a determinable event, including but not limited to an election, meeting or hearing, shall not be displayed for a period in excess of 120 days prior to said event and shall be removed within seven days after said event is terminated.

Sec. 82-1309. Illumination.

The light from any sign, advertising lights or reflective material used on a sign shall be so shaded, shielded or directed, or shall be maintained at a sufficiently low level of intensity and brightness that it shall not adversely affect neighborhood premises nor the safe vision of operators of vehicles moving on public roads and highways. All lighted signs and advertising lights shall be so shaded, shielded or directed that they shall not reflect or shine on or into residential structures to an extent that would adversely affect them. Sodium-vapor type lighting is prohibited.

Neon signs, defined as fluorescent paint or gaseous tube illumination, are permitted, provided that:

1. Such signs are placed in the window and advertise a product served in the establishment;
2. Such signs do not exceed three per establishment;
3. The area of such signs does not exceed 25 percent of the window area of any window in which they are placed.

Sec. 82-1310. Nonconforming signs.

Any sign in existence prior to the effective date of this ordinance [from which this chapter is derived] which does not meet the requirements of this chapter shall be considered a nonconforming sign. Any alteration of a nonconforming sign (other than routine maintenance) shall require that the sign conform to this ordinance [chapter].

Sec. 82-1311. Maintenance required.

All signs shall be maintained in a safe condition.

ARTICLE 14.
ACCESSORY APARTMENTS

Sec. 82-1400. [Restrictions.]

Accessory apartments shall not be permitted in any zoning district except as part of a permitted two-family or multifamily dwelling structure or as permitted in 82-1104, and the zoning enforcement officer shall be empowered to enforce such prohibition.

ARTICLE 15.
BED AND BREAKFAST HOMES

Sec. 82-1500. General[ly].

A bed and breakfast home is a single building or part thereof used only for residential dwelling and occupied by the owner thereof in which:

1. No more than five rooms are available on an overnight basis for transient guests for compensation;
2. No more than four people are permitted to occupy any one room;
3. No more than ten transient guests are permitted at any one time;
4. No cooking facilities are permitted in any guestroom;
5. No more than one meal is provided for said guests daily;
6. No person may occupy said room or rooms more than 14 days in any 30-day period; and
7. Use is authorized for periods of two years by the zoning board subject to renewal for successive two-year terms by the town council, which renewal shall be instituted by a renewal application filed by the owner with the town clerk.

Sec. 82-1501. Requirements for permit.

Bed and breakfast homes are permitted only upon the initial issuance of a special use permit by the zoning board. All applications for a bed and breakfast home shall include the following:

Sec. 82-1501.1. Site plan requirements.

[In a] site plan submission, plans for a bed and breakfast home shall be presented to the zoning board of review. The plans shall be prepared by a registered architect, registered landscape architect or engineer, and shall show the following, together with appropriate dimensions:

1. Proposed name of the bed and breakfast home;
2. Location by legal description;
3. Names and addresses of applicant and designer of the plan;
4. Scale of plan, one inch equals 40 feet or larger;
5. Date, north arrow, [and] contours at two-foot intervals;
6. Boundary line of property indicated by a solid line, and the total acreage encompassed thereby;
7. Location, widths and names of all existing or prior platted streets, utility rights-of-way, parks, and other public open spaces, salt [water] or freshwater wetlands, permanent buildings and structures, houses or permanent easements and zoning boundary lines, within 200 feet of the lot;
8. Existing sewers, water mains, culverts and other underground facilities located on the lot, indicating pipe sizes, grades, manholes and location;
9. Location, arrangement and dimensions of automobile parking spaces, width of aisles, width of bays [and] angle of parking;
10. Location and dimensions of vehicular drives, entrances [and] exits; location and dimensions of pedestrian entrances, exits and walkways;
11. Number of dwelling rooms and number of bedrooms;
12. Floorplans and exterior elevation drawings of all buildings, with exterior dimensions; including all means of ingress and egress;

13. Construction materials, including fire ratings, if any;
14. Fire protection systems;
15. Location, height and materials of walls, fences and screen planting;
16. Ground cover, finished grades, slopes, banks and ditches;
17. Proposed or existing utilities, including sewers, water, lighting, electricity and communications;
18. Drainage plan showing methods of disposal and/or control of surface water runoff.

Sec. 82-1501.2. Minimum standards for approval.

Every bed and breakfast home shall comply with the following minimum standards:

1. No more than 25 percent of the gross floor space of the dwelling house shall be devoted to guestrooms.
2. Each guestroom shall have two means of egress.
3. Each guestroom shall consist of at least 100 square feet and an additional 30 square feet for every occupant in excess of two per room.
4. Each guestroom shall contain an approved fire extinguisher and an approved fire detector, and meet applicable standards of the local fire marshall.
5. A list of all guests and their addresses shall be maintained by the owner and be made available to the town upon request of the zoning enforcement officer and/or tax assessor.
6. An adequate sewage disposal system must be in place with proper documentation by RIDEM [Rhode Island Department of the Environment] or by a certified ISDS designer or installer. Alternatively, the board of water and sewer commissioners shall certify that adequate sewer capacity has been allotted for the proposed use and that all fees have been paid.
7. Water-saving devices shall be installed in all water fixtures in the building, including fixtures in the primary residence.
8. Bed and breakfast homes using private water wells shall provide a certificate of good water quality from the state of the environment.

ARTICLE 16.

SINGLE-FAMILY CLUSTER LAND DEVELOPMENT PROJECTS

Sec. 82-1600. Purposes.

The purposes of cluster development are to:

- A. Encourage the permanent preservation of open space, agricultural land and other natural resources;
- B. Maintain the community's traditional rural character and land use pattern in which the settled areas contrast with open space and farmlands;
- C. Protect scenic vistas from roadways and other places;
- D. Preserve unique and significant natural, historical and archeological resources;
- E. Encourage a less sprawling form of development;
- F. Minimize the total amount of disturbance on the site.

Sec. 82-1601. Permissible activities.

Cluster-type development is confined to those uses allowed in the zoning district in which the development is located, as specified in section 82-301.

Sec. 82-1602. Cluster development required.

All major subdivisions of land (five lots or more) which are located in any R-40, RR-80 or RR-200 zoning district shall be required to utilize the cluster technique herein described [in this article]. The planning commission may, at its discretion, permit a traditional subdivision if the applicant can prove to the satisfaction of the planning commission that a cluster-type development is inappropriate due to land configuration, prevailing development adjacent to the parcel, or environmental condition.

Sec. 82-1603. Maximum number of dwelling units.

The maximum number of dwelling units in a cluster land development project shall not exceed the number computed by the following formula:

- 1. Developable land shall be the gross land area of the tract, less any land which is unsuitable for development, as defined in [subsection (62) of] section 82-103.
- 2. The land in the tract which is developable shall be divided by the minimum lot size as provided in section 82-302 which is applicable to the zoning district in which the tract of land lies. This shall determine allowable residential density.

(Proposed tract of land - Unsuitable land) Minimum lot size	=	Maximum number of dwelling units (density)
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In no case shall the above maximum number of dwelling units exceed the maximum number of dwelling units allowed in the zoning district in which the cluster land development project is to be constructed.

Sec. 82-1604. Minimum dimensional regulations.

Once density has been defined as per section 82-1603, the minimum dimensional regulations in table 16-1 shall apply to individual lots within a cluster land development project.

Table 16-1
Dimensional Regulations for Cluster Developments

Minimum Lot Size	Maximum Height of Building	Minimum Yard Dimensions	Accessory Buildings, Minimum Distance In Feet To
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Zoning District	Area in Square Feet	Width/ Frontage	Maximum Percent of Lot Coverage Principal and Accessory Buildings	Principal, Feet	Accessory, Feet	Front, Feet	Corner Side, Feet	Side, Feet	Rear, Feet	Side Lot Lines	Rear Lot Lines
RR-200	20,000	0	50 percent	35	20	30	15	10	30	15	10
RR-80	10,000	0	50 percent	35	20	30	15	10	30	10	10
R-40	8,000	0	50 percent	35	20	20	15	10	30	7	10
R-20	5,000	0	50 percent	35	20	20	15	10	30	7	10

Sec. 82-1605. Location of structures.

No single-family dwelling structure or accessory structure within a cluster land development project may be located within 30 feet of the perimeter of the cluster development. Said 30-foot setback dimension shall apply only to lots within a cluster development which are within 30 feet of the perimeter thereof, and shall supersede any minimum yard dimensions set forth in section 82-1604.

Sec. 82-1606. Open space within a cluster development.

All of the land in a cluster land development project which is not designated as part of a building lot or as street rights-of-way, but in any event not less than 50 percent of the gross land area of the development, shall be set aside for open space uses. Permitted uses of such open space shall be limited to conservation and natural areas, outdoor recreation of a noncommercial nature, agricultural activities, and the preservation of scenic or historic sites or structures.

No more than 50 percent of the open space land in a cluster land development project shall be land which is unsuitable for development, as defined in article 1 of this ordinance [chapter].

Sec. 82-1607. Structures upon open space.

Any structure which may be built upon the open space within a cluster land development project shall be limited to the following:

1. Recreational facilities such as tennis courts, outdoor swimming pools, etc.;
2. Paths, walks, access drives, retaining walls or similar landscape features;
3. Utilities as may be required by the planning commission during subdivision review (which may include drinking water wells and/or individual sewage disposal systems, ISDS).

No buildings, clubhouses, storage sheds or similar structures may be permitted upon any open space within a cluster land development project. Structures of this nature, if allowed in the zoning district, shall be constructed on a separate lot meeting all the standards and dimensional regulations of this ordinance [chapter].

Any structure, except paths, driveways or underground features, shall be set back a minimum of 30 feet from the perimeter of the cluster land development project. Waterfront structures, such as docks, piers, or boathouses, may be located within 30 feet of a waterfront by permission of the planning commission during subdivision review.

Sec. 82-1608. Ownership of open space.

Open land provided by a cluster development or other land development project for public or common use shall either be conveyed to the city or town and accepted by it for park, open space, agricultural or other specified use or uses, or be conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space, or be conveyed to a corporation or trust owned or to be owned by the owners of lots or units within the development, or owners of shares within a cooperative development. If such a corporation or trust is used, ownership shall pass with conveyances of the lots or units. In any case where the land is not conveyed to the town, a restriction enforceable by the town shall be recorded providing that the land shall be kept in the authorized condition(s) and not be built upon or developed for accessory uses such as parking or roadway.

Sec. 82-1609. Subdivision approval required.

No part of the construction of a cluster land development project shall begin until the plans for such development have been reviewed and endorsed by the Jamestown Planning Commission in accordance with the subdivision regulations applicable to such development. All cluster land development projects shall comply with the design, construction, and procedural requirements of the subdivision regulations of the Town of Jamestown.

ARTICLE 17.
LOW AND MODERATE INCOME HOUSING*

* **Editors Note:** An ordinance adopted Apr. 10, 2006, amended Art. 17 in its entirety to read as herein set out. Former Art. 17, §§ 82-1700--82-1705, pertained to similar subject matter and derived from an ordinance adopted Oct. 27, 2003.

Editors Note: An ordinance adopted Oct. 27, 2003, renumbered ch. 82, Art. 17, §§ 82-1700--82-1703 and Art. 18, §§ 82-1800, 82-1801, as Art. 18, §§ 82-1800--82-1803 and Art. 19, §§ 82-1900, 82-1901, respectively. Said ordinance enacted new provisions to read as Art. 17, §§ 82-1700--82-1703 as herein set out.

Sec. 82-1700. Comprehensive permit for low and moderate income housing.

All applications for comprehensive permits to build low and moderate income housing shall be reviewed in accordance with the applicable provisions of G.L. Tit. 45, Ch. 53, as amended, the Low and Moderate Income Housing Act. The planning commission shall have the authority to issue a comprehensive permit for a low and moderate income housing project pursuant to the applicable provisions of G.L. Tit. 45, Ch. 53, as amended.

(Ord. of 4-10-2006)

Before submission of an application for a Comprehensive Permit, applicants are strongly urged to contact Rhode Island Housing Mortgage and Finance Corp. (Rhode Island Housing) to become aware of the legal requirements applicable to low or moderate income housing and to become aware of technical and financial assistance that might be available to the applicant.

Sec. 82-1701. Application fees.

The application fee for a comprehensive permit application shall be equal to the fee for the most analogous fee required in the subdivision regulations of the Town of Jamestown as determined by the director of planning and development.

(Ord. of 4-10-2006)

Sec. 82-1702. Limitation on applications.

Pursuant to G.L. § 45-53-4(4)(xii) as the Town of Jamestown has an approved affordable housing plan and at such time as the town is meeting housing needs as that term is defined in the G.L. § 44-53-3(10), as amended, the annual number of dwelling units in comprehensive permit applications from for-profit developers may be limited to an aggregate of one percent of the total number of year-round housing units in the town, as recognized in the affordable housing plan and notwithstanding the timetables set forth elsewhere in this section, the planning commission shall have the authority to consider comprehensive permit applications from for-profit developers, which are made pursuant to this paragraph, sequentially in the order in which they are submitted.

(Ord. of 4-10-2006)

82-1703 – Municipal Subsidy.

The Town of Jamestown may grant municipal government subsidies for the development of affordable housing in the approval of a Comprehensive Permit application consistent with municipal government subsidy as that term is defined by R.I. Gen. Laws § 45-53-3 (11).

The Town of Jamestown is not obligated to provide any form of municipal subsidy to a comprehensive permit applicant, but may offer or negotiate a subsidy in return for specific design considerations, facilities improvements or other direct or indirect public benefit. The Planning Board shall have sole authority to exercise this authority for any applications submitted under 82-1700.

A municipal subsidy may take the form of a density bonus, land banking, waiver of local policies such as sewer permits, or waiver of fees such as subdivision fees, building permit fees, or sewer development lot fees. The Town may also consider other such waivers or bonuses that may become available to the Town in the future and which achieve essentially the same purpose. In extraordinary cases, the Town may consider providing direct financial support to an affordable housing development.

82-1704 – Affordable Housing Incentives.

The Town of Jamestown, in compliance with the 2005 Comprehensive Plan Element, Jamestown Affordable Housing Plan allows the following incentives to encourage the development of affordable housing:

- a. Applications containing Affordable Housing that meets the requirements of the Jamestown Village Special Development District Section shall be processed in accordance with Section 1104. Others shall be processed by Comprehensive Permit according to Article 17 of the Jamestown Zoning Code.
- b. Applications containing Affordable Housing shall be processed with priority over others, including those with earlier filing dates, providing that other applications are not pushed past their deadlines.
- c. Highest priority for processing and for approval shall be given to applications involving partnership with a community land trust or other non-profit organization responsible for ensuring the long-term stability of the Affordable Housing.
- d. The municipality may waive or reduce review fees for applications containing Affordable Housing.
- e. The municipality may increase Density for projects containing Affordable Housing.
- f. The municipality may waive or reduce parking requirements for Affordable Housing units located within a quarter mile of a transit stop.
- g. The municipality may provide a property tax exemption for Affordable Housing units meeting established criteria.

82-1705 – Inclusionary Zoning

- (a) Applicability

This section shall apply to all subdivisions of 4 or more units and all Land Development Projects including new development and redevelopment of existing buildings, with 4 or more dwelling units, as classified under Jamestown's Zoning Ordinance and Land Development and Subdivision Regulations.

(b) Affordability requirement

For all applicable projects as defined in §28-370(a), at least 20 percent (20%) of the units on site must qualify as Affordable Housing, as defined by this Ordinance. Fractions of a lot or dwelling unit shall be rounded up to the nearest whole number.

(c) Design and building requirements

(1) All inclusionary units provided within a development shall:

- a. Be reasonably dispersed throughout the development.
- b. Be indistinguishable in appearance of quality of construction from the other units in the development.
- c. Contain a mix of bedrooms, up to and including three (3) bedroom units.
- d. Be compatible in architectural style to the market rate units within the project.
- e. Be built and occupied prior to, or simultaneous with the construction and occupancy of any market rate units.

(2) Any existing dwelling units proposed to be counted as Inclusionary Units must be in full compliance with all applicable construction and occupancy codes, and shall be sufficiently maintained or rehabilitated so that all major systems meet standards comparable to new construction.

(d) Incentives

(1) *Reduction in minimum lot area.* All projects subject to this article shall be entitled to a density bonus allowing for reduction in the minimum lot area per dwelling unit in the development based upon the underlying zoning. The density bonus shall be thirty percent (30%) for developments up to and including 10 dwelling units and shall be twenty five percent (25%) for developments with more than 10 dwelling units.

(2) *Modification of lot dimensional requirements.* The density bonus shall correspond with a 25% decrease in the minimum front, rear and side yard setback requirements and a 25% decrease in the minimum frontage and lot width requirements of the Jamestown Zoning Ordinance for the zoning district in which the property is located.

(e) In-lieu fee option

(1) The applicant for development subject to this article may pay a fee in-lieu of providing the required number of Affordable Housing units. In so choosing to make such a payment, the applicant will not receive the density bonus described in Section 82-1705 (d) (1).

- a. The in-lieu fee per affordable unit required shall be the difference between the median sales price of a single-family home in Jamestown and the maximum affordable sales price of a single-

family home for a Jamestown household of four earning 80% of the area median income, as determined in accordance with the following.

- i. The median sales price of a single-family home in Jamestown shall be derived from statistics collected by the Statewide Multiple Listing Service for the previous calendar year as determined by the Town's Tax Assessor. [For example, in calendar year 2006, the median sales price of a single-family home in Jamestown was \$740,750.]
- ii. The most recent calculation of the maximum affordable sales price of a single family home for a Jamestown household of four at 80% of the area median income, provided by Rhode Island Housing. [For example, in July 2007 RIH calculated the maximum affordable sales price of a single-family home for a Jamestown household of four earning 80% of the area median income to be \$175,000.]
- iii. As an example, based on the above variables, as of July 2007, the in-lieu fee would be \$565,750 per Inclusionary Unit required. (\$740,750 median sales price - \$175,000 maximum affordable sales price)]

b. All in-lieu fees are to be deposited into the Jamestown Affordable Housing Trust Fund. Such funds may be expended or utilized in accordance with the Jamestown Affordable Housing Trust Fund.

c. Required in-lieu fees shall be paid prior to the issuance of building permits for the subdivision/development or in a manner directed by the Planning Commission. For large projects developed in phases, a portion of the in-lieu fee may be deferred, at the Planning Board's discretion, until after the initial phase is complete, but before building permits are issued for a subsequent phase.

(2) In Lieu of Fee for a Fraction of a Unit. The applicant shall have the option of paying a cash-in-lieu of a fractional Inclusionary Unit, whereby the payment is calculated by multiplying the in-lieu fee for one unit, calculated as per § 82-1705 (e) (1) a iii by the fraction resulting from applying the 25 percent requirement. This option is available when the calculation results in a fraction of less than 0.5. Fractions of 0.5 or greater shall be rounded up to the next highest whole number for the purpose of calculating the payment in lieu. [For example, an applicant proposing a five-lot subdivision would be required to provide two additional Inclusionary Units, based on rounding up the 1.25 number derived from multiplying six house lots by 0.25 to establish the 25 percent requirement. The example above estimates the per-unit in lieu fee at \$175,000 as of January 2007. Based on that amount, an applicant would have the option

of paying \$175,000 multiplied by 1.25, or \$ 218,750 in lieu of constructing the required Inclusionary Units. Another option would be to build one unit while also providing a payment of \$175,000 multiplied by 0.25, or \$43,750, for the second unit.]

(f) Off-site option

(1) Off-Site Options. The Planning Board at its sole discretion may allow any developer of an inclusionary project to comply with the requirements of § 82-1705 (b) through one of the following off-site exactions:

- a. Off-site rehabilitation of affordable units in existing buildings.
- b. Off-site new construction of affordable units.
- c. Donation of one or more parcels of land suitable for residential development to be held by the Affordable Housing Trust Fund.

(2) Conditions. Use of an off-site option shall be subject to the following conditions:

- a. Any subdivision or land development project that utilizes an off-site option in place of developing the required affordable units on-site shall not be entitled to a dimensional incentive as described in § 82-1705 (d) (2).
- b. Off-site Inclusionary Units shall have a certificate of occupancy prior to, or simultaneous with the occupancy of any market rate units.
- c. New off-site units shall be compatible in architectural style to the existing units in the surrounding neighborhood.
- d. Renovated off-site units shall be in full compliance with all applicable construction and occupancy codes, and shall be sufficiently maintained or rehabilitated so that all major systems meet standards comparable to new construction.
- e. The Planning Commission in its sole discretion may further condition the use of any off-site option.

(g) Preference of options

(1) Before considering the use of a payment in lieu or an off-site exaction, the Planning Commission must first make a finding that it would be infeasible, as defined below, to develop the affordable units on-site because of environmental, public health, public safety, and/or regulatory reasons.

(2) "Infeasible" means any condition brought about by any single factor or combination of factors, as a result of limitations imposed on the development by conditions attached to the approval of the subdivision, to the extent that it makes it impossible for the applicant to proceed in

building or operating low or moderate income housing without financial loss, within the limitations set by the subsidizing agency of government, on the size or character of the development, on the amount or nature of the subsidy, or on the tenants, rentals, and income permissible, and without substantially changing the rent levels and unit sizes proposed by applicant.

(3) The following is the Town's preferred progression of affordable housing options:

- a. First preference - Affordable units developed on-site
- b. Second preference - Payment of fee in-lieu to meet all or a portion of the inclusionary unit requirement
- c. Third preference - off-site options
 - i off-site rehabilitation of affordable units in existing buildings
 - ii off-site new construction of affordable units
 - iii donation of one or more parcels of land suitable for residential development to be held by the Affordable Housing Trust Fund.

(h) Affordability requirements

All Affordable Housing units constructed pursuant to this Article must qualify as Low- and Moderate- Income Housing units as defined in this ordinance and Title 45, Chapter 53 of the Rhode Island General Laws. To accomplish this, an applicant shall, at a minimum, submit the information required by the Town in 82-1700 as well as Title 45, Chapter 53 of the Rhode Island General Laws and the following additional information:

- (1) A Town approved monitoring service agreement, with a qualified organization; and,
- (2) A Town approved land lease and/or deed restriction that includes the Town as a signatory, and grants to the Town enforcement authority and the right to notice.

(i) Implementation of Inclusionary Unit Provisions

Implementation procedures, to be developed administratively by the Town and approved by the Planning Board as part of Jamestown's Land Development and Subdivision Regulations, shall further describe the submission requirements and review timelines for the Inclusionary Housing Plan and Inclusionary Housing Agreement.

ARTICLE 18. AMENDMENT*

* **Charter References:** Ordinances, §§ 214--217.

Note: See editor's note following art. 17.

Sec. 82-1800. Consistency with comprehensive plan.

For the purpose of promoting the public health, safety, morals and general welfare, the town council shall have the power to adopt, amend or repeal, and to provide for the administration, interpretation, and enforcement of this ordinance [chapter]. The provisions of this ordinance [chapter] shall be set forth in text and map(s), and may incorporate charts or other material. The ordinance [from which this chapter is derived], and all amendments thereto, shall be consistent with the comprehensive plan.

Sec. 82-1801. Procedure for adoption or amendment.

The regulations, restrictions and boundaries set forth in this ordinance [chapter] may be amended by the town council; and any persons, group of persons or corporation may make application to the town council for an amendment. The town clerk shall receive a proposal for adoption, amendment, or repeal of the ordinance [from which this chapter is derived] or zoning map(s). Immediately upon receipt of the proposal, the town clerk shall refer the proposal to the town council and to the planning commission for study and recommendation. The planning commission shall, in turn, notify and seek the advice of the planning department, and shall report to the town council within 45 days after receipt of the proposal, giving its findings and recommendations as prescribed in section 82-1802 . Where a proposal for adoption, amendment, or repeal of the ordinance [this chapter] or zoning map is made by the planning commission, the requirements for study by the commission may be waived, provided that the proposal by the planning commission includes its findings and recommendations pursuant to section 82-1802 . The town council shall hold a public hearing within 65 days of receipt of a proposal, giving proper notice as prescribed in section 82-1803 . The town council shall render a decision on any proposal within 45 days after the date of completion of the public hearing. The provisions of this section pertaining to deadlines shall not be construed to apply to any extension consented to by an applicant.

Sec. 82-1802. Review by planning commission.

Among its findings and recommendations to the town council with respect to a proposal for adoption, amendment or repeal of this ordinance [from which this chapter is derived] or zoning map, the planning commission shall [include a]:

- 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. Demonstration of recognition and consideration of each of the applicable purposes of zoning set forth in section 82-101.

Sec. 82-1803. Notice and hearing requirements.

[Notice and hearing requirements are as follows:]

- A. This ordinance [from which this chapter is derived] shall not be adopted, repealed or amended until after a public hearing has been held upon the question before the town council. The town council shall first give notice of the public hearing by publication of notice in a newspaper of general circulation within the town at least once each

week for three successive weeks prior to the date of the hearing, which may include the week in which the hearing is to be held, at which hearing opportunity shall be given to all persons interested to be heard upon the matter of the proposed ordinance. Written notice, which may be a copy of the newspaper notice, shall be mailed to the associate director of the division of planning of the state department of administration, and, where applicable, to the parties specified in subsections (B), (C) and (D) [B., C. and D.] of this section, at least two weeks prior to the hearing. The newspaper notice shall be published as a display advertisement, using a type size at least as large as the normal type size used by the newspaper in its news articles, and shall:

1. Specify the place of the hearing and the date and time of its commencement;
 2. Indicate that adoption, amendment, or repeal of the ordinance [from which this chapter is derived] is under consideration;
 3. Contain a statement of the proposed amendments to the ordinance [this chapter] 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 [on the statement of proposed amendments] may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any alteration or amendment must be presented for comment in the course of the hearing.
- B. Where a proposed general amendment to the existing ordinance [from which this chapter is derived] includes changes in an existing zoning map, public notice shall be given as required by subsection (A) [A.] of this section.
- C. Where a proposed amendment to an existing ordinance includes a specific change in a zoning district map, but does not affect districts generally, public notice shall be given as required by subsection (A) [A.] of this section, with the additional requirements that:
1. Notice shall include a map showing the existing and proposed boundaries, zoning district boundaries, and existing streets and roads and their names, and town boundaries where appropriate; and
 2. Written notice of the date, time, and place of the public hearing and the nature and purpose thereof shall be sent to all owners of real property whose property is located in or within not less than 200 feet of the perimeter of the area proposed for change. The notice shall be sent by registered or certified mail to the last known address of the owners, as shown on the current real estate tax assessment records of the town.
- D. Notice of a public hearing shall be sent to the governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water resource and/or surface watershed that is used or is suitable for use as a public water source and that is within 2,000 feet of any real property which is the subject of a proposed zoning change; provided, however, that the governing body of any state or municipal water department or agency, special water district, or private water company has filed with the zoning enforcement officer in the town a map survey, which shall be kept as a public record,

showing areas of surface water resources and/or watersheds and parcels of land within 2,000 feet thereof.

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

F. Costs of any notice required under this section shall be borne by the applicant.

G. In granting a zoning ordinance amendment, notwithstanding the provisions of G.L. 1956, § 45-24-37, the town council may limit the change to one of the permitted uses in the zone to which the subject land is rezoned, and impose such limitations, conditions, and restrictions, including, without limitation:

1. Requiring the petitioner to obtain a permit or approval from any and all state or local governmental agencies or instrumentalities having jurisdiction over the land and use which are the subject of the zoning change;
2. Those relating to the effectiveness or continued effectiveness of the zoning change; and/or
3. Those relating to the use of the land, as it deems necessary.

The town clerk shall cause the limitations and conditions so imposed to be clearly noted on the zoning map and recorded in the land evidence records of the town, provided, however, in the case of a conditional zone change, the limitations, restrictions, and conditions shall not be noted on the zoning map until the zone change has become effective. If the permitted use for which the land has been rezoned is abandoned or if the land is not used for the requested purpose for a period of two years or more after the zone change becomes effective, the town council may, after a public hearing as hereinbefore set forth [in this section], 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 [this chapter] to be invalid.

H. The above requirements are to be construed as minimum requirements.

ARTICLE 19.
LEGAL STATUS*

* **Note:** See editor's note following art. 17.

Sec. 82-1900. Severability.

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

Sec. 82-1901. Effective date.

This ordinance [chapter] shall take effect upon its passage and shall take precedence over any prior ordinance or any parts of prior ordinances inconsistent herewith.

Notwithstanding the above, the provisions of the ordinance [this chapter] shall be considered as a continuance and modification of the old ordinance rather than a [an] abrogation of the old ordinance and a reenactment of a new one.