

# Exhibit A – Jamestown Zoning Ordinance

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## Chapter 82 ZONING

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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 June 18, 2014 and as amended April 6, 2015, 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. Regulation.**

The use of any land or the erection, modification, enlargement or use of any building, structure or sign shall 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].

**Sec. 82-104. Definitions.**

Sec. 82-104.1 General Definitions.

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

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

**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.

**Accessory building.** Any building which is customarily incidental and subordinate to the principal building and does not share a common wall or roof with the principal building. An accessory building shall be located on the same zoning lot as the principal building.

**Accessory Dwelling Unit (ADU).**

A residential living unit on the same parcel where the primary use is a legally established single-unit or multi-unit dwelling. An ADU provides complete independent living facilities for one or more persons. It may take various forms including, but not limited to: a detached unit; a unit that is part of an accessory structure, such as a detached garage; or a unit that is part of an expanded or remodeled primary dwelling. (See Sec. 82-1201 – Accessory Dwelling Units)

**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.

**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 shall be restricted to the same lot as the principal use. An accessory use shall not be permitted without the principal use to which it is related.

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

**Adult business.** Any restaurant, bar, nightclub or private or nonpublic association which employs topless waitpersons



and/or presents nude or seminude entertainment or other erotic forms of entertainment. Also, any establishment which shows, rents, sells, promotes, displays or advertises pornographic material in any format.

**Affordable Housing.** Residential housing that has a sales price or rental amount that is within the means of the household living in it. (See Low and Moderate Income Housing for the State of Rhode Island’s definition of what legally counts as “affordable” housing.)

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

- 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
- Anyone requiring notice pursuant to the act.

**Agricultural structure.** A structure which is reasonably necessary to the conduct of on-site working farms. *Agricultural structure* includes, barns, sheds, silos and other similar structures.

**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.

**Amusement or 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.

**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.

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

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

**Aquaculture.** The hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.

**Assisted living facility.** A non-institutional shared living environment which integrates shelter and service needs for functionally impaired and older persons who can maintain a semi-independent lifestyle and who do not require constant supervision or intensive health care as provided by an institution. Each congregate unit has its own bedroom and may have a separate and shared living room, kitchen, dining area or bathroom.

**Attached (structure).** Any structure that is attached to another structure by a common wall. Structures connected by an “I” beam, breezeway, landscape structure or similar connections are not considered attached.

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

**Bed and breakfast home.** A single building or part thereof used only for residential lodging, occupied by the owner thereof, and made available on an overnight basis for transient guests for compensation, and which adheres to the standards in Sec. 82-1202.

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

**Bioretention facility.** An engineered landscaped depression generally planted with native plants and trees

designed to capture and infiltrate stormwater runoff and protect water quality through the use of specified soils, and subsurface drainage/infiltration structural elements.

**Bioswale.** An extended Rain Garden or Bioretention Facility with a linear design that can convey stormwater runoff like a conventional swale but can also provide water quality treatment.

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

**Boat and Ship storage (Non-Commercial).** (See Sec. 82-706, Parking or storage of commercial and major recreational equipment) The storage of all boats excluding dinghies, prams, kayaks, canoes, rowboats or the like, and any boat 15 feet in length or under.

**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*).

**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.

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

**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 Sec. 82-1104 A.2. (Note: The Town has not currently identified any Buildings of Value. This definition is a placeholder should the Town choose to pursue a Buildings of Value program.)

**Building height.** (see also *Height* definition in Section 104.2) For a vacant parcel of land, building height shall be measured from the average, existing-grade elevation where the foundation of the structure is proposed. For an existing structure, building height shall be measured from average grade taken from the outermost four (4) corners of the existing foundation. In all cases, building height shall be measured to the top of the highest point of the existing or proposed roof or structure. This distance shall exclude spires, chimneys, flag poles, and the like. For any property or structure located in a special flood hazard area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMs), or depicted on the Rhode Island coastal resources management council (CRMC) suggested design elevation three foot (3') sea level rise (CRMC SDE 3 SLR) map as being inundated during a one-hundred-year (100) storm, the greater of the following amounts, expressed in feet, shall be excluded from the building height calculation:

(i) The base flood elevation on the FEMA FIRM plus up to five feet (5') of any utilized or proposed freeboard, less the average existing grade elevation; or

(ii) The suggested design elevation as depicted on the CRMC SDE 3 SLR map during a one-hundred-year (100) storm, less the average existing grade elevation. CRMC shall reevaluate the appropriate suggested design elevation map for the exclusion every ten (10) years, or as otherwise necessary.

**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*.

**Cannabis establishment.** A cannabis cultivator, cannabis testing laboratory, cannabis product manufacturer, cannabis retailer, hybrid cannabis retailer or any other type of licensed cannabis-related business as defined under Sec. 21-28.11-3 of the Rhode Island Cannabis Act.

**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.

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

**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.

**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.

**Coastal wetlands.** Coastal wetlands include saltwater 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 (*Hierochloa odorata*), [and] wild rye (*Elymus virginicus*).

**Commercial recreation facilities.** A recreational or fitness activity carried out for profit and generally conducted within a building or substantial structure. May include activities such as small gyms or personal training centers, yoga or pilates studios, swimming pools, indoor tennis courts, recreation halls, etc.

**Common ownership.** *Common ownership means* either:

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

**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:

Whenever six or fewer children or adults with developmental disabilities 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. A

All requirements pertaining to local zoning are waived for these community residences;

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.;

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.;

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.

***Compact Cottage Development (CCD).*** A residential development that is authorized pursuant to Sec. 82-1203 of this ordinance and complies with all of the design standards therein.

***Comprehensive plan.*** The comprehensive community plan of the Town of Jamestown adopted and approved on June 18, 2014, pursuant to chapter 22.2 of the Rhode Island Zoning Enabling Legislation Act of 1991.

***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.).

***Conservation development.*** A residential land development project which allows a community to guide growth to the most appropriate areas within a parcel of land to avoid impacts to the environment and to protect the character-defining features of the property. See Jamestown Subdivision and Land Development Regulations.

***Conventional subdivision.*** A residential subdivision in which all land being subdivided is dedicated to either development lots or street right of way. Not a Conservation Development.

***Conventional yield plan.*** A plan of a conventional subdivision or land development project (as opposed to a Conservation Development) that depicts the maximum number of single family building lots or dwelling units that could reasonably be built on a parcel of land under current zoning, taking into account the presence of physical constraints to development, such as wetlands, or other land unsuitable for development.

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

***Critical Electric Infrastructure (CEI).*** Electric utility transmission and distribution infrastructure, including but not limited to substations, transmission towers, transmission and distribution poles, supporting structures, guy-wires, cables, lines and conductors operating at voltages of 13.8 kV and above and associated telecommunications infrastructure. CEI also includes all infrastructure defined by any federal regulatory agency or body as transmission facilities, and transmission lines and associated equipment generally operated at voltages of 100 kV or higher.

***Day care--Day care center.*** A facility that provides for the care of children or adults. Those receiving care are not all related to each other by blood or marriage and are not legal wards or foster children of the attendant adults, and for which care a payment, fee, or grant is made. Of those receiving care, only dependents of an attendant adult living at the site may reside there. This excludes any family day care home.

**Day care--Family day care home.** Any home, other than the home of the individuals being cared for, in which day care in lieu of parental care or supervision is offered at the same time to six or fewer individuals who are not relatives of the caregiver, but may not contain more than a total of eight individuals receiving day care.

**Days.** Calendar days.

**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.

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

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

**Development.** The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance; any change in use (from one use category to another), or alteration or extension of the use, of land.

**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].

**District.** See "Zoning use district."

**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.

**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.

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

**Duplex.** See *Dwelling – Two Household*.

**Dwelling – Two Household.** A building 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.

**Dwelling unit.** A building 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.

**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.

**Elevation.** In the context of building form, elevation refers to any exterior wall of a building other than a façade.

**Emergency Counseling Service.** A facility designed to accommodate drop-in specialized care services for adults, children and adolescents experiencing a psychiatric or substance abuse emergency. Services may include initial psychiatric assessment, medication, nursing, psychiatric evaluations, individual therapy, and substance abuse counseling, but may not include overnight stays.

**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.

**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.

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

**Family.** Two or more persons related by blood, marriage, or other legal means. See also “Household.”

**Farm, crop & nursery.** Any commercial enterprise which has as its primary purpose horticulture, viticulture, viniculture, floriculture or forestry, or as the definition of Agricultural Operations related to such crops may be amended from time to time in Section 2-23-4 of the Rhode Island General Laws entitled “The Rhode Island Right to Farm Act.”

**Farm, livestock.** Any commercial enterprise which has as its primary purpose dairy farming, or the raising of livestock, furbearing animals, poultry or bees, or as such definition of Agricultural Operations related to such livestock may be amended from time to time in Section 2-23-4 of the Rhode Island General Laws entitled “The Rhode Island Right to Farm Act.”

**Fishery equipment.** Equipment including but not limited to lobster pots and traps; nets and netting; ropes; fishing spears, rakes, shovels, and other stabbers, diggers, and scoopers; buoys; and other such related equipment designed for fishing or aquaculture use.

**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.

**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.].

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

**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 structures on the same lot shall also be included.

**Freeboard.** A factor of safety expressed in feet above the base flood elevation of a flood hazard area for purposes of floodplain management. Freeboard compensates for the many unknown factors that could contribute to flood heights such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

**Frontage.** The area between a building Façade and the vehicular lanes, inclusive of its built and planted compo-

nents. Frontage is divided into **Private Frontage** and **Public Frontage**.

**Frontage line.** A Lot Line bordering a Public Frontage. Facades (defined herein as any exterior wall of a building that is set along a Frontage Line) define the public realm and are therefore more regulated than the Elevations facing other Lot Lines. See Table 6-2.

**Fuel service station.** Buildings/structures and lots where gasoline, electricity, hydrogen and other vehicle fuels, along with oil, grease, batteries, tires, and automobile accessories, are sold at retail.

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

**Grade.** The average level of the finished surface of the ground adjacent to the exterior walls of the building.

**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)

**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, and utility and mechanical equipment areas which are used solely for the maintenance of the building.

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

**Habitable floor area.** For purposes of Compact Cottage Development (CCD), the accessible floor area measured from the interior walls of a dwelling unit excluding the following:

- unheated storage space located under the main floor of the dwelling unit;
- architectural projections, such as bay windows, fireplaces or utility closets no greater than eighteen (18) inches in depth or six (6) feet in width;
- attached porches (unenclosed);
- detached garages or carports;
- spaces with ceiling height of five (5) feet or less measured to the exterior walls.

**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.

**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].

**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].

**Heavy equipment sales or rentals.** The use of any building, land area, or portion thereof, for the display and sale or rental/lease of tractors or construction and heavy equipment, including incidental parking and servicing of associated vehicles and equipment.

**Height, wind turbine.** The height of a wind turbine measured from natural grade to the tip of the rotor blade at its highest point or blade-tip height. This measure is also commonly referred to as the maximum tip height (MTH).

**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 personal 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 for emergency, rescue and/or law enforcement purposes.

**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.

**Home occupation.** Any activity customarily carried out for economic gain by a resident which meets the standards of Sec. 82-1210.

**Hotel.** A building or buildings containing lodging rooms, 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.

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

**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.

**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.

**Inclusionary Housing Agreement.** An agreement recorded in the Town’s Land Evidence Records describing how the developer will comply with the provisions of Article 16.

**Inclusionary Unit.** An affordable housing unit, as defined in this Ordinance.



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

**Kitchen.** A living space including a range with either burners or cook-top with the exclusion of cooking devices such as microwave oven or hot plates and a sink.

**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 conservation development for residential, commercial, institutional, recreational, open space, and/or mixed uses as may be provided for in the ordinance [this chapter].

**Land suitable for development.** Land suitable for development means any land area other than Land Unsuitable for Development.

**Land unsuitable for development.** [Land unsuitable for development] means land which has environmental constraints or physical constraints to development and 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 land suitable for development 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. For conservation developments, the regulations in Sec. 82-1507 shall apply.

- 2) Coastal features and coastal wetlands as defined herein.
- 3) Land located within Special Flood Hazard Area (SFHA) as defined in Sec. 82-104.2 herein or shown on the Newport County flood insurance rate map, and any revisions thereto.
- 4) 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 project in accordance with applicable subdivision regulations

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

**Lot.** [Lot means] either:

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

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

**Lot coverage.** That portion of the lot that is or may be covered by buildings and accessory buildings and accessory structures. See Sec 82-703

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

**Lot 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:

- *Front.* The lot line separating a lot from a street right-of-way;
- *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
- *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.

**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.

**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.

**Low and Moderate Income Housing.** Also referred to as **LMI** Housing. Any housing whether built or operated by any public agency or any nonprofit organization or by any limited equity housing cooperative or any private developer, that is subsidized by a federal, state, or municipal government subsidy under any program to assist the construction or rehabilitation of housing affordable to low or moderate income households. In the case of dwelling units for sale, this 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, this 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. LMI Housing will remain affordable through a land lease and/or deed restriction for ninety-nine (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 thirty (30) years from initial occupancy.

**Major Recreational Equipment.** See Recreational Equipment, Major, See Sec 82-706

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

**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.

**Marsh.** A place 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 (Alismataciaceae), 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).

**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].

**Meteorological tower, temporary (Met Tower).** A temporary tower equipped with devices to measure wind

speed and direction, to determine how much electricity a wind energy facility can be expected to generate. This is NOT considered a Wind Energy Facility.

**Minor modification.** Alteration to a building that includes one or more of the following:

- 1) That is valued at less than 50% of the replacement cost of the entire building;
- 2) New construction of single-family homes;
- 3) Less than 50% alteration of a building exterior;
- 4) Less than 50% alteration of street façade;
- 5) Expansion of use which requires 15 or fewer net new parking spaces.

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

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

**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.

**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.

**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.

**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.

**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.

**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.

**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.

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

**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:

**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

**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.

**Nursing or Convalescent Home.** An establishment which provides full-time convalescent or chronic care for the aged or infirm. No intensive care treatment commonly provided in hospitals shall be provided in such a home.

**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.

**Official zoning map.** See “Zoning map.”

**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.

**Onsite Wastewater Treatment System (OWTS).** Any system of piping, tanks, dispersal areas, alternative toilets or other facilities designed to function as a unit to convey, store, treat or disperse wastewater by means other than discharge into a public wastewater system.

**Ordinance.** See “Zoning ordinance.”

**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.

**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.

**OWTS.** See “Onsite Wastewater Treatment System”

**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.

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

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

**Personal services.** Establishments that provide non-medical, individual services generally related to personal needs. May include laundry or dry cleaners (pickup only, no plant), self-service laundromat, mortuary or funeral home, beautician, barber, shoe repair, and similar services.

**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.

**Pet Grooming.** An establishment where domestic pets, (dogs and cats) are groomed and washed and may include the ancillary sale of products related to the service, but does not include any associated kennel, overnight accommodations, obedience training, pet walking or pet food sales.

**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.

**Pond.** A place, natural or manmade not less than one-quarter (1/4) acre in extent, where open standing or slowly moving water shall be present for at least six months a year.

**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.

**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.

**Principal building.** The main building on a Lot, usually located toward the Frontage.

**Principal entrance.** The main point of access for pedestrians into a building.

**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)

**Principal use.** The primary or predominant use of any lot, building or structure, as distinguished from an *Accessory Use*.

**Private frontage.** The privately held Layer between the Frontage Line and the Principal Building Facade.

**Professional office.** A facility for professional services, as opposed to retail products, to individuals, business, industry, government, and other enterprises.

**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.

**Public frontage.** The area between the curb or edge of the vehicular lanes and the Frontage Line.

**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. (see Bioretention Facility)

**Recreation hall.** An indoor facility, with or without seating for spectators, and providing accommodations for a variety of individual or organized sports. Such facility may also provide other regular organized events, health and fitness club facilities, and other support facilities and programs.

**Recreational equipment, major.** Equipment which includes but is not limited to travel trailers, pickup campers or coaches, motorized dwellings, recreational vehicles (RVs), tent trailers, power and sail boats larger than 15 feet in length, and boat trailers. Major recreational equipment does not include dinghies, prams, kayaks, canoes, rowboats or the like, nor does it include mobile homes in residential districts.

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

**Retail, general:** A commercial enterprise, not otherwise specifically defined herein, that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser.

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

**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.

**Self-storage facility.** Any real property designed and used for the renting or leasing of individual self-contained units of storage space to occupants who are to have access to such units for storing and removing personal property only, and not for residential purposes.

**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.

**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.

**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.

**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.

**Sign, animated.** Signs with moving components that revolve, flash, scroll, or otherwise regularly or intermittently move in a manner that is designed to attract attention are prohibited. Clocks that serve the sole purpose of providing the time and barber poles are not considered to be signs for the purposes of Article 14, Sign Regulations.

**Sign, awning & canopy.** Any sign painted on or attached to or supported by an awning or canopy. 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 sign, but the vertical height of the sign area may be no more than 3 feet.

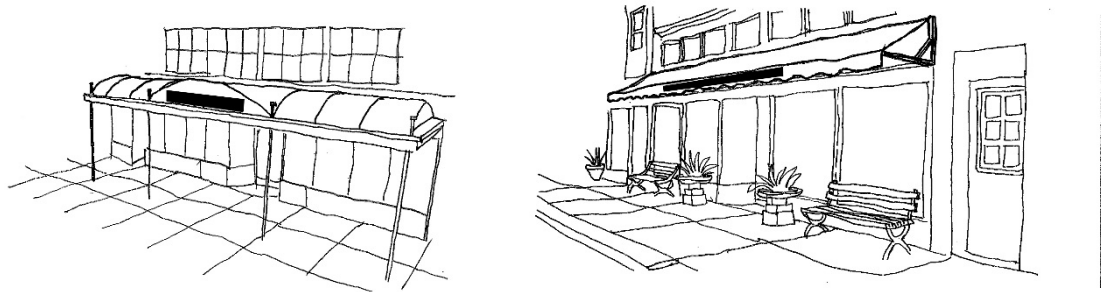


Canopy Sign Area

Awning Sign

Measurements

The method for calculating the total area of awning signs is illustrated in the graphics below. Calculate sign area by imaginary panel drawn around copy. Do not calculate decorative graphics.

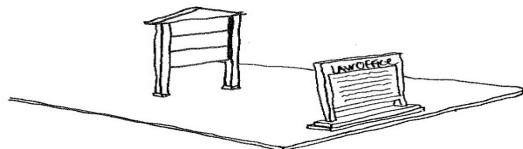


Canopy Sign

Awning Sign Area

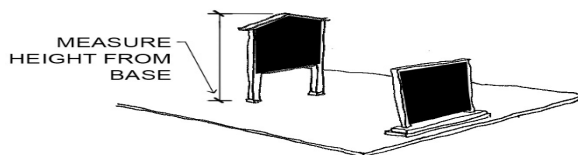
**Sign, billboard.** Any sign or advertising device designed as a permanent structure which advertises a use or activity not located on, or a product not sold nor manufactured on the lot upon which the sign or device is located.

**Sign, ground or ladder.** A freestanding single- or double-faced sign, supported on the ground or 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. Below are illustrations of typical ground and ladder signs.



Ladder Sign and Ground Sign

The method for calculating the total area of ground and ladder signs is illustrated in the graphics below:



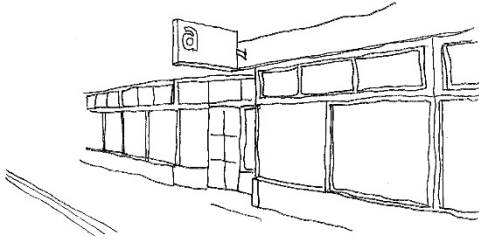
Ladder Sign Area and Ground Sign Area

**Sign, interior-lighted.** Signs illuminated by an interior lighting source that projects 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 Sec. 82-1408.

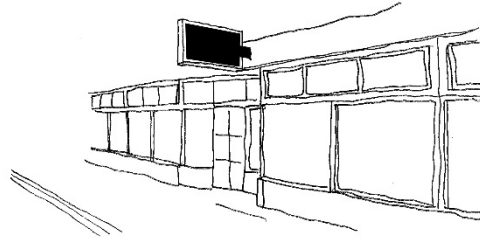
**Sign, posted.** Signs tacked, posted, painted or otherwise attached to utility poles, trees, sidewalks, curbs or rocks.

**Sign, projecting.** Signs which project over public ways and are installed perpendicular to the façade. Such signs shall not exceed eight square feet in area, must have a clear height of eight feet above the sidewalk, and must be erected and secured in such a manner as to preclude their becoming a safety hazard to the public. The sign area is calculated including all supports, backgrounds, and embellishments.





Projecting Sign



Projecting Sign Area

**Sign, roof.** Any sign erected on a roof or projecting above the eaves of a building, or any other such display sign placed above or supported on the top of a building or structure.

**Sign, sandwich board.** A sign where the frame or support structure is hinged or connected at the top of the sign in such a manner that the sign is easily moved or erected.

**Sign, trailer.** 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 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.

**Sign, wall.** A sign attached parallel to, or painted on, the vertical wall of a building exterior. The method for calculating the total area of walls signs is illustrated in the graphic below:

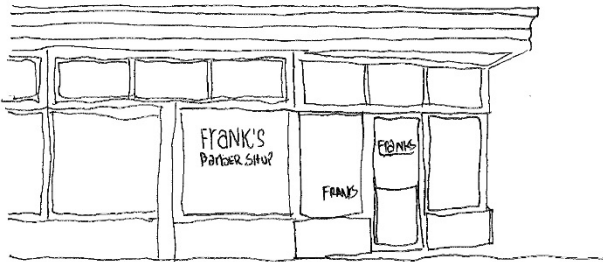


Wall Sign



Wall Sign Area

**Sign, window.** Any sign with its face parallel and affixed to, in contact with, or within 12 inches of depth from a window thereof. Normal displays of merchandise in store windows shall not be considered signs.



Window Sign

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

**Solar canopy.** An elevated structure, built to cover a parking area, that hosts solar panels and provides shade. Solar canopies are separate and distinct from solar panels installed onto a carport structure. Solar canopies shall be considered accessory solar energy systems.

**Solar decommissioning / restoration plan.** A plan for dismantling a solar energy system, along with a plan for the site restoration of the land where the system is located, and a financial guarantee for the completion of the dismantling and restoration after the system is no longer operational.

**Solar energy system.** The equipment and requisite hardware that provide and are used for collecting, transferring, converting, storing, or using incident solar energy for water heating, space heating, cooling, generating electricity, and off-loading said electricity to the grid, or other applications that would otherwise require the use of a conventional source of energy such as petroleum products, natural gas, manufactured gas, or electricity produced for a nonrenewable resource. This shall include photovoltaic arrays and installations that utilize ground-mounted systems.

**Solar energy system, accessory.** A solar energy system that is incidental and subordinate to the principal use(s) of the parcel or development, and that may include the following:

- Roof-mounted
- Ground mounted
- Building-integrated
- Solar Canopies

A ground mounted accessory solar energy system, inclusive of inter-row and panel/collector spacing, shall not exceed 5,000 square feet or 20% of the net buildable area of the lot or lots on which it is located (i.e., the total area of the applicable lot, minus setbacks, vegetated buffers, and wetlands).

**Solar energy system, building-integrated.** A solar energy system that is constructed as an integral part of a principal or accessory building or structure and where the building integrated system features maintain a uniform profile or surface of vertical walls, window openings and roofing. Such a system is used in lieu of a separate mechanical device replacing or substituting for an architectural or structural component of the building or structure that appends or interrupts the uniform surfaces of walls, window openings, and roofing. A building-integrated system may occur within vertical facades replacing view glass, spandrel glass or other facade material into semitransparent skylight systems, into roofing systems replacing traditional roofing materials or other building or structure envelope systems.

**Solar energy system, building-mounted.** A solar energy system that has its electricity-generating solar panels attached to any part or type of roof on a building or structure that has an occupancy permit on file with the municipality and that is either the principal structure or an accessory structure on a recorded parcel. This system also includes any solar-based architectural elements and building-integrated systems.

**Solar energy system, ground-mounted.** A solar energy system that has its electricity-generating solar panels mounted on a structure, pole or series of poles constructed specifically to support the system and not attached to any other principal or accessory structure.

**Solar energy system, major.** A solar energy system for which the primary use of land on a given lot or lots is for the commercial generation of power, and/or where a solar energy system, inclusive of inter-row and panel/collector spacing, is larger than the definition of an accessory solar energy system, regardless of whether the solar energy system is an accessory or primary use.

**Solar energy system operator.** The agent or entity that conducts the daily operation and maintenance of the solar energy system under contractual agreement with the solar energy system owner.

**Solar energy system owner.** The owner of equipment and appurtenances comprising the solar energy system; said entity may also be the solar energy system operator.

**Solar interconnection.** The point at which the solar system is connected to the electric distribution system. The interconnection of the system by the electric distribution company will generally be located at the street or along an access driveway outside of the fenced area.

**Special event parking.** Any parcel used to accommodate spillover parking for a special, one-time event such as a concert, festival, wedding, etc.

**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).

**Street.** Any street, avenue, highway, boulevard, parkway, road, lane, alley or other way, which has been dedicated to the public and accepted by the Town of Jamestown or State of Rhode Island.

**Street line.** The line separating the street right-of-way from other property.

**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.

**Story.** A habitable level within a building, excluding any basement or any attic less than 14 feet high.

**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.

**Substance abuse treatment facility.** A residential facility with a 24-hour supervised treatment program designed to provide support and address the substance abuse treatment needs of people with substance abuse problems.

**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].

**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) Demolition;
- 5) Grading that disturbs more than two vertical feet of land;
- 6) Fifty percent or greater alteration of street façade;

- 7) New use category;
- 8) Expansion of use which requires more than 15 net new parking spaces; or
- 9) A use applying for no net loss of parking per Sec. 82-1307.

**Swale.** A low or slightly depressed area for drainage purposes.

**Swamp.** A place not less than three (3) acres in extent 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 foetidus*), hellebore (*Veratrum veride*), hemlock (*Tsuga canadensis*), sphagnums (*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.

**Technical Review Committee (TRC).** Lead by the Planning Department, 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.

**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.

**Town.** Town of Jamestown.

**Town council.** The town council of the Town of Jamestown.

**TRC.** Technical Review Committee.

**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.

**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.

**Use category.** The categories for specific uses as found in Table 6.1, Table of Permitted Uses:

- Residential;
- Lodging;
- Agricultural;
- Government, Education, Institutional;
- Transportation and Utilities;
- Commercial, Retail – Heavy Equipment;
- Commercial, Retail – Food;
- Commercial, Retail – Eating and Drinking Places;
- Commercial, Retail – Motor Vehicles;
- Commercial, Retail – Commercial Indoor Recreation;

- Commercial, Retail – Commercial Outdoor Recreation;
- Commercial, Retail – Miscellaneous;
- Commercial Services – Professional, Office;
- Commercial Services – Personal Services;
- Industrial, Non-Manufacturing;
- Industrial, Manufacturing.

**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.

- 1) *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].
- 2) *Dimensional variance.* Permission to depart from the dimensional requirements of the zoning ordinance [this chapter], where the applicant for the requested relief has shown, by evidence upon the record, that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience. 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.

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

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

**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.

**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.

**Wind energy facility.** All of the equipment, machinery, and structures together utilized to convert wind to electricity. This includes, but is not limited to, developer-owned electrical equipment, storage, collection and supply equipment, service and access roads, and one or more wind turbines.

**Wind energy facility, utility-scale.** A commercial wind energy facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets.

**Wind turbine.** A device that converts kinetic wind energy into rotational energy to drive an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.

**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]:

- 1) *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.
- 2) *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.

- 3) *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.
- 4) *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.

**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.

**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.

**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.

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

**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.

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

**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. 82-104.2 Flood Plain Definitions.

Unless specifically defined below, words and phrases used in Sec. 82-801 (Community flood plain ordinance for special flood hazard areas) of this ordinance pertain to floodplain management, have the same meaning as they have in common usage and to give this ordinance its most reasonable application.

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

**Area of Special Flood Hazard.** See definition for “Special Flood Hazard Area”.

**Base flood.** The flood having a one (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.

**Height.** The maximum height for buildings and structures erected in Special Flood Hazard areas shall be in accordance with the Dimensional Table of this ordinance (§82-302) minus the difference between the base flood elevation, however established, and the average existing grade.

**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. 82-601, Table 6-1) 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 (RV).** 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:

- a) 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
- b) 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.

## **Article 2. 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. 82-200. 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. A minimum of four members, which may include alternates, shall form a duly constituted quorum. 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. 82-201. 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) Four active members, which may include alternates, shall be necessary to conduct a hearing. As soon as a conflict occurs for a member, that member shall recuse himself or herself, shall not sit as an active member, and take no part in the conduct of the hearing. A maximum of five active members, which may include alternates, shall be entitled to vote on any issue;
  - 2) The concurring vote of a majority of 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 a majority of 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. 82-202. Use of powers.**

In using the powers listed in Sec. 82-201, 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. 82-203. 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 65 days of the date of the filing of the application or appeal. Any party may appear at the hearing in person, by agent or by attorney.
- D. The zoning board shall render a decision within 15 days after the close of a public hearing. 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. 82-204. 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. 82-205. 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. 82-206. 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 3. Special Use Permits and Variances**

#### **Sec. 82-300. 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. 82-301. Special use permits authorized by this ordinance [chapter].**

In accordance with the procedure established in Article 2 (Zoning Board of Review) 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 Sec. 82-601 (Uses and districts) herein, for change of a nonconforming use as provided in Article 9 (Nonconforming Uses) [of this chapter], and for accessory structures located in front yards as provided in Sec. 82-700 (Accessory structures) herein.

#### **Sec. 82-302. 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. 82-303. 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. 82-304. 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. 82-305. 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. 82-306. 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:

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

D. That the relief to be granted is the least relief necessary.

**Sec. 82-307. 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:

- A. In granting a use variance, the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the 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
- B. 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.
- C. 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. 82-308. 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. 82-309. 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 6 [of this chapter], up to 25 percent.

- A. 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 6 of this ordinance [chapter].
- B. 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:
  - 1) The modification requested is reasonably necessary for the full enjoyment of the permitted uses;
  - 2) If the modification is granted, neighboring property will neither be substantially injured nor its appropriate use substantially impaired;
  - 3) The modification requested is in harmony with the purposes and intent of the comprehensive plan and zoning ordinance [this chapter];
  - 4) The modification requested does not require a variance of a flood hazard requirement.
- C. 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.

- D. 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.
- E. 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].
- F. Costs of any notice or advertising required under this section shall be borne by the applicant.

(Ord. of 11-30-1998)

## **Article 4. General Administration and Enforcement**

### **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 and on the Town's website. 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 2 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. 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 10 of the Zoning Ordinance for applications meeting the definition of a Substantial Modification in the CL, CD, CW and P.

D. TRC Administrative Review. The application types listed below shall be administratively reviewed and an administrative decision rendered by the TRC. If a majority of the TRC determines that an application does not meet the criteria for Administrative Review or has a project element(s) that renders public review appropriate or necessary, the application shall be assigned to the Planning Commission for full review, and the TRC shall conduct advisory review.

- 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 10 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 Districts and Zoning Map

### Sec. 82-500. 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 adequately 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 semipublic uses.  
(Ord. of 3-22-1999, § 2; Ord. of 6-25-2001, § a; Ord. of 8-26-2002)

#### **Sec. 82-501. 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)

**Editor's 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. 82-502. 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) 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 6. Application of District Regulations

### Sec. 82-600. 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. 82-601. Uses and districts.

The symbols in the table below have the following meanings:

Y = Permitted use

N = Not permitted

S = Permitted by Special Use Permit

A = Permitted only accessory to a principal permitted use

The abbreviations for each of the zoning districts in this table are as described in Sec. 82 500. Zoning districts.

CWe refers to the Commercial Waterfront District at East Ferry and CWw refers to the Commercial Waterfront District at West Ferry. Where use allowances are the same for both of these sub-districts, there is one symbol. Where use allowances are different, there are two symbols. Mixed use refers only to a mix of uses. The individual uses being mixed shall be governed separately in the use table.

Permitted Uses		Table 6-1												
Use		District												
		P	OS-I	OS- II	RR-200	RR-80	R-40	R-20	R-8	CL	CD	CWe	CWw	DC
<b>I. RESIDENTIAL</b>														
1.	Single-family dwelling	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
2.	Conservation Development*	N	N	N	Y	Y	Y	Y	N	N	N	N	N	N
3.	Two-family dwelling or duplex	N	N	N	N	N	N	S	Y	Y	Y	Y	Y	Y
4.	Multifamily dwelling development/structure – See 1200	N	N	N	N	N	S	S	S	S	S	N	N	S
5.	Community residence	N	N	N	Y	Y	Y	Y	Y	Y	Y	N	N	Y
6.	Family day care home	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
7.	Mobile Home/ Manufactured Home/Trailer Park	N	N	N	N	N	N	N	N	N	N	N	N	N
8.	Transient Trailer Park	N	N	N	N	N	N	N	N	N	N	N	N	N
9.	Mixed use +	N	N	N	N	N	N	N	N	Y	Y	Y	S	S
10.	Accessory Dwelling Unit – See 1201	N	N	N	Y	Y	Y	Y	Y	Y	Y	N	N	N
11.	Compact Cottage Development – See 1203	N	N	N	N	N	N	Y	Y	Y	Y	N	N	N
12.	Assisted Living Facilities – See _____	N	N	N	N	S	S	S	S	Y	Y	N	N	N
<b>II. LODGING</b>														
1.	Motel or hotel	N	N	N	N	N	N	N	N	S	S	N	N	N
2.	Bed and breakfast home - See 1202	N	N	N	N	N	N	N	N	S	S	N	N	N
<b>III. AGRICULTURAL</b>														
1.	Farm, Crops and Nurseries	Y	N	S	Y	Y	Y	Y	Y	Y	Y	N	N	N
2.	Farm, Livestock	Y	N	S	Y	Y	S	S	N	N	N	N	N	N
3.	Keeping and raising of chicken hens accessory to permitted use – See 1207	Y	N	S	Y	Y	Y	Y	Y	N	N	N	N	N
4.	Aquaculture	S	N	S	S	S	S	S	S	S	N	S	S	S
<b>IV. GOVERNMENT, EDUCATION, INSTITUTIONAL</b>														
1.	School or college	S	N	N	N	S	S	S	S	S	S	N	N	N
2.	Religious institution	N	N	N	N	S	S	S	S	S	S	N	N	N
3.	Library, museum, etc.	S	N	S	N	S	S	S	S	S	S	N	N	N
4.	Cemetery	S	N	N	N	S	S	S	S	S	S	N	N	N
5.	Hospital or clinic	N	N	N	N	S	S	S	N	S	S	N	N	S

Use		District												
		P	OS-I	OS- II	RR-200	RR-80	R-40	R-20	R-8	CL	CD	CWe	CWw	DC
6.	Nursing or Convalescent home	N	N	N	N	S	S	S	S	S	S	N	N	S
7.	Emergency counseling service	N	N	N	N	N	N	N	N	S	S	N	N	N
8.	Fire or police station	S	N	N	N	S	S	S	S	Y	Y	N	N	N
9.	Government facility (except penal, utility or garage)	S	N	N	N	S	S	S	S	S	S	N	N	N
10.	Government-owned penal, garage or utility facility	S	N	N	N	N	N	N	N	S	S	N	N	N
11.	Halfway house	N	N	N	N	N	N	N	N	N	N	N	N	N
12.	Charitable or fraternal organization	S	N	N	N	N	N	N	N	S	S	N	N	N
13.	Recreational ballfields	S	N	S	N	S	S	S	S	S	S	N	N	N
14.	Park and recreation use, including skateboard or ice rinks and playgrounds together with buildings, ancillary to the park use, such as bathrooms, educational space, and storage.	Y	N	Y	S	S	S	S	S	S	S	S	S	S
<b>V. TRANSPORTATION AND UTILITIES</b>														
1.	Off-street parking (accessory)	Y	N	S	Y	Y	Y	Y	Y	Y	N	Y	Y	Y
2.	Off-street parking (commercial)	N	N	N	N	N	N	S	S	Y	N	N	N	Y
3.	Seasonal off-site marina parking	N	N	N	N	N	S	S	N	Y	Y	Y	Y	N
4.	Off-site parking (municipal)	Y	N	N	Y	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	N
6.	Boat and ship storage (noncommercial)	N	N	S	Y	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	N
8.	Bus passenger shelter	S	N	N	N	N	N	S	S	Y	Y	Y	Y	N
9.	Public and semipublic structure	S	N	N	S	S	S	S	S	Y	Y	N	N	N
10.	Power generating station (commercial)	N	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	N
12.	Transmission lines, towers or substations	S	N	N	S	S	S	S	S	S	S	N	N	N
13.	Incinerator, landfill or waste disposal facility	N	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	N
15.	Solid waste transfer station	S	N	N	N	S	N	N	N	N	N	N	N	N
16.	Nuclear power facility	N	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	S
18.	Wind energy facility – See 1205	S	N	S/A	S/A	S/A	S/A	S/A	S/A	S/A	S/A	S/A		S/A

Use		District												
		P	OS-I	OS-II	RR-200	RR-80	R-40	R-20	R-8	CL	CD	CWe	CWw	DC
19.	Heliport/Helistop++	N	N	N	N	N	N	N	N	N	N	N	N	N
20.	Accessory Solar Energy System – See 1204	A	A	A	A	A	A	A	A	A	A	A	A	A
21.	Major Solar Energy System – See 1204	S	N	N	N	N	N	N	N	N	N	N	N	N
22.	Communications Towers – See 1206	S	S	S	S	S	N	N	N	N	N	N	N	N
<b>VI. COMMERCIAL, RETAIL</b>														
<b>A.</b>	<b>Heavy equipment</b>													
1.	Lumber and building materials	N	N	N	N	N	N	N	N	Y	S	N	N	N
2.	Heating, plumbing, electrical or hardware	N	N	N	N	N	N	N	N	Y	Y	N	N	N
3.	Heavy equipment sales or rentals	N	N	N	N	N	N	N	N	S	S	N	N	N
<b>B.</b>	<b>Food</b>													
1.	Grocery, bakery, dairy, fruit and vegetable, meat and fish, etc.	N	N	N	N	N	N	N	N	Y	Y	S	S	N
2.	Sale of produce raised on premise	N	N	S	Y	Y	Y	Y	Y	Y	Y	N	N	N
3.	Packaged liquor stores	N	N	N	N	N	N	N	N	S	Y	N	N	N
<b>C.</b>	<b>Eating and drinking places</b>													
1.	Lunchroom or restaurant (no alcoholic beverages)	N	N	N	N	N	N	N	N	Y	Y	Y	S	N
2.	Tavern, bar or nightclub (alcoholic beverages)	N	N	N	N	N	N	N	N	N	S	N	N	N
3.	Lunchroom or restaurant (alcoholic beverages)	N	N	N	N	N	N	N	N	S	S	S	S	N
4.	Drive-in restaurant (no alcoholic beverages)	N	N	N	N	N	N	N	N	N	N	N	N	N
<b>D.</b>	<b>Motor vehicles</b>													
1.	Motor vehicle dealers, including repairs conducted in a building	N	N	N	N	N	N	N	N	S	N	N	N	N
2.	Tire, battery and accessories sales	N	N	N	N	N	N	N	N	Y	Y	N	N	N
3.	Fuel service station – see 1211	N	N	N	N	N	N	N	N	S	S	N	N	N
4.	Auto body or paint shop	N	N	N	N	N	N	N	N	S	N	N	N	N
5.	General auto repair	N	N	N	N	N	N	N	N	S	S	N	N	N
6.	Vehicle rental agency	N	N	N	N	N	N	N	N	S	S	N	N	N
7.	Moped, motorized bicycles, rental	N	N	N	N	N	N	N	N	N	N	N	N	N
8.	Personal watercraft, rental	N	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
<b>E.</b>	<b>Commercial recreation</b>													
1.	Commercial recreation facilities	N	N	N	N	N	N	N	N	S	S	N	N	N
2.	Theater or concert hall	N	N	N	N	N	N	N	N	S	Y	N	N	N
3.	Casino gambling, gaming, wagering or any gaming of any type	N	N	N	N	N	N	N	N	N	N	N	N	N
4.	Adult businesses	N	N	N	N	N	N	N	N	N	N	N	N	N
5.	Amusement or video arcades	N	N	N	N	N	N	N	N	N	N	N	N	N
6.	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	N
7.	Miniature golf, driving ranges, pitch and putt, etc.	N	N	N	N	N	N	N	N	N	N	N	N	N
8.	Tent or recreational vehicle camps	N	N	S	N	N	N	N	N	N	N	N	N	N
9.	Riding academies	N	N	N	S	S	S	N	N	N	N	N	N	N
10.	Roller, ice skating or skateboard rink	N	N	N	N	N	N	N	N	N	N	N	N	N
11.	Amusement parks	N	N	N	N	N	N	N	N	N	N	N	N	N
12.	Drive-in theater	N	N	N	N	N	N	N	N	N	N	N	N	N
13.	Marina	S	N	S	N	S	S	S	S	Y	Y	Y	Y	N
14.	Boat and ship storage, and repair	S	N	N	N	S	S	S	S	Y	S	Y	Y	N
15.	Yacht clubs and beach clubs (no alcoholic beverages)	N	N	N	N	S	S	S	S	S	S	N	N	S
16.	Yacht clubs and beach clubs (alcoholic beverages)	N	N	N	N	N	N	N	N	S	S	N	N	N
17.	Beach cabanas and bath (no alcoholic beverages)	N	N	N	N	S	S	S	S	S	N	N	N	N
<b>F.</b>	<b>Miscellaneous retail</b>													
1.	Retail, general	N	N	N	N	N	N	N	N	Y	Y	N	N	N
2.	Furniture, floor covering and furnishings	N	N	N	N	N	N	N	N	Y	Y	N	N	Y
3.	Radio, TV, records and tapes	N	N	N	N	N	N	N	N	S	Y	N	N	N
4.	Fuel oil, bottled gas, etc., including storage	N	N	N	N	N	N	N	N	S	S	S/A	S/A	N
5.	Marine supplies, bait and accessories	N	N	N	N	N	N	N	N	Y	Y	Y	Y	N
6.	Gift, souvenir and tobacco shops	N	N	N	N	N	N	N	N	Y	Y	Y	S	N
7.	Sale of horticultural and agricultural products raised on premises	N	N	S	Y	Y	Y	S	N	Y	Y	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.	Sale of home crafts products manufactured on premises	N	N	N	S	S	S	S	S	Y	Y	S	S	S
9.	Marijuana growing, processing, cultivating, testing, and sales, including but not limited to: marijuana compassion center; licensed marijuana cultivator; marijuana processing and testing; marijuana wholesale and retail sales; (Excludes state medical marijuana program for individual qualified patient cardholder, primary caregiver, and licensed medical marijuana cooperative); and Cannabis establishments. +++	N	N	N	N	N	N	N	N	N	N	N	N	N
<b>VII. COMMERCIAL SERVICES</b>														
<b>A.</b>	<b>Professional office</b>													
1.	General commercial office or bank	N	N	N	N	N	N	N	N	Y	Y	N	N	S
2.	Temporary real estate office or model home**	N	N	N	N	S	S	S	S	S	S	N	N	S
3.	Home occupation – See 1210	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.	Freestanding automated teller machine (ATM)	N	N	N	N	N	N	N	N	S	S	S	S	N
5.	Day care center	N	N	N	N	N	N	N	S	Y	Y	N	N	N
<b>B.</b>	<b>Personal services</b>													
1.	Personal Services, General	N	N	N	N	N	N	N	N	Y	Y	N	N	N
2.	Caterer	N	N	N	N	N	N	N	N	S	S	N	N	S
3.	Kennels	N	N	N	N	N	N	N	N	N	N	N	N	N
4.	Boarding of animals (excluding dogs)	N	N	N	S	S	N	N	N	N	N	N	N	N
5.	Pet Grooming	N	N	N	N	N	N	N	N	S	S	N	N	N
<b>VIII. INDUSTRIAL, NON- MANUFACTURING</b>														
1.	Earth removal	N	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	N
3.	Welding/sheet metal	N	N	N	N	N	N	N	N	S	S	N	N	N
4.	Wholesale business and storage of nonhazardous materials in a building	N	N	N	N	N	N	N	N	S	S	N	N	N
5.	Self-Storage Facilities	N	N	N	N	N	N	N	N	N	N	N	N	N
6.	Open lot storage of building materials or machinery	N	N	N	N	N	N	N	N	S	N	N	N	N
7.	Open storage of sand and gravel	N	N	N	N	N	N	N	N	S	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 storage of junk or scrap materials	N	N	N	N	N	N	N	N	N	N	N	N	N
9.	Open or enclosed storage of hazardous materials	N	N	N	N	N	N	N	N	N	N	N	N	N
10.	Storage or transfer of fishery products	N	N	N	N	N	N	N	N	S	S	Y	Y	N
11.	Storage or transfer of fishery equipment (fishing industry, limited to storage and transfer) – See 1208	S	N	S>	Y	S	N	N	S	Y	Y	Y	Y	N
12.	Underground storage tanks – See 1209	N	N	N	N	N	N	N	N	S/A	S/A	S/A	S/A	N
<b>IX. INDUSTRIAL, MANUFACTURING</b>														
1.	Manufacturing industries except those specifically regulated herein	N	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/A	S/A	N
3.	Petroleum refining and related industries	N	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	Y	N
5.	Acetylene gas	N	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	N
7.	Asphalt	N	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	N
9.	Rubber	N	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	N
11.	Pulp mill	N	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	Y	N

\* The provisions of this table notwithstanding, for the purposes of calculating minimum lot size, maximum lot coverage, maximum building height, minimum yard dimensions, setbacks for accessory structures, the maximum number of lots or dwelling units and the uses permitted in a conservation development in any zoning district where permitted, shall be governed by the provision of Article 15 – Conservation Developments of this Ordinance.

\*\* One year only.

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

++ 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.

+++ Uses as defined in G.L. 1956, § 21-28.6-3 and under § 21-28.11-3(14) of the Rhode Island Cannabis Act.

> Limited to transfer (not storage) only.

(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)

**Sec. 82-601.1 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. 82-602. District dimensional regulations.**

The district dimensional regulations set forth in Table 6-2 shall be met for all uses of land permitted under this ordinance [chapter].

Public Zoning District						Table 6-2					
Use	Minimum Lot Size		Lot Coverage	Building Height (feet)		Minimum Yards (feet)				Accessory Structures (feet) see Section 82-700	
	Area (SF)	Frontage Line (feet)		Principal	Accessory	Front	Corner	Side	Rear	Side Lot Line	Rear Lot Line
Library, Museum	40,000	150	25	35	25	0* 50	10* 50	10* 30	10* 30	10	10
School or college	120,000	200	25	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	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	35	25	20* 50	20* 50	20	30	10	10
Government facility (except penal, utility or garage)	40,000	100	50	35	25	0* 50	0* 50	0* 50	30* 50	10* 20	10
Government-owned penal, utility or garage	40,000	200	25	35	25	50* 75	50* 75	20* 75	30* 75	10* 20	10
Sewage treatment station (publicly owned)	80,000	200	25	35	25	50* 75	50* 75	20* 75	30* 75	15* 50	15* 50
All other permitted uses	40,000	100	25	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						Table 6-2					
Use	Minimum Lot Size		Lot Coverage	Building Height (feet)		Minimum Yards (feet)				Accessory Structures (feet) see Section 82-700	
	Area (SF)	Frontage Line (feet)		Principal	Accessory	Front	Corner	Side	Rear	Side Lot Line	Rear Lot Line
Single-family dwelling	200,000	300	5	35	25	50	40	40	50	20	20
Golf course	200,000	300	5	35	25	50	40	40	50	20	20
Other permitted uses	40,000	150	5	35	25	50	40	40	50	20	15

RR-200 Zoning District						Table 6-2					
Use	Minimum Lot Size		Lot Coverage	Building Height (feet)		Minimum Yards (feet)				Accessory Structures (feet) see Section 82-700	
	Area (SF)	Frontage Line (feet)		Principal	Accessory	Front	Corner	Side	Rear	Side Lot Line	Rear Lot Line
Single-family dwelling	200,000	300	5	35	25	50	40	40	50	20	20
Other permitted uses	200,000	300	5	35	25	50	40	40	50	40	50

RR-80 Zoning District						Table 6-2					
Use	Minimum Lot Size		Lot Coverage	Building Height (feet)		Minimum Yards (feet)				Accessory Structures (feet) see Section 82-700	
	Area (SF)	Frontage Line (feet)		Principal	Accessory	Front	Corner	Side	Rear	Side Lot Line	Rear Lot Line
Single-family dwelling	80,000	200	20	35	25	40	40	30	40	20	20
Multi-family dwelling	200,000	300	25	35	25	100	100	100	100	50	50
School or college, religious institution	10 acres	300	25	45	40	100	100	100	100	50	50
Other governmental, educational, institutional uses	200,000	200	25	45	40	50	40	40	50	40	50
Other permitted uses	80,000	200	20	35	25	40	40	30	40	25	25

R-40 Zoning District						Table 6-2					
Use	Minimum Lot Size		Lot Coverage	Building Height (feet)		Minimum Yards (feet)				Accessory Structures (feet) see Section 82-700	
	Area (SF)	Frontage Line (feet)		Principal	Accessory	Front	Corner	Side	Rear	Side Lot Line	Rear Lot Line
Single-family dwelling	40,000	150	25	35	25	40	30	20	30	15	10
Multi-family dwelling	200,000	100	25	35	25	100	100	100	100	50	50
School or college, religious institution	10 acres	300	25	45	40	100	100	100	100	50	50
Other governmental, educational, institutional uses	80,000	200	20	35	25	40	40	30	40	25	25
Other permitted uses	40,000	150	25	35	25	40	30	20	30	20	15

CW Zoning District						Table 6-2					
Use	Minimum Lot Size		Lot Coverage	Building Height (feet)		Minimum Yards (feet)				Accessory Structures (feet) see Section 82-700	
	Area (SF)	Frontage Line (feet)		Principal	Accessory	Front	Corner	Side	Rear	Side Lot Line	Rear Lot Line
Other permitted uses	8,000	80	40	35	25	30	20	10	30	7	10

DC Zoning District						Table 6-2					
Use	Minimum Lot Size		Lot Coverage	Building Height (feet)		Minimum Yards (feet)				Accessory Structures (feet) see Section 82-700	
	Area (SF)	Frontage Line (feet)		Principal	Accessory	Front	Corner	Side	Rear	Side Lot Line	Rear Lot Line
Other permitted uses	0	40	100	35	25	0	0	0	15	0	0

<b>Table 6-2 for the Village Special Development District Zones R-8, R-20, CL and CD</b>				
<b>Zoning District</b>	<b>R-20</b>	<b>R-8</b>	<b>CL</b>	<b>CD</b>
<b>Lot Size:</b>	20,000 SF	8,000 SF	8,000 SF	5,000 SF
Duplex	40,000 SF	15,000 SF	8,000 SF	5,000 SF
Multi-family Dwelling (see 82-1200)	200,000 SF	25,000 SF	25,000 SF	20,000 SF
<b>Lot Occupation:</b>				
Frontage Line	100' min	80' min	80' min–120' max*	40' min–96' max*
Lot Coverage	25% max	30% max	35% max	55% max
<b>Setbacks – Principal Building:</b>				
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	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
<b>Setback – Accessory Structures:</b>				
Front Setback - see Section 82-700	Principal building + 5' setback	Principal building + 5' setback	Principal building + 5' setback	Principal building + 10' setback
Side Setback	10' min	7' min	10' min	10' min
Rear Setback	10' min	10' min	10' min	3' min
<b>Building Height:</b>				
Principal Building	Max 35'	Max 35'	Max 35'	Max 35'
Accessory Structure	2 stories max – Max 25'	2 stories max – Max 25'	2 stories max – Max 25'	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. 82-602.1 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 as follows in all districts in accordance with subsection (B) [B. of this section]: chimney; church spire, tower, cupola or belfry; elevator or air conditioning penthouse; flagpole; radio or television antenna; silo; water tower; detached residential wind structures servicing on site uses.
- B. Public and semipublic structures or parts of structures in any OS, P or C districts and the parts of structures noted above in RR districts 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, five feet for each one foot of such excess. Any such public or semipublic 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. 82-602.2 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 windowsills, 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. 82-602.3 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. 82-602.4 Reduction of street frontage regulations.

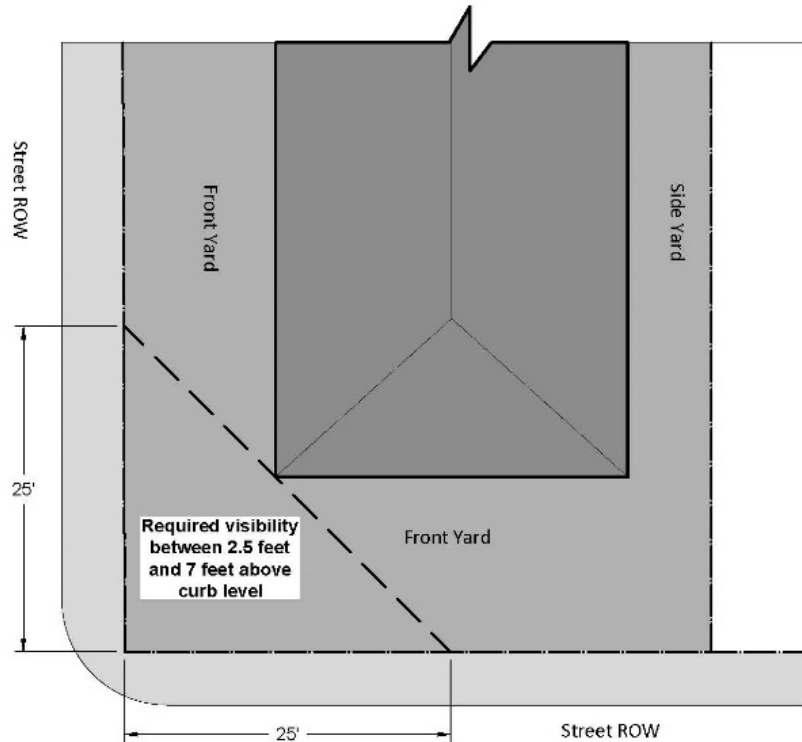
- A. Street frontage regulations in any R district may be reduced to not less than 60 feet for those lots entirely fronting on cul-de-sacs at the end of dead-end streets.
- B. Upon approval of the Planning Commission as part of a conservation development only as provided in the Subdivision and Land Development Regulations, the lot frontage and lot width variations listed below may be permitted by the Planning Commission.
  - 1) In residential RR-200, RR-80, R-40 and R-20 zoning districts, the Planning Commission is authorized to reduce the lot frontage and lot width of newly created lots on any public or approved private street to a minimum of forty (40) feet.
  - 2) Open space lots, within an approved conservation development, may have zero frontage on a street, as long as the Planning Commission approves access to the open space by easement or other means.
  - 3) As part of the application to the Planning Commission for flexible lot frontage and width, a “conventional yield plan” as defined herein, shall be required. No more buildable lots shall be allowed using flexible lot frontage and width provisions than are allowed by using conventional frontage and width provisions.
  - 4) The Planning Commission may require the use of shared driveways as a condition of reducing lot frontage and width for proposed new lots in a conservation development. or as a way of reducing curb cuts onto public roads. In this instance legal access easements shall be required for those properties sharing driveways.

**Sec. 82-603. 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. 82-604. 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 seven feet above street level of the triangle formed by the two pavement edge lines and a third line joining points on the pavement edge line of 25 feet from the intersection.



**Sec. 82-605. Specific to R-40 zoning district lots.**

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 6-2 for the R-20 zoning district; provided, nevertheless, that the minimum lot size set forth in such Table 6-2 for the R-20 zoning district shall not apply to such lots.

**Sec. 82-606. Specific to RR-80 zoning district lots.**

All lots located in an RR-80 zoning district which at the time of adoption of this provision were 40,000 square feet or less in area shall be governed by the district dimensional requirements set forth in Table 6-2 for the R-40 zoning district; provided, nevertheless, that the minimum lot size set forth in such Table 6-2 for the R-40 zoning district shall not apply to such lots.

**Article 7. Misc. Structure and Site Regulations**

**Sec. 82-700. Accessory structures.**

The following shall apply to the floor area of all Accessory Structures:

Lot Size	Maximum Size of Accessory Structures
0 – 8,000 square feet	600 square feet
>8,000-20,000 square feet	700 square feet
>20,000 – 40,000 square feet	850 square feet
>40,000 square feet	1,000 square feet

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

- A. In no case shall any accessory structure have a gross floor area which is greater than 50% of the above grade gross floor area of the principal building.
- B. The following height standards will apply, depending on the height of the principal building on the lot in keeping with Table 6-2:
  - Where the principal building is no higher than one story, the height of an accessory structure shall not exceed the height of the principal building.
  - Where the principal building is higher than one story, the height of an accessory structure shall not exceed a point 5 feet lower than the height of the principle building.
- C. Agricultural structures within the RR-80 and RR-200 are exempt from these provisions.
- D. Accessory Structures are permitted in front yards but must meet the principal building setback and receive approval by the TRC. In cases where the primary setback cannot be achieved in the Jamestown Village Special Development District, the secondary front setback may be utilized only after review and recommendation by the TRC and a dimensional variance received by the zoning board. In cases where the primary setback cannot be achieved in the R-40, R-80, RR-200 zoning districts, approval by the TRC is required. In addition to the considerations of the zoning board found in Sec. 82-300, the TRC and zoning board will consider the standards of the Jamestown Pattern Book and Design Guidelines for Building in the Village, including but not limited to the guidance for garages and ancillary structures, and whether efforts will be made to screen the accessory structure from any public ways or neighboring residential uses.

**Sec. 82-701. Screening of residential areas.**

Whenever a nonresidential use, including a parking area for a non-residential 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. 82-702. Lighting.**

- A. Purposes. The Town of Jamestown has enacted this ordinance to regulate the installation of exterior lighting in order to achieve the following purposes:
  - 1) To protect the residents and surrounding environment of Jamestown, including light sensitive plants and animals, from the effects of light pollution;
  - 2) To promote energy efficient and sustainable lighting practices and luminaires;
  - 3) To minimize adverse off-site impacts from new and existing lighting installations; and
  - 4) To permit reasonable uses of exterior lighting for safety, security, productivity, commerce and enjoyment.
- B. Applicability.
  - 1) New Installations. All exterior lighting installed after the effective date of this ordinance shall conform to the standards set forth herein.
  - 2) Existing Installations. All exterior lighting installed prior to the effective date of this ordinance shall be ex-

empt from the provisions of this ordinance until a light and/or light fixture must be repaired, modified, refurbished and/or replaced. At the occurrence of any of these several events, any light and/or light fixture, with the exception of lighting and/or light fixtures installed on a structure and/or property devoted exclusively to single family residential use, shall conform to the standards set forth herein.

3) Exceptions. The following instances shall be exempt from the requirements of this section:

- a) Where federal or state laws, rules or regulations preempt local regulations.
- b) Where fire, police, rescue or repair personnel need light for temporary emergencies or road repair work.
- c) Where there are special requirements, such as sports facilities, historic decorative considerations or flag lighting. All such lighting shall be selected and installed to shield the lamp or lamps from direct view to the greatest extent possible and to minimize upward lighting and light pollution.
- d) Where it has been determined that a reasonable safety and security interest exists that cannot be addressed by another method without increasing the cost or reducing the effectiveness of the lighting.

4) Voluntary Actions. As a voluntary measure to further the goals and objectives of this ordinance, the Town Council urges that the following actions be considered and taken to bring all existing lights and/or light fixtures into compliance with the standards and provisions of this ordinance:

- a) Install a replacement lamp that directs light away from the sky.
- b) Consider light and light fixture aiming or glare control devices such as light shields to prevent and/or reduce light trespass and light pollution.
- c) All government-owned and operated properties and facilities are urged to immediately conform to the provisions of this ordinance.
- d) Lighting for site security should be configured for motion or infrared sensor operation, except in the case of lighting required by state or federal safety standards, property insurance coverage requirements or site safety standards.

C. General standards. All new, retrofitted, refurbished and/or modified exterior lighting that is installed in the Town of Jamestown, shall be the minimum necessary, in both number of luminaires and intensity of light, to achieve the intended purpose of the lighting, and shall meet the following standards, as relevant:

- 1) All exterior lights and sign illumination shall be designed, located, installed, and directed in such a manner as to:
  - a) Prevent glare, light trespass or light pollution; and
  - b) Be shielded to the extent possible so as to confine the light within the target area.
- 2) In all areas adjacent to residential property, no externally mounted, direct light source directed towards the property line shall be visible at the property line at ground level or above.
- 3) To reduce off-site glare, lighting fixtures for all parking and pedestrian areas shall be:
  - a) Full cut-off type fixtures, or
  - b) Fully shielded/recessed fixtures where the lens is recessed or flush with the bottom surface.
- 4) Lighting fixtures for building security or aesthetics and any display purposes shall be:
  - a) Top downward (not upward or sideways), and
  - b) Full cut off or fully shielded/recessed.
- 5) Where outdoor playing fields or other special outdoor activity areas are to be illuminated, lighting fixtures shall be specified, mounted, and aimed so that:
  - a) The lighting fixture's beams fall within the primary playing area and immediate surroundings, and

- b) No direct lighting trespass or light pollution.
- 6) The height of luminaires, except streetlights in public rights-of-way, shall be the minimum necessary to provide adequate illumination, but shall not exceed a height of fifteen (15) feet when pole mounted unless a properly credentialed illuminating engineer hired for the benefit of the Town finds that a height of any luminaire structure up to twenty (20) feet will result in no greater Light Trespass and no greater Light Pollution than a luminaire structure at fifteen feet (15) in height or unless the luminaires must overhang vehicle travel lanes. Luminaires attached to the building shall be limited to the height necessary for illumination of entrances or locations not served by pole lighting. In no case shall a building fixture be mounted on the roof.
- D. Waterfront lighting. Exterior lighting in and around the ponds, lakes, rivers, and other waters of the Town, with the exception of lighting located below the mean high water mark of coastal areas, shall not be installed or maintained so as to create a hazard or nuisance to other property owners and shall comply with the following:
- 1) Lights on docks shall be no more than three feet above the dock, shall be directed downward and be full cut off fixtures.
  - 2) Lights illuminating paths, stairs, decks, etc., shall not be directed towards the water and shall not direct light upwards.
  - 3) All exterior lighting shall be located, mounted, and shielded, so that direct illumination is not focused towards the water surface more than 20 feet from shore.
- E. Architectural and landscape lighting.
- 1) All fixtures shall be aimed and/or shielded to illuminate only the target area such that no stray light from the luminaire passes above the horizontal plane.
  - 2) Upward aimed façade and building lighting shall be fully shielded and fully confined from projecting into the sky by the building eaves, roofs, overhangs or structures and shall be mounted as flush with the illuminated wall as possible.
- F. Canopy and service lighting. Outdoor sales and gas station service canopy lighting shall be aimed downward and installed such that the center of the fixture's luminous opening is flush with or recessed into the canopy ceiling. All lighting from the canopy must be substantially confined to the ground area directly beneath the perimeter of the canopy. All exterior lighting for canopies and/or service areas shall be of an indirect nature, emanating only from fixtures located under canopies, under eaves on the principal building or at ground level in the landscaping. Exterior lighting shall be arranged and shielded so there shall be no glare or reflections onto adjacent properties or street rights-of-way.

**Sec 82-703. Swimming Pools, Tennis Courts, Decks and Patios**

- A. Swimming Pools and any other in-ground man-made water feature with an impervious bottom (measured at the water edge), including impervious decks and patios associated with swimming pools, Tennis or other permanent ball Courts, including the outer fence of tennis or other permanent ball courts shall meet setbacks for accessory structures and shall be included as part of the Lot Coverage calculation. Driveways used for court activities shall not be regulated under this section.
- B. All swimming pools and any other in-ground man-made water feature more than two feet deep with an impervious bottom 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 or water feature. 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 or water feature.

- 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 Articles 2 and 3 of this Ordinance.
- D. Decks and Patios 12" above proposed grade shall be included as part of the Lot Coverage calculation.

**Sec 82-704. Newsracks**

- A. 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.
- B. 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.

- C. 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.

- D. 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.
- E. 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.
- F. 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.

**Sec. 82-705. Temporary/Portable Residential 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 this Sec. 82-705.
- H. Signage on Temporary/Portable Storage Containers shall not exceed 2 square feet.

**Sec. 82-706. Parking or storage of commercial and major recreational equipment.**

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

- A. On any residentially developed lot, 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 10,000 pounds gross vehicle weight. 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 recreational equipment must comply with the following regulations:
  - 1) Not more than one registered major recreational equipment, as defined in Sec. 82-104 (Definitions), may be parked or stored per dwelling unit on any one lot.
  - 2) No major recreational equipment, while parked or stored, shall be used for living, sleeping, or housekeeping purposes.
  - 3) 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.
  - 4) Any equipment parked or stored shall be set back at least ten feet from any public or private right of way.

**Sec. 82-707. Storage of motor vehicles.**

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

## **Article 8. Special Regulations**

**Sec. 82-800. High groundwater table and impervious layer overlay district.**

- A. Establishment. The High Groundwater Table and Impervious Layer Overlay District is hereby established and may be referred to hereafter as the “High Groundwater Overlay.” This overlay district encompasses specific areas of the town as shown on the map entitled “Zoning Map Overlay District Related to Protection of Critical Lands Containing Freshwater Wetlands, High Groundwater Table, and/or Shallow Impervious Layer” dated August 2007 and attached to the Zoning Ordinance.
- B. Findings. The High Groundwater Overlay encompasses areas where nonconforming lots predominate, no public sewer and water are available, and the hydrogeologic conditions provide considerable constraint to development. These conditions require special design approaches and/or infrastructure in order to protect individual homeowners, neighborhoods, and Jamestown’s water resources.

- C. Applicability. The following activities are subject to the procedures, review, and standards within the High Groundwater Overlay only where the activity is proposed on a lot that is less than 40,000 square feet:
- 1) Any construction activity that results in the development of new impervious cover.
  - 2) Any construction activity that results in the replacement or expansion of existing impervious cover.
  - 3) Excavation, mining, dredging, filling, or grading that involves the movement of over 200 cubic feet of soil.
- D. Sub-districts. The High Groundwater Overlay is divided into two Sub-districts as follows:
- 1) Sub-district "A" consists of those lots where:
    - a) The seasonal high groundwater table is less than or equal to 18 inches below the original grade; or
    - b) The impervious layer is less than or equal to 42 inches below the original grade.
  - 2) Sub-district "B" consists of those lots where:
    - a) The seasonal high groundwater table is greater than 18 inches and equal to or less than 48 inches below original grade; or
    - b) The impervious layer is greater than 42 inches and up to and including 60 inches below the original grade.
- E. Determination of Sub-district.
- 1) Presumption of Sub-district A. Absent the evidence required to make a determination of which Sub-district applies to a particular lot, the Town shall presume Sub-district A applies with 8% maximum impervious surface coverage (See Sec. 82-800.H, Impervious Cover, below). An applicant may enter into development permitting procedures voluntarily with this presumption.
  - 2) Evidence. The decision as to whether a particular lot is located in either Sub-district "A" or Sub-district "B" shall be made by the zoning enforcement officer based on the field observation required (subsection E.4). A submission of evidence 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 owner/applclicant or project representative that no such results are being withheld.
  - 3) Previous Determination. Where a property owner or the Town can produce records of a previous determination made by the Town, that determination may be used provided there is a record of the field observations used to make that determination.
  - 4) Field Observation Required. Test holes verified by a RIDEM Class IV soil evaluator are required to determine the applicable Sub-district.
    - a) Where a new OWTS is proposed, the applicant shall provide record of the two test holes associated with the OWTS, as required by RIDEM.
    - b) Where an OWTS already exists, and a new OWTS is not proposed, records of the test holes from the original state approval shall be submitted to the Town.
    - c) Where a new structure is proposed on a lot the applicant shall provide a single test hole in the area of each proposed structure's footprint in addition to test hole information associated with the existing or proposed OWTS.
  - 5) Determination. The zoning enforcement officer shall make a determination of which Sub-district applies based on the following:
    - a) If any of the test holes show evidence meeting at least one of the sub-district "A" criteria, then the lot lies in Sub-district A;
    - b) If none of the criteria for Sub-district A are met in any of the test holes, and at least one of the criteria for Sub-district B is met in any of the test holes, then the lot lies in Sub-district B;
    - c) If none of the test holes meets either the Sub-district "A" or the Sub-district "B" criteria, then the



lot is not subject to the standards promulgated in the High Groundwater Overlay.

F. Permit Review.

- 1) Construction, reconstruction, or renovation of structures or other new impervious surface coverage 200 square feet or greater in Sub-district A shall be reviewed first by the Planning Commission through Development Plan Review. The activities shall subsequently require a special use permit from the Zoning Board of Review. The Planning Commission decision shall be advisory to the special use permit application reviewed by the Zoning Board of Review.
- 2) Construction, reconstruction, or renovation of structures or other new impervious surface coverage less than 200 square feet in Subdistrict A shall be reviewed under Administrative Development Plan Review.
- 3) Activities subject to review in Sub-district B shall be reviewed under Administrative Development Plan Review.
- 4) The town may engage one or more professionals as deemed necessary by the Town, at the expense of the applicant, to assist with the review of applications at a reasonable cost.

G. Prohibitions.

- 1) The installation of subsurface drains designed to intercept and lower the groundwater table for the installation of an OWTS.
- 2) Basements associated with any structure, or the expansion of any structure, are not allowed in Sub-district A.
- 3) In-ground swimming pools are not allowed in Sub-district A.

H. Impervious Cover. Lots in Sub-district A and Sub-district B shall have limitations on the amount of impervious cover that may be installed in accordance with the following provisions:

- 1) A lot in Sub-district A shall be limited in accordance with the following chart and associated provisions:

Impervious Layer	Water Table →	0 - 10 "	>10 - 14"	>14 - 18"	>18"
	0 - 20"		8%	9%	10%
21 - 31"		9%	9%	10%	12%
32 - 42"		9%	10%	11%	13%
> 42"		9%	10%	11%	Sub-district B

- a) 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 determined on the most restrictive results in both categories.
  - b) Freshwater wetlands shall be subtracted from total lot size prior to calculating maximum impervious cover.
- 2) In Sub-district B, no lot shall have more than 15% impervious cover.
  - 3) Impervious surface coverage on a structure shall be calculated at the exterior walls with an ordinary roof projection of 12". Any roof projection beyond 12" will count toward the impervious surface coverage.

- I. Performance Standards. Activities subject to review under the provisions of the High Groundwater Overlay shall comply with the following development standards as applicable. Applicants may request relief from these standards through an application for a special use permit from the Zoning Board of Review.
- 1) The bottom of any structure's slab, not including pilings/footings, shall be separated from the seasonal high groundwater levels by at least one (1) foot.
  - 2) All existing OWTS shall be in good working order. Within Sub-district A, all existing OWTS will require a flow test conducted by a licensed maintenance provider. Within Sub-district B, for any project involving an addition of 400 square feet or more to a building or structure, all existing OWTS will require a flow test conducted by a licensed maintenance provider. In both Sub-Districts A and B, a maintenance report for an existing OWTS certified by a licensed maintenance provider and completed within the past 12 months may be submitted for any flow test required above.
  - 3) All OWTS and wells shall be located on the same lot of the residence to which they are connected. All new OWTS and OWTS requiring major repair shall be approved by RIDEM and shall be designed for advanced reduction of nitrogen. Where necessary for the protection of public health, as defined by RIDEM, the systems shall also be designed for enhanced pathogen removal. OWTS shall use approved technologies listed by the RIDEM and shall be capable of achieving current RIDEM performance standards for denitrification and/or pathogen removal.
  - 4) Applications shall provide a stormwater best management practice capable of storing, on the subject site, the increased volume of runoff resulting from development of the site.
    - a) The minimum storage volume shall be the difference between the pre-development and post-development runoff volumes using the 10-year, 24 hour, Type III storm event.
    - b) Stormwater mitigation and water quality treatment practices shall be designed in accordance with the Rhode Island Stormwater Design and Installation Standards Manual, most current edition.

For the purposes of this calculation the following table will be used:

Assumed Percent of Rainfall Which Becomes Runoff During a Ten-Year, 24-hour Storm Event.	
Bare soil	40%
Grassland	35%
Cultivated	30%
Timber/Forest	15%
Lawn 0--5% slope	15%
Lawn >5% slope	30%
Roofs	95%
Paved areas (concrete, asphalt, brick, etc.)	85%
Gravel surfaces (constructed)	60%

- 5) There shall be a fifteen (15) foot separation between a leachfield and the edge of any stormwater infiltration system.
- 6) Proposals must comply with the Jamestown Soil Erosion and Sediment Control Ordinance contained in the Code of Ordinances, Chapter 22, Article V, Division 2.

- 7) Operation and maintenance requirements of any designed and approved stormwater system shall be recorded with the final approval from the Zoning Board.
- J. Special Use Permit Criteria. The proposal shall incorporate, to the greatest extent possible, the following design criteria and explanation of such shall be provided as a narrative to the proposal where practical. Where a special use permit is required pursuant to the provisions of the High Groundwater Overlay, the Zoning Board of Review may approve, deny, or approve with conditions based on the standards and criteria within this section of the zoning ordinance.
- 1) General Criteria
    - a) The proposed use and site design are appropriate to the natural characteristics of the land, including its suitability for use based on soil characteristics, geology, topography and susceptibility to surface and groundwater pollution.
    - b) The proposal preserves the values of unique or valuable natural resources and features.
    - c) The proposal is appropriate to the availability and capacity of existing public and/or private services and facilities.
    - d) The proposal is consistent with the goals and pattern of land use contained in the Jamestown Comprehensive Plan.
    - e) Site design measures 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.
    - f) The site design approach is consistent with 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.
  - 2) Subsurface Structures
    - a) 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.
    - b) The seasonal high groundwater table will not damage, interfere or reduce the potential for the proper functioning of the subsurface structure.
    - c) The subsurface structure will not pose any threat to public health or safety or to the water resources of the town, including groundwater.
  - 3) On-site Wastewater Treatment Systems
    - a) All proposals relating to the installation of an OWTS shall ensure that the system, once in use, will not pose a threat to the public health and safety nor cause unreasonable degradation of ground or surface water quality, including adverse effects due to cumulative impact.
    - b) All proposals relating to the installation of an OWTS shall demonstrate that the design, siting and selection of technologies for the treatment and dispersal units are the most appropriate for the site.
    - c) All proposals relating to the installation of an OWTS shall demonstrate that the project has been designed so as to minimize combined impacts related to the OWTS, stormwater runoff, and potential disturbances to wetland buffers.
  - 4) Stormwater Management
    - a) Stormwater runoff control measures will minimize site disturbance, maximize nonstructural controls, and will not adversely affect subsurface flow of groundwater.
    - b) The proposed site improvements minimize fill and grading, and maintain, to the greatest extent possible, the existing overland flow of runoff from the site to surrounding areas.
    - c) 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. Proposed measures will not direct channelized flow to the wetland, reduce subsurface flow through the buf-

fer, increase sedimentation, reduce shade cover, or include any alteration that would result in fluctuating water levels that negatively impact sensitive habitat.

K. Variances for Prohibited Uses in Sub-district "A".

- 1) Applicants proposing uses prohibited pursuant to Section G hereof shall, after Development Plan Review by the Planning Commission, be required to obtain a use variance pursuant to Article 3 hereof. In addition to the standards contained in Article 3 hereof, all applicants shall demonstrate that the proposal meets, to the greatest extent possible, all of the performance standards contained in Subsections I and all of the criteria in Subsection J hereof.
- 2) Applicants shall file a development plan with the zoning enforcement officer containing the information listed on the checklist in Appendix X.

**Sec 82-801. Community flood plain ordinance for special flood hazard areas**

- A. 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).
- B. Applicability. The Special Flood Hazard Areas are herein established as a floodplain overlay district. The District includes all special flood hazard areas within the Town of 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 44005C0059J, 44005C0067J, 44005C0069J, 44005C0078J, 44005C0088J, 44005C0157J, 44005C0159J and 44005C0176J dated **September 4, 2013** (as periodically amended). 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 **September 4, 2013**. 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.

C. 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.

#### D. 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.

#### E. 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

- a) 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.
- b) All subdivision proposals must be designed to assure that:
  - such proposals minimize flood damage;
  - all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
  - adequate drainage is provided to reduce exposure to flood hazards.
- c) 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:
  - The structure is no more than 100 square feet in size and has a value less than \$1000.
  - 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.
  - The structure is used solely for parking of vehicles and/or limited storage.
  - The accessory must be wet floodproofed and designed to allow for the automatic entry and exit of flood water.
  - The accessory structure shall be firmly anchored to prevent flotation, collapse and lateral movement.
  - Service facilities such as electrical, mechanical and heating equipment must be elevated or flood-proofed to or above the base flood elevation.
  - The structure must not increase the flood levels in the floodway.
- d) Existing contour intervals of site and elevations of existing structures must be included on the plan proposal.

3) Base Flood Elevation and Floodway Data

- a) 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.
- b) 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.
- c) 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.

**Sec. 82-802. Setback from freshwater wetlands.**

- A. Per P.L. 2015, ch. 218, § 3, R.I. Gen. Laws § 45-24-30(c), 250-RICR-150-15-3, the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act (the "DEM Wetlands Regulations"), and 650-RICR-20-00-9, the Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast (the "CRMC Wetlands Regulations"), Rhode Island cities and towns are prohibited from applying requirements pertaining to wetland buffers and onsite wastewater treatment system setbacks to development applications submitted to a municipality after July 1, 2022, the effective date of said state regulations. Applications made on or after this date shall comply with the DEM Regulations and/or the CRMC Wetlands Regulations. Applications made prior to this date remain subject to the standards of this Sec. 82-802.

- B. Unless authorized and permitted by the Rhode Island Department of Environmental Management Office (RIDEM) of Water Resources through the RIDEM permitting process, 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.
- C. 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 Article 10. 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 3 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. 82-803. Regulations for RR-200 Zoning Districts**

#### **Sec. 82-803.1. Exempted activities.**

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

are the following uses:

- A. New single-family residential uses and their customary accessory uses on lots of 200,000 square feet area or greater;
- B. 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;
- C. Existing single-family dwellings and their customary accessory uses.

Sec. 82-803.2. 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:

- Property boundary lines, with area and dimensions of the property to be developed;
- Vicinity plan showing adjacent or nearby properties, uses, wetlands, streams or surface water reservoirs;
- Topography map of the property;
- 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:

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

Sec. 82-803.3. 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. 82-803.4. Minimum development standards.

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

- A. 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;
- B. All buildings and parking areas shall be set back at least 300 feet from any reservoir, or tributary stream used to supply or transport public water supplies;



- C. Driveways, parking lots, and other impervious surfaces are minimized, or specified as porous surfaces, such as crushed stone, spaced paving block, etc.;
- D. Permanent vegetation cover is provided in unpaved areas; temporary vegetation is provided in areas which will remain open for more than six months;
- E. 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;
- F. Stormwater storage and/or retention facilities are provided to prevent significant increases in volume and rate beyond existing conditions.

## **Article 9. Nonconforming Uses Buildings and Structures**

### **Sec. 82-900. 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. 82-901. 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. 82-902. 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. 82-903. 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. 82-904. 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. 82-905. Alteration of a nonconforming building or structure.**

Any alteration of a nonconforming building or structure shall be in accordance with the provisions of this ordinance [chapter]. All such alterations that meet all other requirements of this ordinance [chapter] shall be reviewed by the Building Official during the building permit process (See Article 11 for specific requirements in the Jamestown

Village Special Development District).

**Sec. 82-906. 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. 82-907. 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. 82-908. 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. 82-909. 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 6 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 Northernly 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 assessor's 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 10. Development Plan Review**

**Sec. 82-1000. Purpose**

It is the purpose of this article to establish permit review procedures that will enable the Town to perform a comprehensive review of certain proposed developments. Development proposals requiring DPR are established herein. The requirements of this article are designed to assure safe, orderly, and harmonious development of property in a manner that shall:

- A. Provide suitable safeguard and consideration for land use and site design that are compatible with adjacent districts and uses.
- B. Permit development to an extent commensurate with the availability and capacity of public facilities and services and promote the safe circulation of traffic throughout the Town.
- C. Protect natural resources and encourage consideration of development techniques that reduce negative environmental impacts.
- D. Encourage the provision of open space and public access and give due consideration to the quality and design of landscaping.
- E. Encourage adequate consideration for the proper control of erosion, surface and subsurface drainage, and pollution.
- F. Assure consideration of the various elements of the comprehensive plan of the Town.

**Sec. 82-1001. Applicability.**

No permit to build, alter, or expand any of the uses requiring DPR as outlined below shall be issued by the Building Official until a written statement of final approval in accordance with this article has been received. The applicant is responsible for obtaining a building permit through Zoning and Code Enforcement as required by Town ordinances. The DPR process will not preclude the need to meet other Town requirements as they may apply to a particular development.

Where the project is subject to DPR and constitutes a subdivision, as defined in the Land Development and Subdivision Review Regulations adopted by the Town Planning Commission, the two processes shall proceed concurrently to the extent possible. If the DPR decision is made prior to a final decision on the subdivision associated with the development, this decision shall be conditioned on the subdivision approval.

**Sec. 82-1002. Coordination with Zoning Board of Review.**

The DPR process (if applicable) must take place prior to the consideration of a dimensional variance, special use permit or appeal to the Zoning Board of Review.

**Sec. 82-1003. DPR Process.**

DPR shall be conducted by either the Planning Commission or the Administrative Officer (in conjunction with the Technical Review Committee (TRC)) in accordance with those procedures and requirements listed in this article and in the Land Development and Subdivision Review Regulations.

**Sec. 82-1004. Development Plan Review Thresholds.**

Applications for development shall be reviewed in accordance with the following thresholds. Any application for a subdivision or land development project as defined by the Town of Jamestown, which does not require a variance or Special Use Permit, shall be subject to the review procedures provided for those activities and shall not require DPR. Applicants should be aware that even for projects that fall below the thresholds described below, there may be other requirements if the project is located within the Jamestown Village Special Development District or any other overlay district.

Sec. 82-1004.1. Planning Commission as DPR Approving Authority

The Planning Commission shall review and provide a decision on the following applications:

- A. Any substantial modification of a municipal property.
- B. Any application as noted in Sec. 82-410.C.
- C. Any development proposals specifically designated for DPR by the Planning Commission specific to individual districts or uses including, but not limited to, the Jamestown Village Special Development District, the High Groundwater Overlay, and Wind Energy Facilities.
- D. Any application that is referred to the Planning Commission by the Administrative Officer or the TRC.

Sec. 82-1004.2. TRC as DPR Approving Authority

The TRC, in a process led by the Administrative Officer, shall review and provide a decision on the following applications:

- A. Proposal for any new two-family residential building.
- B. Accessory structures exceeding 1,000 square feet of gross floor area.
- C. Exterior addition with a gross floor area of more than 500 but less than 1,000 square feet.
- D. Any development proposals specifically designated for DPR by the TRC or Administrative Officer specific to individual districts including, but not limited to, the Jamestown Village Special Development District and the High Groundwater Overlay.
- E. Any permitted use that is specifically referred in writing to the TRC via the Administrative Officer by the Building Official or the Director of Zoning and Code Enforcement.

Sec. 82-1004.3. Planning Commission as Advisory Review:

For any petition to the Zoning Board of Review for a Special Use Permit, the Planning Commission shall conduct DPR in advance of the Zoning Board of Review hearing on the application. The result of this DPR process shall be a written report of findings from the Planning Commission to the Zoning Board of Review. This report shall be considered as an advisory document by the Zoning Board of Review and shall not, in any way, bind the Zoning Board of Review to a particular decision on the application.

**Sec. 82-1005. Standards of Approval.**

Where the Planning Commission or the TRC serve as the reviewing authority, they shall review the application and supporting documentation and shall issue development plan approval (including appropriate revisions and conditions), provided that the applicant has proved to the Commission/TRC that the following standards will be met:

- A. The design of the proposed development will be consistent with the goals of the Town's Comprehensive Plan and will implement the purposes of DPR;
- B. The proposal complies with all applicable provisions within the Zoning Ordinance;
- C. The proposal complies with all submittal requirements listed for DPR within the Land Development and Subdivision Regulations;
- D. The proposal is designed to meet all applicable design requirements and performance standards as provided in

the Land Development and Subdivision Regulations.

**Sec. 82-1006. Appeal.**

Appeals to the Zoning Board of Review may be taken by a person aggrieved by any final action of the TRC or the Planning Commission pursuant to the provisions of this section. Such appeal shall be taken within 20 days of such final action by filing with the Zoning Board of Review a written notice of appeal specifying the grounds for appeal and the specific findings of staff or the Planning Commission in its final actions which are challenged, if any. The lack of particularity of specific grounds for appeal shall constitute cause for dismissal of any appeal. Only the grounds for appeal so specified will be reviewed by the Zoning Board of Review on appeal. Such appeal shall be accompanied by copies of the original development plan submission and the written findings of the TRC or the Planning Commission with respect to the final action appealed from. Copies of the development plan and the findings shall be made available by the [Planning Department] for review by any party.

On such review, the Zoning Board of Review shall not substitute its judgment for that of the TRC or the Planning Commission but must consider the findings and record of the TRC or the Planning Commission. The Zoning Board of Review shall not reverse a decision except on a finding of prejudicial procedural error, clear error, or lack of support by the weight of the evidence in the record.

**Sec. 82- 1007. Review of Applications.**

Sec. 82-1007.1. Submission of Material.

- A. Submittal and certification: An application for DPR shall be submitted to the Administrative Officer and certified as complete or incomplete by the Administrative Officer within a fifteen (15) day period from the date of its submission.
- B. Applications that require review before the Planning Commission: Within 30 days of the receipt of a complete DPR application, the Planning Commission shall hold a public hearing upon the plan. Notice of hearing shall be sent by first-class mail to the applicant, and to at least all owners of real property within 200 feet of the perimeter of the proposed project. The notice shall also include the street address of the subject property. Such mailings shall be paid for and mailed by the applicant. This also includes applications reviewed by the Planning Commission in an advisory role to the Zoning Board of Review for any variance or Special Use Permit.
- C. Applications that require review by the TRC: Within 30 days of the receipt of a complete development plan application, staff of the Department of Planning, and other TRC members, will meet and comment on the application.

Sec. 82-1007.2. Contents of Application.

Applications for DPR shall include the information listed in the DPR Checklist (Appendix X).

Sec. 82-1007.3. Final Action.

The TRC or the Planning Commission, as applicable, shall take final action within 60 days of the receipt of a complete application. Such final action shall be one of the following:

- A. A written statement of approval indicating that the TRC or the Planning Commission has determined that the applicant has demonstrated or proved to the satisfaction of staff or the Commission that each of the applicable standards of Development Plan Review have been met.
- B. A written statement of conditional approval, subject to such conditions, modifications and restrictions as the TRC or the Planning Commission may deem necessary so that the proposed activities meet each of the applicable standards of DPR.
- C. A written statement of a denial of an application. In the event of a denial of an application or an approval where conditions, modifications or restrictions have been imposed, the TRC or the Planning Commission shall issue written findings of fact, and, where applicable, conclusions of law, explaining the reason why any standard

or standards have not been met and setting forth the basis for either the denial of the application or the imposition of any condition, modification, or restriction.

Sec. 82-1007.4. Revisions to the Plan

All construction, alteration, or expansion shall be carried out only in conformity with any conditions, modifications, and restrictions set by the TRC or the Planning Commission, and only in conformity with the application and development plan on which the decision was based.

Minor changes to the development plan must be approved by the Building Official in consultation with the Administrative Officer. Minor changes are defined as changes that do not substantially alter the basic design and layout of the project, deviate from conditions required by the reviewing authority for development plan approval, or substantially impact neighboring properties. Minor changes must meet the following minimum criteria:

- A. There is no increase in the number of lots or dwelling units.
- B. There is no change to any dimension of the previously approved plan, including building envelopes, beyond what may be incidental to site-specific construction conditions. Additions or movement of built features not shown on the development plans shall be considered
- C. Streets or driveways are not changed in a manner that alters circulation on the site or adjacent to the site from what was shown on the approved development plan.
- D. There is no change required to any public infrastructure.

Changes that do not meet the above criteria will be considered major and shall be resubmitted for the review process. Any work carried out in violation of this provision shall be ordered halted and fully removed. The Building Official shall enforce the fulfillment of any conditions or revisions which the TRC or the Planning Commission may impose.

Sec. 82-1007.5. Time Limit on Approval

The approval of a development plan or modification or amendment thereof shall remain effective for a period of one year only from the date of such approval, unless, prior to the expiration of such one-year period, the applicant makes substantial efforts to build in accordance with the approved development plan, or unless the TRC or the Planning Commission approves an extension for a period not to exceed one additional year. The initial period of one year shall not begin to run until the applicant has received all approvals from local, state, and federal agencies for the construction of the project envisioned by the approved site plan, provided the applicant demonstrates to the TRC or the Planning Commission that due diligence is being exercised in obtaining such approvals. The applicant shall provide letters of status to the TRC or the Planning Commission at intervals of no more than six months, commencing at the date of DPR approval. In the event of any appeal from development plan approval, the applicable time limit on approval shall commence only after all appellate rights are exhausted and a final determination is made to grant approval.

**Sec. 82-1008. Project review fees. (added April 9, 2007)**

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)

## **Article 11. Jamestown Village Special Development District**

### **Sec. 82-1100. Purposes and Intent.**

This Article is designed to encourage traditional neighborhood patterns such as those existing in Jamestown Village today. The implementation of Article 11 is intended to protect and complete these patterns so that all new development will be harmonious and compatible with existing Village character, while also encouraging housing that is diverse and affordable for residents at different stages of life.

### **Sec. 82-1101. Applicability.**

- A. The Jamestown Village Special Development Overlay District is comprised of all lots within the R-20, R-8, CW, CL, CD, DC, and P Zoning Districts as shown on the Zoning Ordinance Map.
- B. Provisions of this Article are activated by “shall” when required; “should” when recommended but optional; and “may” when permitted but optional.
- C. The provisions of this Article, when in conflict with those of other Sections or Articles of this Code, shall take precedence.
- D. Section 82-104. Definitions, contains regulatory language that is integral to this Article. Those terms not defined in Sec. 82-104 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 Sec. 82-104 shall take precedence.
- E. The numeric standards contained in Table 11-1 are an integral part of this Article. However, the diagrams that accompany them should be considered as instructional in nature.
- F. Where in conflict, numeric metrics shall take precedence over graphic metrics.

### **Sec. 82-1102. Review Thresholds.**

#### Sec. 82-1102.1. Planning Commission as DPR Approving Authority

In addition to the DPR thresholds provided in Article 10, Development Plan Review, the Planning Commission shall review and provide a decision on applications in accordance with the following provisions.

- A. The Planning Commission shall review any proposed Substantial Modification, as defined in Sec. 82-104, Definitions, except where TRC is specifically granted jurisdiction over a Substantial Modification in Sec. 1102.3.D below.
- B. The Planning Commission shall review any application where an addition to or modification of a building is actually or potentially eligible for inclusion on a state, local, or national historic register.
- C. The Planning Commission shall review any development application where existing conditions represent



a legally established pre-existing non-conforming situation. Alterations or expansions of legally established pre-existing non-conforming buildings or parking areas may be allowed as part of Planning Commission DPR Review where:

- 1) No existing non-conformities shall be increased in amount or intensity.
- 2) No new non-conformities are created.

#### Sec. 82-1102.2. TRC in an Advisory Capacity

Where the Planning Commission is the DPR Approving Authority, the TRC shall serve in an advisory capacity regarding which standards apply and what is required for compliance.

#### Sec. 82-1102.3. TRC as DPR Approving Authority

In addition to the DPR thresholds provided in Article 10, Development Plan Review, the TRC, in a process led by the Administrative Officer, shall review and provide a decision on applications that do not require Planning Commission review, but include one or more of the following:

- A. The development of new single-family dwellings in the CW, CL, CD, DC, and P Zoning Districts;
- B. A change in parking layout or the addition of up to 15 parking spaces;
- C. A change in site design or lot coverage that changes both the on-site drainage patterns and how stormwater may impact abutting or nearby properties; or
- D. Where a change in use category is the only factor that qualifies a proposal as a substantial modification, and no other thresholds for Planning Commission DPR apply under Article 10, said proposal may be reviewed and approved by the TRC.

#### **Sec. 82-1103. Jamestown Village Special Development Overlay District Design Standards**

The following design standards are provided to ensure that development proposals in the Jamestown Village Special Development Overlay District meet the goals of that district. Several standards in Article 11 apply only within certain “layers” of lots and of public roads. These are referred to throughout this Article as the First Layer, Second Layer, and Third Layer. For a diagram of where these layers are located, see Table 11-1.c Lot Layers below.

#### Sec. 82-1103.1. Building Placement

##### A. General

The location of buildings and structures shall comply with the setback standards in Table 6-2.

- 1) Setbacks for newly proposed buildings may only be reduced below the standards set forth in Table 6-2 through the granting of a variance from the Zoning Board.
- 2) Pre-existing buildings that do not meet the setback standards of Table 6-2 shall be reviewed by the Planning Commission pursuant to Sec. 82-1102.1.

##### B. Specific to CW, CL, CD and P

- 1) In these districts, it is the intent of this ordinance to use building placement as a means to create a vibrant public realm along the frontage of the property. The façade of the primary building serves as one boundary of the property frontage as further regulated in Sec. 82-1103.2 below.
- 2) Façades 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 (for required Setbacks, aka Minimum Yards, see Table 6-2).
- 3) Building Placement types shall be allowed in accordance with Table 6-2.

- 4) One Principal Building at the Frontage, and one accessory structure to the rear of the Principal Building, may be built on each Lot as shown in Table 11-1.b. Building Disposition. No accessory structures may be erected without a primary structure in place on the same lot. An accessory structure may be constructed before the primary structure where there is reasonable assurance that the primary structure shall be constructed within a year of the accessory structure's completion. The Town may require documentation of the intended construction schedule as part of the permit review process.
- C. Commercial development on lots within the CD district that are adjacent to residential zoning districts are strongly encouraged to utilize the setbacks as prescribed in the CL Zone to allow a transition from the denser CD district into the Village residential districts.

#### Sec. 82-1103.2. Property Frontage

Property Frontage areas include the area on private property between the primary building façade and the right of way (Private Frontage) and the edge of the right of way to the edge of street pavement (Public Frontage). Depending on the type of district, the relationship between the public and private areas will differ, but in every case, the design of these areas has a significant effect on how one experiences the district. The design of both frontage areas is therefore important to achieving the goals of village district development.

##### A. General

- 1) Property frontage areas shall be designed and maintained to create a vibrant public realm in which pedestrians feel safe and comfortable walking along the street, crossing the street, and, where appropriate, entering into private property from the street.
- 2) In residential districts, the division between the private and public realm should be clearly established through the use of landscape features including, but not limited to, vegetation and decorative walls or fencing that create a clear divide between public and private property.
- 3) In commercial or mixed-use districts, the interface between the public and private way shall be designed to connect pedestrians from the sidewalk to the entranceways of primary buildings. Landscaped features such as decorative walls and fencing shall be used to separate pedestrians from travel lanes, parking lots or other areas where conflicts can occur with motorists.
- 4) When located within any property frontage area, parking spaces for automobiles and travel lanes shall not be located in front of primary building façades.

##### B. Frontage Trees

- 1) On streets in residential districts, the Town shall provide street trees to the extent that the design of the public right-of-way can accommodate trees. Where trees cannot be accommodated in the public right-of-way, trees in the first layer are highly encouraged and should be selected from the list provided by the Tree Preservation and Protection Committee as updated periodically.
- 2) On streets in commercial or mixed-use districts, the Town shall provide frontage trees to the extent that the design of the public right-of-way can accommodate trees. The Town may also approve the installation of frontage trees as part of development proposals for adjacent private property.
- 3) Trees planted in or along the public right of way shall be planted in a linear fashion and spaced approximately 40 feet from each other.
- 4) Trees planted in high traffic pedestrian areas shall be protected by permanent decorative barriers or tree grates.
- 5) Where feasible, trees along the right of way should be installed as linear tree trenches or individual tree box filters specifically designed to treat stormwater runoff. Trees may also be planted as part of linear bioretention facilities along the frontage area.

- 6) Trees planted in pedestrian areas shall be selected and maintained to have ten feet of vertical clearance from grade.
- C. Frontage – R-8, R-20, CW, CL, CD and P Districts
    - 1) Buildings on corner lots shall have two Private Frontages as shown in Table 11-1.a.
    - 2) For waterfront lots, the applicant shall propose whether the street frontage, the waterfront, or both should serve as the primary frontage for the purposes of designating layers.
  - D. Frontage – R-8 and R-20 Districts
    - 1) Open covered porches may encroach upon the first Layer up to 50% of the depth of the first Layer. (Table 11-1.c)
    - 2) Balconies and bay windows may encroach upon the first Layer up to 25% of the depth of the first Layer.
  - E. Frontage – CL District
    - 1) Balconies, open covered porches and bay windows may encroach upon the first Layer up to 50% of the depth of the first Layer. (Table 11-1.c)
  - F. Frontage - CW, CD, and P Districts
    - 1) Awnings may encroach upon 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 upon the first Layer up to 100% of the depth of the first Layer.
    - 3) Loading docks and service areas shall not be permitted in frontage areas.

Sec. 82-1103.3. Parking Areas

- A. Parking Areas – CL District
  - 1) All parking areas and garages shall be located at the second or third Layer. (Table 11-1.c)
- B. Parking Areas – CW, CD and P Districts
  - 1) All parking lots, garages, and Parking Structures shall be located at least five 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, rounded down.
  - 4) The restoration or rehabilitation of an existing building eligible for inclusion on a state, local or national historic register to National Park Service Historic standards or any local historic district standards shall not require the provision of parking in addition to what is already existing.

Sec. 82-1103.4. Building Design

- A. General Standards. Building design within the Jamestown Village Special Development Overlay District shall be consistent with the guidance provided in “A Jamestown Vision: Pattern Book & Design Guidelines for Building in the Village, June 19, 2008” (as amended). The permit reviewing authority shall compare the contents of the proposal with the following sections to determine whether there is consistency between the application and these sections of the village guidelines:
  - 1) Building Form

- 2) Building Elements
- 3) Mixed Use and Retail
- 4) Materials & Methods

- B. Specific Standards. In addition to the requirements of subsection A above, the following specific building design standards shall apply.
- 1) The first story of all commercial or mixed-use façades shall be glazed with clear glass over no less than 30% of the façade area.
  - 2) Commercial and mixed-use building stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first-floor commercial use, 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.
  - 3) The use of an attic, at its building limit height, shall be ancillary to the use on the level below, unless approved as an accessory dwelling unit as permitted in Sec. 82-1201, Accessory Dwelling Units.
  - 4) The minimum size of a dwelling within a Principal Building shall be 300 sq ft in interior space. Accessory structures may be developed, as provided in Sec. 82-1201.
  - 5) No flat-roofed buildings or structures may be constructed unless they meet the definition of green roof per Sec. 82-104. Definitions. All roofs should have a minimum pitch of six inches on 12 inches (22.5 degrees).

Sec. 82-1103.5. Landscape Design

- A. Plant Selection for Multi-Family, Commercial, or Mixed-Use Development
- 1) No tree, shrub or plant shall be proposed that has been identified as an Invasive Species by the Rhode Island Invasive Species Council.
  - 2) Landscaping shall be designed to remain functional and attractive during all seasons through a thoughtful selection of deciduous, evergreen, berrying, and flowering plant varieties.
  - 3) Plant varieties shall be selected for resistance to drought, moisture, salt, urban conditions, or insects and other pests depending on the location of landscaping and the specific stressors anticipated for different areas of the site. Plants shall be selected so that landscaping can be maintained with minimal care and the need for watering, pesticides or fertilizers can be minimized or eliminated.
  - 4) The use of turf shall be minimized, but where it is used, turf should not be planted in strips less than six (6) feet wide in any direction. Lawn seed mixes shall be drought resistant. To achieve a high level of drought tolerance, lawn mixes may include, but shall not be limited to, a predominance of fine fescues.
- B. General to zones CW, CL, CD and P
- 1) Landscaping shall be used as part of a site-wide stormwater management strategy to the maximum extent practicable. Vegetated management practices for stormwater runoff may include, but are not limited to:
    - a) Rain gardens and/or bioretention facilities
    - b) Grassed and/or vegetated swales
    - c) Extensive or intensive green rooftops
    - d) Tree trenches and/or individual tree box filters
  - 2) Cisterns and rain barrels are encouraged for use in landscape watering.

- 3) The restoration or rehabilitation of an existing building eligible for inclusion on a state, local or national historic register to National Park Service Historic standards or any local historic district standards shall not require the provision of drainage infrastructure in addition to what already exists.

**Sec. 82-1103.6. Signage Standards.**

- A. All signage within the Jamestown Village Special Development Overlay District shall conform to Article 14. Sign Regulations.
- B. In addition to compliance with Article 14, signage design within the Jamestown Village Special Development Overlay District shall be consistent with the guidance provided in A Jamestown Vision: Pattern Book & Design Guidelines for Building in the Village, June 19, 2008 (as amended). The permit reviewing authority shall compare the contents of the proposal with the Signage & Awnings section to determine whether there is consistency between the application and the village guidelines.

**Sec. 82-1104. Special Requirements.**

- A. The Jamestown Zoning Map may designate the following Special Requirements for the Jamestown Village Special Development Overlay District when recommended by the Planning Commission and approved by the Town Council per Article 17 (Amendment) of this ordinance:
  - 1) Recommended View Corridor designation, advising that views remain open and visible from the Public Frontage.
  - 2) 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.

**Sec. 82-1105. Low and Moderate Income Housing.**

The Town of Jamestown, consistent with the housing chapter of its Comprehensive Plan, allows the development strategies as listed in Article 16 to encourage the development of Low and Moderate Income (LMI) Housing in Jamestown, including in the Village Special Development Overlay District. All units developed under this section shall meet the definition of LMI Housing in this Ordinance and RIGL 45-53 and meet the affordability requirements in Sec. 82-1605 H. The increase in density permitted by this section shall be considered a Municipal Subsidy.

- A. Affordable Lots and Homes. The Jamestown Village Special Development Overlay District allows the minor subdivision of existing lots that would not otherwise be eligible for subdivision based on the dimensional standards associated with the underlying zoning district. The table below provides dimensional regulations for the new “affordable” lots. Such lots/housing thus created shall remain affordable through a land lease (land trust model) which ensures affordability in perpetuity and/or a deed restriction for at least the minimum time period required by State law. Lots/homeownership units using a land lease shall be put in the Church Community Housing Corporation’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 and Land Development Regulations.

Due to the infill intent of this LMI 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	6,000 square feet	50 feet

R-20	13,000 square feet	70 feet
CL	6,000 square feet	50 feet
CD	*	

\* The Attic space of buildings may be a separate unit of LMI Housing as defined and in accordance with Sec. 82-1201, Accessory Dwelling Units. This allowance does not preclude compliance with any state or local life safety codes/requirements.

**Sec. 82-1106. Pre-existing Sub-Standard Lots.**

Sec. 82-1106.1. Development of Undersized Lots – R-8 and R-20 Districts

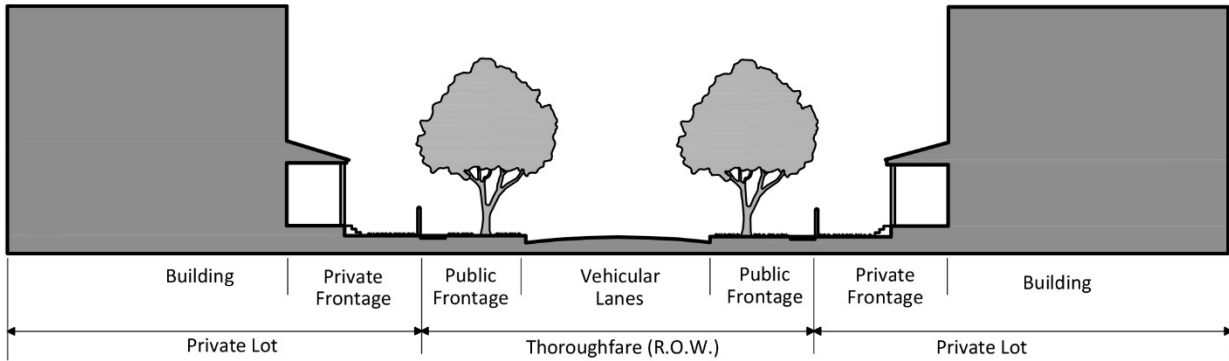
The Town has determined that there are a number of undersized lots that exist today in the Village and more will be created as a strategy to increase the stock of LMI Housing in Jamestown. The guidelines outlined in this section are to insure the preservation of existing neighborhood character (through a continuation of the patterns of design and the materials and methods of traditional architecture) in the development of these undersized lots for residential development.

- A. 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 “A Jamestown Vision – Pattern Book and Design Guidelines for Building in the Village, June 19, 2008” (as amended).
- B. Prior to Building Permit approval, applications for new construction that meet these guidelines shall be reviewed and approved per Sec. 82-1004.2, TRC as DPR Approving Authority. 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 Sec. 82-1008 of the Zoning Ordinance – Project Review Fees.
- C. Summary of Residential Design Guideline elements for undersized lots in the R-8 and R-20 Zoning Districts.
  - 1) 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.
  - 2) Building Massing and Roof Form – (page 7 and 8 in the Village Design Guidelines). Smaller homes may be one simple clear form where larger homes may incorporate a second or a third volume. Roofs shall have a clearly legible dominant roof form with roofs of secondary volumes deferring in scale to the main body of the building.
  - 3) 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.
  - 4) Openings (pages 11, 21, 22 in the Village Design Guidelines). Windows and doors are generally organized and ordered in a fashion dividing the primary façade into thirds, fourths and fifths.
  - 5) Garages and Accessory Structures (page 13-14 in the Village Design Guidelines). The design of any accessory structure 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 Village Design Guidelines) deserve design attention and single 16’ or wider doors should be avoided.
  - 6) 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.

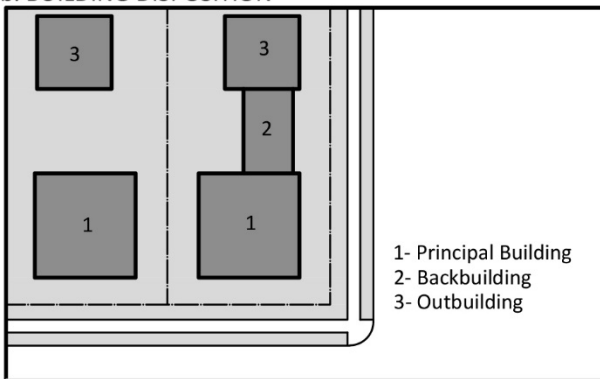
**Table 11-1: Definitions Illustrated**

This Table illustrates important concepts described in Article 11, Jamestown Village Special Development Overlay District, and the Definitions provided in Sec. 82-104.

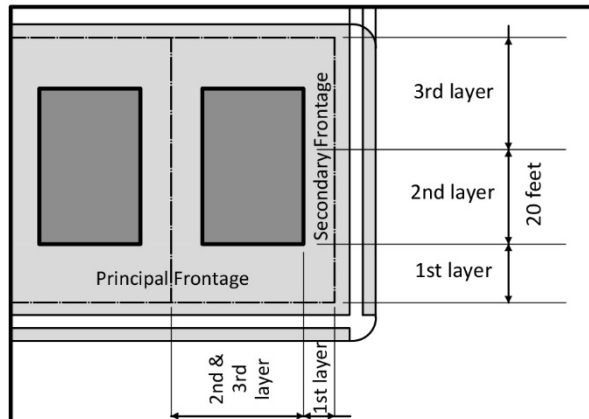
**a. THOROUGHFARE & FRONTAGES**



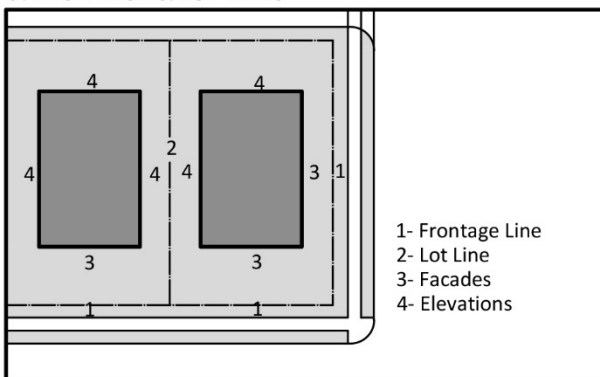
**b. BUILDING DISPOSITION**



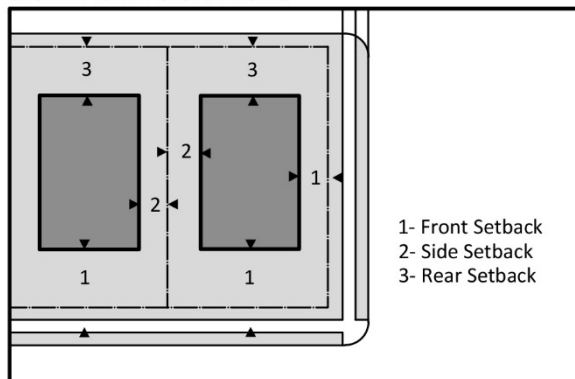
**c. LOT LAYERS**



**d. FRONTAGE & LOT LINES**



**e. SETBACK DESIGNATIONS**



## Article 12. Use Performance Standards

### Sec. 82-1200. Multifamily Dwellings

#### Sec. 82-1200.1. Purpose.

The purposes of this article include:

- A. To provide the Town of Jamestown the authority to allow for multifamily structures and/or developments.
- B. To facilitate the development of homes that can meet the needs and preferences of residents more inclined to purchase or rent smaller homes.
- C. To provide density and design standards that ensure the development of multifamily structures will positively contribute to the community setting.

#### Sec. 82-1200.2. Special use permit required.

The zoning board of review may permit, in the zoning districts specified in section 82-601, the establishment of multifamily dwellings by the granting of a special use permit in accordance with the provisions of Article 3 [of this chapter] and additional standards found in this Article 12. In addition to the considerations listed in section 82-300, the zoning board shall also consider:

- Whether the development meets the purposes of this chapter.
- Any advisory opinion from the planning commission through the development plan review process.

#### Sec. 82-1200.3. 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 pursuant to Article 10. 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. Pursuant to RIGL 45-24-49.a, Development Plan Review shall be advisory to the zoning board's review of a special use permit application and shall not, on its own, constitute a decision on the application.

#### Sec. 82-1200.4. Standards of development.

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

- A. Permitted uses. Uses permitted in multifamily structures or developments shall be limited to those allowed in the applicable zoning district. Permitted accessory uses in all zoning districts include laundry 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 may only be permitted if allowed in the zoning district under the provisions of section 82-601 and shall meet all of the applicable regulations of this ordinance [chapter].
- B. Dimensional Regulations. All regulations with regard to lot size, yards, lot coverage and any other dimensional requirements shall be as set forth in section 82-1200.4.C, and as further provided in Table 6-2.
- C. Density regulations--Multifamily dwelling projects. The maximum density of residential dwelling units that may be developed within any multifamily dwelling project shall be determined by Table 12-1.



Table 12-1 Density Regulations – Multifamily Dwelling Project

Zoning District	Services	Minimum Developable Land Area <sup>1</sup> Per Unit (square feet) added to minimum lot size
CD	Water and sewer <sup>2</sup> required	N/A
CL	Water and sewer required	N/A
R-8	Water and sewer required	1,500
R-20	Water and sewer required	2,000
R-40	Water or sewer required (at least one of the two public utility services)	3,300

1. Developable land area is calculated as the gross land area on a lot minus any land unsuitable for development as defined in Sec. 82-104.

2. “Water” and “sewer” refer to public water service or public sewer service as provided by the Town of Jamestown.

D. Density – Multifamily structures. Not more than 12 dwelling units shall be permitted in a multifamily dwelling structure in any district where permitted, pursuant to the definition of multifamily structure in Sec. 82-104, Definitions. 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:

- That there is an existing need for the type of housing proposed specifically documented in the Town’s Comprehensive Plan;
- The dwelling units will be available to meet that unmet need long term; and
- There are no practical means to construct an additional structure or structures on the site for the additional dwelling units.

E. Site Design.

- 1) **Open Space.** In the R-40 district, at least half of the site that is not covered by buildings, driveways, above-ground utilities, or parking areas shall be open space designed and/or maintained for the enjoyment of residents on that site. These areas may include, without limitation, walkways, paths, playgrounds, outdoor recreation areas, gardens, ornamental, landscaping, or natural areas.
- 2) **Compact Development.** Where multifamily development is proposed, clustering of structures is encouraged in order to increase accessibility of open space and foster a sense of community.
- 3) **Perimeter Buffering.** Fences, walls, or vegetative screening shall be provided along the perimeter of any lot containing a multifamily structure/development where such a buffer will:
  - a) Provide a smooth visual transition between multifamily development and more sparsely developed lots.
  - b) Provide an indication of the property boundary location, thereby limiting inadvertent trespass.
  - c) Provide protection of privacy where structures may be close enough together across property lines to warrant concern.
- 4) **Screening.** The following uses and areas within the premises of a multifamily structure or development shall be screened from adjacent residential properties or public streets.
  - a) Off-street parking areas containing more than ten (10) 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 the purposes of determining whether this threshold applies.
  - 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.

In the CD zoning district, buffering and screening as defined in this section shall not be required.

5) Areas of secondary importance. These areas include stands of mature woodlands, significant wildlife habitats, prime farmland or open meadows and their defining tree lines, 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, as evidenced in development plan submittals, to minimize adverse impacts to these areas by use of design which is sensitive to existing site conditions.

F. Building Design. Multifamily building design shall be consistent with the guidance provided in “A Jamestown Vision: Pattern Book & Design Guidelines for Building in the Village, June 19, 2008” (as amended) and will incorporate architectural styles consistent with existing buildings in the neighborhood, in order to meet the purposes described in Sec. 82-1200.1.C above. The permit reviewing authority shall compare the contents of the proposal with the following sections to determine whether there is consistency between the application and these sections of the guidelines:

- 1) Building Form
- 2) Building Elements
- 3) Materials & Methods

**Sec. 82-1201. Accessory Dwelling Units**

Sec. 82-1201.1. Purpose.

The intent and purpose of this section is to:

- A. Allow the creation of independent and quasi-independent living spaces that provide accommodations for additional family members or other tenants.
- B. Preserve and protect the family in Jamestown by enabling multiple generations of family members to live together and care for one another while maintaining a degree of privacy and individual dignity through separate dwelling units.
- C. Protect stability, property values, and the residential character of a neighborhood by ensuring that accessory dwelling units are installed under such additional conditions as specified herein.
- D. Provide for public safety by ensuring that accessory dwelling units are created legally, and in accordance with all applicable local and state codes.
- E. Nothing in this section shall infringe upon the right of an individual to add living space to a home in accordance with existing regulations and codes.

Sec. 82-1201.2. Standards.

An accessory dwelling unit may be permitted, by right, in any residential zoning district with the following limitations:

- A. Accessory dwelling units are only allowed on a lot with one single-family or with a duplex dwelling as the principal dwelling and should appear to be subordinate to the principal dwelling. The ADU shall be permitted to be 800 square feet, or larger, as permitted by Section 82-700 – Accessory Structures.
- B. Only one ADU may be allowed per lot by right:
  - 1) On any lot with a total lot area of twenty thousand (20,000 s.f.) or more for which the primary use is residential; or

- 2) Within the existing footprint of the principal dwelling or existing secondary attached or detached structure and does not expand the footprint of the structure.
- C. Accessory dwelling units located within or attached to the principal dwelling shall meet all the requirements of Sec. 82-602 - District dimensional regulations, as they pertain to the principal dwelling.
- 1) Accessory dwelling units located in a new or existing accessory structure:
  - 2) Shall meet the requirements of Sec. 82-602 - District dimensional regulations, as they pertain to the principal dwelling, except for height which shall be maintained at or below the maximum requirement for accessory structures of 25 feet;
  - 3) Shall meet all applicable requirements for accessory structures in Section 82-700 – Accessory Structures;
  - 4) Except that in no case can an ADU be located in the front yard. ADUs are not eligible for the special permits described in Sec. 82-700.D. Accessory structures;
  - 5) A special use permit shall be sought for an ADU in a detached structure on the lot where that detached structure does not meet the setbacks required for the primary structure.
- D. All new or expanded detached ADUs shall have architectural detailing compatible with the main structure, including roof shape, window patterns, proportions and materials per 82-1106.1.C. All new detached ADUs shall be designed in a way that does not compete in scale or volume with the primary building mass.
- E. Units located within or attached to the principal dwelling may be accessible either through the same means of ingress and egress as the principal dwelling or a separate entrance located to the side or the rear.
- F. Either the principal dwelling or the ADU must be owner occupied unless both dwelling units are made available for long-term occupancy through a long-term lease (one-year or more). The owner may occupy the ADU and may only rent the principal dwelling if it is made available for long-term occupancy through a long-term lease (one year or more).
- G. At least one (1) off-street parking space will be provided in addition to the required parking spaces of the primary use.
- H. ADUs shall not be offered or rented for tourist or transient use or through a hosting platform (as such terms are defined in RIGL 42-63.1-2. as a short-term rental).
- I. ADUs that meet these regulations and are not part of a larger development proposal shall be reviewed by the Zoning/Building Official and shall not, by themselves, be reviewed as minor land developments, major land developments, or special use permits.
- J. On any lot serviced with an on-site wastewater treatment system (OWTS), if the ADU results in an increase in the total number of bedrooms, the State Permitted OWTS shall meet the total bedroom demand or the owner shall have the existing or any new system approved by RIDEM.
- K. The ADU will comply with all applicable state and local regulations.Length of occupancy. All ADUs and Accessory Family Dwelling Units formerly granted though this Ordinance, if rented, must be made available for long-term occupancy through a long-term lease (one-year or more).

## **Sec. 82-1202. Bed and Breakfast Homes**

### Sec. 82-1202.1. Generally.

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:

- A. No more than five rooms are available on an overnight basis for transient guests for compensation;
- B. No more than four people are permitted to occupy any one room;
- C. No more than ten transient guests are permitted at any one time;
- D. No cooking facilities are permitted in any guestroom;
- E. Meals may only be provided for transient guests of the bed and breakfast home;
- F. No person may occupy said room or rooms more than 14 days in any 30-day period; and
- G. Use is authorized by the zoning board, and then is subject to the requirements of any state and local permits.

Sec. 82-1202.2. 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:

- A. 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 and/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, saltwater 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) Floor plans 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.

B. Minimum standards for approval. Every bed and breakfast home shall comply with the following minimum standards:

- 1) Each guestroom shall have two means of egress.
- 2) Each guestroom shall contain an approved fire extinguisher and an approved fire detector and meet applicable standards of the local fire marshal.
- 3) 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.
- 4) An adequate sewage disposal system must be in place with proper documentation by RIDEM [Rhode Island Department of the Environment] or by a certified OWTS 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.
- 5) Water-saving devices shall be installed in all water fixtures in the building, including fixtures in the primary residence. Bed and breakfast homes using private water wells shall provide a certificate of good water quality from the state of the environment.

**Sec. 82-1203. Compact Cottage Development (CCD)**

Sec. 82-1203.1. Purpose. The purposes of this section include:

- A. To provide housing types that are responsive to changing household demographics (e.g., retirees, small families, single parent households, single person households, dual owner households);
- B. To provide opportunities for low to moderate income housing within single-family neighborhoods;
- C. To encourage creation of functional usable open space in residential communities;
- D. To promote neighborhood interaction and safety through design; and
- E. To ensure compatibility with neighboring uses.

Sec. 82-1203.2. Eligibility.

- A. CCD is allowable only through Major Land Development application to the Planning Commission. A CCD is only permitted in the following zoning districts: R-20, R-8, CL, and CD.
- B. Where a lot is split by any of the zones described above, only the portion of the lot that is fully eligible may be proposed as part of a CCD.
- C. CCD is only allowable when connected to public water and sewer.

Sec. 82-1203.3. Application

Applications shall follow the procedures for Major Land Development per the Town’s Subdivision Regulations.

#### Sec. 82-1203.4. Inclusionary Zoning

Any CCD is subject to the Inclusionary Zoning requirements of Sec. 82-1605.

#### Sec. 82-1203.5. Density Requirements

- A. The maximum density shall be fifteen (15) cottage units per acre of land not defined as land unsuitable for development in Sec. 82-104.
- B. An individual cottage development shall contain a minimum of six (6) dwelling units and may contain a maximum of thirty (30) dwelling units.
- C. None of the provisions of this subsection shall be interpreted as removing any density limitations or nutrient loading limitations that may be required by RIDEM or RICRMC for specific areas.

#### Sec. 82-1203.6. Dimensional Requirements

- A. A CCD may be developed with dwelling units on separate lots, a single lot, or a combination thereof.
- B. No detached accessory structures shall be allowed except as development facilities such as storage sheds, garages, utility structures, or similar common facilities.
- C. Dwelling units shall be separated by a minimum of ten (10) feet from the side edge of one building to another. Where attached architectural features such as eaves, window bays, bulkheads, etc. project into the space between residences, the ten (10) foot separation shall be measured from the outside edge of these features.
- D. Dwelling units not abutting or oriented towards a right-of-way shall have a front yard oriented towards the common open space.
- E. The total habitable floor area, as defined in Sec. 82-104 of the Zoning Ordinance, of each cottage unit shall not exceed 1,200 square feet. No building footprint, excluding any enclosed porch area, shall exceed 800 square feet. Habitable floor area in a two-story cottage for the second floor shall not exceed 400 square feet.
- F. The distance between the front building edge and the right of way or the edge of the common space shall be at least fifteen (15) feet.
- G. The building height for all structures shall not exceed twenty-two (22) feet.
- H. The nearest building in the cottage community shall not be closer than 50 feet from the lot line of any abutting residential use.
- I. Accessory dwelling units are not allowed within a CCD.

#### Sec. 82-1203.7. Common Open Space

- A. A minimum of 250 square feet of common open space shall be provided per dwelling. However, not less than 3,000 square feet of common area shall be provided regardless of number of dwelling units.
- B. No dimension of a common open space area used to satisfy the minimum square footage requirement shall be less than 20 feet, unless part of a pathway or trail.
- C. Required common open space shall be divided into no more than two separate areas per cluster of dwelling units.

- D. Common open spaces shall have dwelling units that face each other across the common open space.
- E. Common open space shall be designed for passive or active recreational use. Examples may include but are not limited to courtyards, orchards, landscaped picnic areas, or gardens. Common open space shall include amenities such as seating, landscaping, trails, gazebos, outdoor cooking facilities, covered shelters, or ornamental water features.
- F. Stormwater management facilities shall not be located in a common open space area, except where swales or other natural conveyance features are included in the design.
- G. All dwelling units shall have dedicated access ways to the common open spaces.

Sec. 82-1203.8. Cottage Building Design Standards. In addition to the dimension requirements in Sec. 82-1203.6, the following building design standards shall apply:

- A. Variety in Building Design. The same combination of building elements, features and treatments shall not be repeated on individual dwelling units for more than twenty (20) percent of the total dwelling units in a cottage housing development. Dwelling units with the same combination of features and treatments shall not be located adjacent to each other. A minimum of five (5) of the following building elements, features, and treatments shall be provided in a manner that creates visual variety between adjacent structures and within clusters of cottage units:
  - 1) Variation in general architectural elevation and size (this is required);
  - 2) Variation in roof or building colors and materials, such as brick, stone or other masonry as accents (vinyl or cementitious finish materials are prohibited);
  - 3) Varying roof shapes or gables between adjacent structures;
  - 4) Windows with visible trim and mullions;
  - 5) Roof brackets;
  - 6) Dormers;
  - 7) Fascia boards;
  - 8) Bay windows;
  - 9) Entry enhancement such as a well detailed door (multi-panel or glass insert), window adjacent to front door, or roof extension;
  - 10) Trellis;
  - 11) Modulation;
  - 12) Chimney (shown on the exterior of the house);
  - 13) Other building elements, treatments, features, or site designs approved by the code administrator that provide variety and visual interest;
  - 14) Additional porches and patios (required porch not included);

B. Porches.

- 1) Cottage housing units shall have a covered porch over the primary entrance at least sixty (60) square feet in size with a minimum dimension of six feet on any side.
- 2) Cottage housing units shall have the covered porches of the main entry oriented to the common open space or the public street right of way as applicable.

C. Fences. All fences interior to the development shall be no more than thirty-six (36) inches in height and shall be made of natural materials.

Sec. 82-1203.9. Parking

- A. A minimum of 1.5 spaces per dwelling unit shall be provided for the entire cottage community. Parking spaces located within garages and driveways may count towards this requirement.
- B. Parking for individual dwelling units shall be combined into an individual facility or into parking clusters in order to facilitate housing clusters that are oriented to common open space areas.
- C. Garage doors shall not be oriented towards a public right-of-way with the exception of an alley or walkway.
- D. Garages and carports shall not be located between the common open space and the dwelling units.
- E. Surface parking lots shall be broken into sub-lots of no more than fifteen (15) parking spaces.
- F. Parking in the form of garages, carports, or surface lots may occupy no more than 40 percent of site frontage on a public right-of-way, except in the case of an alley, in which case no restriction applies.
- G. Surface parking lots shall be set back twenty (20) feet from the outside perimeter of the cottage community.
- H. Parking shall be set back a minimum of twenty (20) feet from a public right of way.
- I. Surface parking lots of more than four (4) spaces, visible from a public right-of-way (not including alleys) or adjacent single-family uses or zones shall be screened by landscaping and/or architectural features.
- J. A pitched roof design is required for any enclosed parking structures.

Sec. 82-1203.10. Common Area Maintenance

- A. Cottage developments shall be required to implement a mechanism that ensures the continued care and maintenance of common areas. All common areas shall be protected against further development and unauthorized alteration in perpetuity by appropriate deed restrictions. The Planning Commission shall approve the form and content of all deed restrictions at the time of final approval of the application. Every deed restriction providing a maintenance guarantee shall contain the following provision:

“If the owners, or their successors or assigns fail to maintain the common area, the Town may perform any necessary maintenance and enforce the payment for such costs, including reasonable attorneys’ fees, by an action at law or in equity against the owners or their successors or assigns.”

- B. Ownership of the common area shall be conveyed to a corporation or trust owned or to be owned by the owners of lots or units within the cottage 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. A typical example



would be creation of a homeowner's association or condominium association with authority and funding necessary to maintain the common areas.

Sec. 82-1203.11. Stormwater Management. All applications shall be required to meet RIDEM's Stormwater Standards.

### **Sec. 82-1204. Solar Energy Systems and Facilities**

#### Sec. 82-1204.1. Purpose and Intent.

- A. The purpose of this section is to regulate the installation of solar energy systems by providing standards for the placement, design, construction, operation, monitoring, modification, and removal of such systems.
- B. These standards are intended to ensure that solar energy systems are compatible with the surrounding area, provide for public safety, and minimize impacts on scenic, natural, and historic resources.

#### Sec. 82-1204.2. Applicability.

- A. The provisions of this section shall apply, as specified herein, to construction, operation, and/or repair of solar energy systems in the Town of Jamestown, installed and constructed after the effective date of this article.
- B. Accessory solar energy systems for which a building permit application has been submitted prior to the enactment of this section shall not be subject to the requirements found herein.
- C. Any upgrade, modification or structural change that materially alters the size or placement of an existing solar energy system shall comply with the provisions of this article.
- D. Any solar energy systems that are proposed to be located on Town-owned property are subject to the requirements of this section unless otherwise noted.

#### Sec. 82-1204.3. General requirements.

- A. Location. Major solar energy systems are prohibited in Jamestown, as indicated in Table 6-1. Accessory solar energy systems are permitted as an accessory use in all zoning districts, as indicated in Table 6-1.
- B. Exemptions. Building-mounted or building-integrated accessory solar energy systems for residential or commercial uses shall be allowed by right in all zones. Nothing herein shall preclude the Town of Jamestown from proposing to install ground-mounted or other solar energy systems on any Town-owned or -controlled property regardless of the zoning district (though still subject to the review requirements of this section). Size restrictions as noted in Sec. 82-1204.4.A.11. do not pertain to Town-owned or -controlled property.
- C. Compliance with laws, ordinances, and regulations. The construction and operation of all solar energy systems shall be consistent with all applicable local, state, and federal laws, ordinances, regulations, and requirements, including, but not limited to, all applicable safety, construction, electrical, and communications requirements. All buildings/structures and fixtures forming part of a solar energy system shall be constructed and maintained in accordance with the Rhode Island Building Code and Electrical Code.
- D. Building permit and building inspection. No solar energy system shall be constructed, installed or modified without first obtaining a building permit and shall be subject to periodic inspections as deemed necessary by the building official.
- E. Fees and surety. All applicable fees, including but not limited to, a building permit fee, planning and zoning board review fees, as provided for herein or in the Code of Ordinances for the Town of Jamestown, shall be paid prior

to the issuance of any building permits.

- F. Plans and surveys. All plans related to design, construction, installation or modification of a solar energy system installation shall be prepared, signed, and stamped by either a professional engineer, surveyor (for property line information) or landscape architect (for landscape information) licensed to practice in the State of Rhode Island.
- G. Maintenance. The solar energy system shall be maintained by the solar energy system owner and/or operator and shall be cleared of debris, weeds, trash, etc. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. The equipment shall remain in good repair and working order. Malfunctioning or inoperable equipment shall be removed from the property and disposed of in accordance with all applicable federal, state, and local regulations.
- H. Conservation Lands. Solar energy systems and any associated equipment shall not be allowed on land held under conservation easement or land for which the development rights have been sold, transferred, or otherwise removed from the parcel, unless the conditions of the easement, deed, or other applicable legal document specifically allows the installation of a solar energy system, or shall receive approval for the disturbance or use of such lands by the holder(s) of the easement or restriction.

Sec. 82-1204.4. Development Standards

The following standards shall apply as follows:

- A. Accessory solar energy systems. All accessory solar energy systems shall adhere to the following:
  - 1) Glare. All solar energy systems shall be designed and located to prevent reflective glare toward any inhabited buildings on adjacent properties. Glare generated from solar panels shall not interfere with traffic or create a safety hazard.
  - 2) Stormwater and Erosion & Sediment Control. On-site drainage management and erosion and sedimentation control shall conform to the latest Rhode Island Stormwater Design and Installation Standards Manual, and the RI Soil Erosion and Sediment Control Handbook, as well as all applicable Town regulations.
  - 3) Clearing, Excavation, and Filling. Clearing of natural vegetation shall be strictly limited to what is necessary for the construction, operation, and maintenance of the solar energy system or as otherwise prescribed by applicable laws and regulations. Excavation and filling of project sites shall be limited to what is necessary to stabilize the installation area.
  - 4) Code requirements. All installations shall be in compliance with the Rhode Island State Building Code and the Rhode Island State Electrical Code and shall be subject to periodic inspections by the Jamestown Building Official. All relevant installation components must have a UL listing or equivalent.
  - 5) Mechanical Equipment. All mechanical equipment associated with solar energy systems, including but not limited to controls, energy storage devices, batteries, heat pumps, exchangers or other materials, hardware or equipment necessary to the process by which solar radiation is converted into another form of energy shall be located and enclosed with structures/fencing to prevent unauthorized access.
  - 6) Ground Cover. Grass is the preferred treatment versus gravel, crushed stone or the like. However, each application shall be assessed during the development plan review process to determine the most appropriate ground cover.
  - 7) Farmland. Solar energy systems located on prime farmland or farmland of statewide importance, as determined by the United States Department of Agriculture Natural Resources Conservation Service within the most recent Rhode Island Soil Survey, shall be designed and installed to ensure that:
    - a) The land beneath the solar energy system is reseeded after installation with grass or low growth vegetation that is listed in the University of Rhode Island's native plant database, or, if such soils need to

- be removed from beneath the system for installation purposes, the soils are relocated to and spread over an undisturbed area of the site to allow the soils to be placed into productive use;
- b) Any invasive species found to grow upon the land underneath the system are controlled or eliminated so that the soil remains usable for future agricultural purposes;
  - c) Siting of the systems shall keep with the existing contours of the land, and only pile-driven or ballast block footings are to be used, so as to minimize disturbance of soils during installation; and
  - d) Required vegetative buffers are composed of plant materials listed in the University of Rhode Island's native plant database, with a preference for pollinator-friendly materials.
- 8) Other Zoning Requirements. Meet all applicable zone requirements from other sections of this zoning ordinance, unless otherwise specified herein, including but not limited to lighting, setbacks, signage, and height;
  - 9) Building Permit. Require a building permit after submission and approval of layout and design through Development Plan Review (DPR) through the Technical Review Committee per Sec. 82-1004.2. Any memorandum of lease, easement or utility agreements must also be submitted for review, and shall be recorded in land evidence in the Town of Jamestown upon approval;
  - 10) Roof-Mounted. Place any roof-mounted components on code compliant structures only. On flat roofs, accessory solar energy systems shall be set back from the edge. On pitched roofs, the edge of the solar energy system shall be parallel to the roofline; and
  - 11) Ground-Mounted. Place ground mounted components on an area of up to 20% of the net buildable area of the lot on which it is located (i.e., the total area of the applicable lot, minus setbacks, vegetated buffers, and wetlands) but no more than 5,000 square feet in area in total. Ground mounted systems shall be no more than 12 feet above finished grade at their highest point.

## **Sec. 82-1205. Wind Energy Systems**

### Sec. 82-1205.1. Purpose and Intent.

The purpose of this ordinance is to provide standards for the placement, design, construction, operation, monitoring, modification, and removal of wind energy systems that address public safety; minimize impacts on scenic, natural, and historic resources; and provide adequate financial assurance for the eventual decommissioning of such systems.

### Sec. 82-1205.2. Applicability.

- A. This section applies to all wind energy systems proposed to be constructed after the effective date of this section.
- B. This section also pertains to physical modifications to existing wind energy systems that materially alter the type, configuration, location or size of such systems or related equipment. This section does not apply to offshore wind facilities.
- C. Nothing herein shall preclude the Town of Jamestown from proposing to install any wind energy system on any Town-owned or -controlled property regardless of the zoning district. Any wind energy systems that are proposed to be located on Town-owned property are subject to the requirements of this section unless otherwise noted.
- D. No wind energy system shall be erected, constructed, installed or modified as provided in this section without first undergoing Development Plan Review (DPR) through the Planning Commission per Sec. 82-1004.1 and then applying for a Special Use Permit through the Zoning Board of Appeals per Sec. 82-203, Procedures for appeals, special use permits and variances and Article 3, Special Use Permits and Variances. All applications for a wind energy system shall meet the standard requirements for DPR (Sec. 82-1005) and Special Use Permits (Sec. 82-203 and Article 3) as well as the requirements described below in Sec. 82-1205.3, General Requirements.

- E. **Temporary Meteorological Towers (Met Towers).** A building permit shall be required for stand-alone temporary met towers. Development Plan Review shall not be required for met towers. Met towers shall not be located so as to interfere with any utility right of way.

Sec. 82-1205.3. General Requirements.

- A. **Location.** Wind Energy Systems are permitted only where indicated in Table 6-1, with a special use permit.
- B. **Exemptions.** Building-mounted or building-integrated accessory wind energy systems for residential or commercial uses shall be allowed by right in all zones.
  
- C. **Compliance with Laws, Ordinances, and Regulations.** The construction and operation of all wind energy systems shall be consistent with all applicable local, state, and federal laws, ordinances, regulations, and requirements, including, but not limited to, all applicable safety, construction, electrical, and communications requirements. All buildings/structures and fixtures forming part of a wind energy system shall be constructed and maintained in accordance with the Rhode Island Building Code and Electrical Code.
  
- D. **Building Permit and Building Inspection.** No wind energy system shall be constructed, installed or modified without first obtaining a building permit and shall be subject to periodic inspections as deemed necessary by the building official.
  
- E. **Fees and Surety.** All applicable fees, including but not limited to, a building permit fee, planning and zoning board review fees, as provided for herein or in the Code of Ordinances for the Town of Jamestown, shall be paid prior to the issuance of any building permits.
  
- F. **Plans and Surveys.** All plans related to design, construction, installation or modification of a wind energy system installation shall be prepared, signed, and stamped by either a professional engineer, surveyor (for property line information) or landscape architect (for landscape information) licensed to practice in the State of Rhode Island.
  
- G. **Operation and Maintenance.** The wind energy system shall be maintained by the applicant and shall be cleared of debris, weeds, trash, etc. Maintenance shall include, but not be limited to, painting, structural repairs, emergency braking (stopping) and integrity of security measures. The equipment shall remain in good repair and working order. Malfunctioning or inoperable equipment shall be removed from the property and disposed of in accordance with all applicable federal, state, and local regulations. The applicant shall be responsible for the cost of maintaining the wind energy system and any access road(s), unless accepted as a public way.
  
- H. **Conservation Lands.** Wind energy systems and any associated equipment shall not be allowed on land held under conservation easement or land for which the development rights have been sold, transferred, or otherwise removed from the parcel, unless the conditions of the easement, deed, or other applicable legal document specifically allows the installation of a wind energy system, or shall receive approval for the disturbance or use of such lands by the holder(s) of the easement or restriction.

#### Sec. 82-1205.4. Development Standards.

The following standards shall apply as follows:

- A. Appearance, Color, and Finish. Color and appearance shall comply with FAA safety requirements.
- B. Lighting. Wind turbines shall be lighted only if required by state or federal law. Lighting of other parts of the wind energy system, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Except as required by state or federal law, lighting of the wind energy system shall conform with Sec. 82-702, Lighting.
- C. Signage. No signs are allowed on the security perimeter fencing except for a sign displaying the installation name, address, and emergency contact information, and trespassing/warning/danger signs to ensure the safety of individuals who may come in contact with the installation. No sign shall exceed four square feet in area.
- D. Utility Connections. Reasonable efforts, as determined by the Planning Commission, shall be made to place all developer-owned utility connections from the wind energy system underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Utility owned electrical equipment required for utility interconnections may be above ground, if required by the utility provider.
- E. Appurtenant Structures. All appurtenant structures to wind energy systems shall be subject to applicable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking, and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and contained within the turbine tower whenever technically and economically feasible. Whenever reasonable, structures should be shielded from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.
- F. Height. The maximum tip height (MTH) of wind energy systems shall not exceed 350 feet.

#### Sec. 82-1205.5. Safety and Environmental Standards.

- A. Emergency Access and Safety. Reasonable accessibility for emergency service vehicles shall be required, along with documentation that a public safety preparedness and response plan, detailing the standards, procedures, and communication protocol to be utilized at the system and in the event of an emergency, and documentation indicating that the plan has been approved by the Fire Marshall. All means of disconnecting the wind energy system shall be clearly marked. The applicant or system owner shall identify a responsible person for public inquiries or complaints throughout the life of the project.
- B. Security. A fence shall surround the perimeter of any wind energy system unless adequate property perimeter fencing already exists to the satisfaction of the Zoning Officer. Said fencing shall be no less than seven feet in height nor greater than 10 feet in height, shall be located behind any vegetated buffer required by this section, and, as feasible, shall not obscure scenic views and shall incorporate wildlife passage features for small mammals and birds in its design and installation. Wind energy systems shall be designed to prevent unauthorized access. For instance, the towers of wind turbines shall be designed and installed so that step bolts or other climbing features are not readily accessible to the public and so that step bolts or other climbing features are not installed below the level of 8 feet above the ground. Electrical equipment shall be locked where possible.
- C. Setbacks. A wind turbine may not be sited within:
  - 1) A distance equal to or less than one and one-half (1.5) times the maximum tip height (MTH) of the wind turbine from any property lines, buildings, critical infrastructure—including Critical Electric Infrastructure

and above-ground natural gas distribution infrastructure—or private or public ways that are not part of the wind energy system; or

- 2) A distance equal to three (3.0) times the maximum tip height (MTH) of the turbine from the nearest existing residential or commercial structure.
- D. Shadow/Flicker. Wind energy systems shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impacts on neighboring or adjacent uses.
- E. Sound. The operation of the wind energy system shall be no more than a 5 dB(A) increase over the site's pre-construction ambient sound levels. The applicant shall fund a third party with acoustic expertise to conduct this pre-construction sound monitoring, and to predict turbine sound levels at surrounding property lines. The most up-to-date IEC standards for sound power levels (IEC 61400-11 ed 3 as of 2015) should be used in conjunction with the most current ISO sound pressure propagation methods (ISO 9613-2 as of 2015), though other accurate sound modeling options, such as NORD200 software, are also accepted.
- F. Clearing, Excavation, and Filling. Clearing of natural vegetation shall be strictly limited to what is necessary for the construction, operation, and maintenance of the wind energy system or as otherwise prescribed by applicable laws and regulations. Excavation and filling of project sites shall be limited to what is necessary to stabilize the installation area.

#### Sec. 82-1205.6. Application Contents.

- A. A site plan is required showing the following, on top of anything else required by the DPR checklist referenced in Sec. 82-1007.2:
- 1) Property lines and physical dimensions of the site parcel and adjacent parcels within 500 feet of the site parcel;
  - 2) Outline of all existing buildings/structures, including purpose (e.g. residence, garage, etc.), on the site parcel and all adjacent parcels within 500 feet of the site parcel, including distances from the wind system to each building shown;
  - 3) Location of the proposed tower, foundations, guy anchors, access roads, and associated equipment, including demonstration of compliance with any setbacks required by Sec. 82-1205.5.C;
  - 4) Location of all existing and proposed roads, both public and private, and including temporary roads or drive-ways, on the site parcel and adjacent parcels within 500 feet of the site parcel;
  - 5) Location of all existing above ground or overhead gas or electric infrastructure, including Critical Electric Infrastructure, and utility rights of way and easements, whether fully cleared of vegetation or only partially cleared, within 500 feet of the site parcel;
  - 6) Existing areas of tree cover, including estimated average height of trees on the site and any adjacent parcels within a distance of 3.0 times the MTH, measured from the wind turbine foundation;
  - 7) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
  - 8) Tower and tower foundation blueprints or drawings signed by a Professional Engineer licensed to practice in the State of Rhode Island;
  - 9) One- or three-line electrical diagram detailing wind turbine, associated components, and electrical

interconnection methods, with all National Electrical Code and National Electrical Safety Code compliant disconnects and overcurrent devices;

- 10) Documentation of the wind energy system's manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed), and foundation type/dimensions;
  - 11) Name, address, phone number, and signature of the applicant, as well as all co-applicants or property owners, if any;
  - 12) The name, contact information, and signature of any agents representing the applicant; and
  - 13) A maintenance plan for the wind energy system.
    - a) Operation & Maintenance Plan. The applicant shall submit a plan for maintenance of access roads and storm water controls, as well as detailed procedures for operational maintenance of the wind system that are in accordance with manufacturer's recommendations for the period of expected operation of such system. A system that is not being maintained in accordance with the submitted plan and manufacturer's recommendations shall be subject to the conditions of Sec. 82-407. Penalty for violation.;
    - b) A location map consisting of a copy of a portion of the most recent USGS Quadrangle Map, at a scale of 1:25,000, showing the proposed system site, including turbine sites, and the area within at least two miles from the system. Zoning district designation for the subject parcel should be included; submission of a copy of a zoning map with the parcel identified is suitable for this purpose;
    - c) Proof of liability insurance, in amounts commensurate with the risks;
    - d) Certification of height approval from the Federal Aviation Administration (FAA);
    - e) A statement that evidences the wind energy system's conformance with Sec. 82-1205.5.D relative to shadow/flicker;
    - f) A statement that evidences the wind energy system's conformance with Sec. 82-1205.5.E, listing existing ambient sound levels at the site and maximum projected sound levels from the wind energy system;
    - g) Description of financial surety that satisfies Sec. 82-1205.7.C.; and
    - h) A public safety preparedness and response plan per Sec. 82-1205.5.A and documentation that the site is secured per Sec. 82-1205.5.B.
- B. Site Control. The applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for installation and operation of the proposed wind energy system, together with documentation of all applicable title encumbrances (e.g. utility right of way easements). Control shall include the legal authority to prevent the use or construction of any structure for human habitation, or inconsistent or interfering use, within the setback areas.
- C. Utility Notification. No site plan for the installation of a wind energy system shall be approved until evidence has been given that the electric utility company that operates the electrical grid where the system is to be located has been informed of the customer's intent to install an interconnected customer-owned generator, and copies of site plans showing the proposed location have been submitted to the utility for review. No installation of a wind energy system shall commence, and no interconnection shall take place until an Interconnection Agreement pursuant to applicable tariff and consistent with the requirements for other generation has been executed with the utility. Off-grid systems shall be exempt from this requirement, unless they are proposed to be located within setback distance from the sideline of an existing utility right of way.

#### Sec. 82-1205.7. Abandonment or Decommissioning.

- A. Removal Requirements. Any wind energy system that has reached the end of its useful life or has been abandoned shall be removed by the licensee. The owner/operator shall physically remove the system no

more than 150 days after the date of discontinued operations. The applicant shall notify the Zoning Officer by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- 1) Physical removal of all wind turbines, structures, equipment, security barriers, and transmission lines from the site.
  - 2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
  - 3) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Zoning Officer may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- B. Abandonment. Absent notice of a proposed date of decommissioning or written note of extenuating circumstances, the wind energy system shall be considered abandoned when the system fails to operate for more than one year without the written consent of the Zoning Officer. When the Zoning Officer determines that abandonment has occurred, the Zoning Officer will send notice of this determination to the owner/operator. If the applicant fails to remove the system in accordance with the requirements of this section within 150 days of this notice of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the system.
- C. Financial Surety. Applicants for utility-scale wind energy systems shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal or failure to maintain, in the event the Town must maintain or remove the system and remediate the landscape, in an amount and form determined to be reasonable by the Zoning Officer, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally or state-owned systems. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

## **Sec. 82-1206. Communications Towers**

### **Sec. 82-1206.1 Development Standards for Communications Towers.**

- A. Communications towers shall be prohibited in any historic district except by a use variance from the zoning board of review.
- B. Applications for a use variance shall be accompanied by evidence that the proposed tower cannot be located in a permitted district. Such evidence shall consist of the following information for a minimum of three potential sites:
  - 1) Site plans;
  - 2) Photographs of the site and surrounding areas; and
  - 3) Written documentation of the lack of a site in a permitted district.
- C. The following standards shall apply to all applications:
  - 1) A reasonable effort shall be made to utilize existing structures for communications antennas. If an existing structure is not utilized, evidence as to why not shall be submitted.
  - 2) Town-owned sites near the prospective development area and which could potentially accommodate the proposed antennas and communications towers shall be identified.



- 3) Communications towers shall be set back from all property lines a minimum of one foot for each one foot of tower height. When the property abuts a residential district or historic district, the setback distance shall be 1.5 feet for each one foot of tower height. All guy wires and guyed towers shall be clearly marked so as to be visible at all times, and all guy wires shall be set back from all property boundaries according to the minimum requirements of the zoning district in which they are located.
- 4) All communications tower supports and peripheral anchors shall be located entirely within the boundaries of the development site and shall be set back from all property boundaries according to the minimum requirements of the zoning district in which the communications tower is located, but no less than 25 feet. When located in or abutting a residential district or historic district, the minimum distance shall be 35 feet. Supports and/or peripheral anchors shall not encroach upon the minimum landscaped screening requirement. All supports and anchors shall have at a minimum a ten-foot horizontal setback from any overhead utility line.
- 5) Communications equipment buildings and structures shall be considered accessory uses and shall comply with the following setbacks:
  - a) Buildings and structures with a footprint of 100 square feet or less: Shall be set back from all property boundaries a minimum of 15 feet, unless located within or abutting a residential district or historic district which shall require a minimum of 25 feet.
  - b) Buildings and structures with a footprint of greater than 100 square feet: Shall be set back from all property boundaries a minimum of 25 feet, unless located within or abutting a residential district or historic overlay district which shall require a minimum of 35 feet.
- 6) Communications towers shall be constructed and situated in such a manner as to fit in with the topography and features of the surrounding environment. Communications towers shall be completely screened from all adjacent properties and streets and appropriately camouflaged if required. Plantings shall be of such a height and density to ensure complete screening. Screening shall consist of plant and/or tree material accepted by the town's subdivision regulations or as accepted by the Zoning Officer. Screening shall comprise ten percent of the minimum established setback requirement but shall not be less than five feet in width unless located in or abutting a residential district or historic district which will require that it not be less than ten feet in width. Screenings may be waived by the zoning board of review on those sides or sections which are adjacent to undevelopable lands or lands not in public view. Existing vegetation shall be preserved to the maximum extent possible and may be used as a substitute for or supplement towards meeting the landscaped screening requirement. The owner of the property shall be responsible for all maintenance and shall replace any dead plantings within 30 days.
- 7) Communications towers shall be enclosed by a fence no less than seven feet in height or no more than ten feet in height from finished grade. Access shall be through a locked gate. Communications towers in or abutting a residential district or historic district shall have fencing comprised of wood or stone.
- 8) Communications towers shall not be artificially lighted except as required for public safety purposes by the Federal Aviation Administration (FAA) or by the town.
- 9) No signs shall be allowed on any communications tower except as required for public safety purposes by the Federal Communications Commission (FCC) or by the town.
- 10) Antennas not attached to a communications tower shall be permitted as an accessory use to any commercial, industrial, office, institutional, multifamily, or public or semipublic utility structure, provided that:
  - a) The antennas are not higher than 20 feet above the highest point of the structure;
  - b) The antennas comply with applicable Federal Communications Commission and Federal Aviation Administration regulations; and
  - c) The antennas comply with all applicable zoning requirements and building codes.

- 11) Communications towers shall be located so as to comply with the following standards for the minimum separation distance from existing towers and/or towers that have received a valid special use permit, use permit or building permit:

MINIMUM SEPARATION BETWEEN COMMUNICATIONS TOWERS (BY TOWER TYPE)

<b>Proposed Tower Types</b>	<b>Self-Supporting</b>	<b>Guyed</b>	<b>Monopole, 75 Feet in Height or Greater</b>	<b>Monopole, Less than 75 Feet in Height</b>
<b>Self-supporting</b>	3 miles	3 miles	1.5 miles	2,500 feet
<b>Guyed</b>	3 miles	3 miles	1.5 miles	2,500 feet
<b>Monopole 75 feet in height or greater</b>	1.5 miles	1.5 miles	1.5 miles	2,500 feet
<b>Monopole less than 75 feet in height</b>	2,500 feet	2,500 feet	2,500 feet	2,500 feet

- i. Separation distances shall be calculated and applied irrespective of jurisdictional boundaries.
- ii. Separation distances shall be measured from the global positioning system location of the existing, approved or proposed telecommunications tower. A certified survey showing the global positioning system location of the proposed telecommunications tower shall be submitted with any application for a special use permit, use permit or building permit to demonstrate conformance with setback requirements.

D. Abandonment or Decommissioning.

- 1) Removal Requirements. Any communications tower that has reached the end of its useful life or has been abandoned shall be removed by the licensee. The owner/operator shall physically remove the system no more than 150 days after the date of discontinued operations. The applicant shall notify the Zoning Officer by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
  - a) Physical removal of all communications towers, supports, structures, and related equipment from the site.
  - b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
  - c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Zoning Officer may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- 2) Abandonment. Absent notice of a proposed date of decommissioning or written note of extenuating circumstances, the communications tower shall be considered abandoned when it fails to operate for more than one year without the written consent of the Zoning Officer. When the Zoning Officer determines that abandonment has occurred, the Zoning Officer will send notice of this determination to the owner/operator. If the applicant fails to remove the communications tower in accordance with the requirements of this section within 150 days of this notice of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove it.
- 3) Financial Surety. Applicants for communications towers shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal or failure to maintain, in the event the Town must maintain or remove the system and remediate the landscape, in an amount and form determined to be reasonable by the Zoning Officer, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant.

Such surety will not be required for municipally or state-owned communications towers. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

**Sec. 82-1207. Keeping of chicken hens.**

- A. General. The owner of any house lot containing at least one dwelling may keep or permit to be kept on the house lot no more than six chicken hens on lots less than one acre, and 12 on lots between one acre and two acres and 20 on lots larger than two acres. Lots qualifying as farms have no restrictions on the number of chicken hens.
- B. Roosters. Subsection A of this section shall be construed to prohibit the raising and/or keeping of roosters.
- C. Structures and Enclosures. All chicken hens must be provided with both a hen house (coop) and a fenced outdoor enclosure, subject to the following provisions:
  - 1) The hen house must be covered, predator-resistant and well-ventilated. It shall be no more than eight feet in height and a maximum of 64 square feet in area;
  - 2) The fence made of chicken wire or a stronger substance shall be no more than six feet in height;
  - 3) The hen house must provide a minimum of two square feet per chicken hen;
  - 4) The hen house must be kept clean, dry, and sanitary at all times;
  - 5) The hen house must be located upon a permeable surface that prevents waste run-off;
  - 6) The fenced enclosure must adequately contain the chicken hens at all times;
  - 7) The fenced enclosure must be kept clean and sanitary at all times;
  - 8) The hen house must provide the chicken hens with adequate protection from the elements and inclement weather and provide for the chicken hens good health and prevent any unnecessary or unjustified suffering;
  - 9) The hen house shall not be built onto any shared fence;
  - 10) The setbacks for the hen house and enclosed area shall be those for the principal dwelling located on the house lot.
- D. No chicken hens may be kept or raised within the dwelling.
- E. The owner of the hen(s) must be a resident of the dwelling located on the house lot.
- F. The raising of chicken hens shall be restricted to back yards or side yards; chicken hens shall not be permitted, at any time, on the part of the property directly abutting a road.
- G. The keeping of chicken hens pursuant to this section shall be primarily for the purpose of raising chicken hens and collecting the eggs produced thereof; this section shall not be construed to allow for the commercial slaughter and sale of any chicken hens for any purpose.
- H. Necessary euthanasia of chicken hens shall be performed by a veterinarian licensed to practice in the State of

Rhode Island.

**Sec. 82-1208. Storage of fishery equipment.**

- A. Conditions. Conditions apply in all zoning districts where this use is permitted, per Table 6-1.
- 1) Setbacks: Unless in active use in or adjacent to the water, all fishery equipment, must be located inside a building or enclosed structure or be set back within the accessory building setback from the nearest property line and not located within the “front yard.”
  - 2) Odors: No fishery equipment shall cause or permit the emission of any substance or combination of substances which creates or contributes to an odor, in the ambient air, that constitutes a nuisance, so as to significantly impair the reasonable use of any other property.

**Sec. 82-1209. Underground storage tanks.**

Underground Storage Tanks (USTs) are only allowed in the zoning districts specified in Table 6-1 Permitted Uses, with the following conditions:

- A. Propane Tank: Propane tanks are encouraged to be located above ground, but are allowed to be placed underground in any zoning district with the following conditions:
- 1) Underground propane tanks must be designed for underground use and be installed and maintained according to manufacturer specifications.
  - 2) Underground propane tanks must be designed with cathodic protection or another method to help prevent tank corrosion.
  - 3) The outer surface of the underground propane tank must have a protective coating and be covered with a material that will not be harmful to the shell of the tank.
  - 4) Underground propane tanks must not be larger than 1,100 gallons.
- B. Design Standards: All new USTs other than propane tanks that meet the requirements of Sec. 82-1209.A above must receive a special use permit and meet the following design standards:
- 1) The facility must have an appropriate method of leak detection.
  - 2) Fill-pipes on tanks must have means to collect spills from delivery hoses.
  - 3) The tanks must have overfill protection, such as automatic shutoff devices which activate at 90% UST capacity and restrict flow during deliveries.
  - 4) Tanks and/or piping installed must be double-walled with continuous interstitial monitoring.
  - 5) These requirements for USTs are intended to supplement and not to supersede any other applicable requirements of the State of Rhode Island.

**Sec. 82-1210. Home occupations.**

Home occupations are only allowed in the zoning districts specified in Table 6-1 Permitted Uses, with the following conditions:

- A. Location: Carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit.
- B. Proprietor: Carried on by a full-time resident of the dwelling unit, and up to one person not a resident of the premises.

- C. Relation to dwelling unit: Clearly incidental and secondary to the use of the dwelling unit for residential purposes.
- D. Area: Performed by the resident and using no more than 25% of the gross floor area of the dwelling unit or 500 square feet of floor area, whichever is less, and such activity shall not be visible from a lot line;
- E. Exterior: There shall be no exterior display, no exterior sign (except as permitted under Article 14 [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.
- F. Nuisances: No vibration, smoke, dust, odors, heat or glare, electrical interference, or offensive noise shall be produced.
- G. Traffic: No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.
- H. Parking: Any parking required for the conduct of such a home occupation shall be provided off the street.

**Sec. 82-1211. Fuel service stations.**

Fuel service stations are only allowed in the zoning districts specified in Table 6-1 Permitted Uses, with the following conditions:

- A. Only the following services may be rendered:
  - 1) Sale and servicing of spark plugs, batteries and distributor parts
  - 2) Tire servicing and repair, but not recapping or regrooving
  - 3) 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
  - 4) Radiator cleaning and flushing
  - 5) Washing and polishing, and sale of automotive washing and polishing materials
  - 6) Greasing and lubrication
  - 7) Providing and repairing fuel pumps, oil pumps, and lines
  - 8) Minor servicing and repair of carburetor
  - 9) Emergency wiring repairs
  - 10) Adjusting and repairing brakes
  - 11) Minor motor adjustments

**Article 13. Parking Regulations**

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

**Sec. 82-1300. 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. 82-1301. 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. 82-1302. 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. 82-1303. Minimum off-street parking requirements.**

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

	<b>Type of Use</b>	<b>Minimum Parking Space</b>
1.	Residential Single- and Two-family  Single family in CD Multifamily dwellings Community Residence Family Day Care Mobile Homes Mixed-Use	2 spaces per dwelling unit  1 space per dwelling unit
2.	All uses under II, Lodging	1 space per unit or room
3.	All uses under VIIA, Professional Offices Radio or TV Studios	4 spaces per 1,000 sq. ft. GLFA 2 spaces per 1,000 square feet* GLFA
4.	All uses under VIIB, Personal Services	5 spaces per 1,000 sq. ft. GLFA
5.	All uses under VI Commercial Retail, subsections A, B, D and G	5 spaces per 1,000 sq. ft. GLFA 3 spaces per 1,000 square feet* GLFA
6.	All uses under VI Commercial Retail, subsections C and E	1 space per 5 seats or per 5 persons of occupancy 1 space per 8 seats or 8 persons of occupancy*

7.	All uses under VIII and IX	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.	All uses under VI. F Commercial outdoor recreation, with the exception of marina/yacht club.	1 space per 4 persons capacity
10.	All uses under IV, 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

NOTES:

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

GLFA = Gross leasable floor area

**Sec. 82-1304. Parking standards.**

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

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

- D. Paving or a porous parking material which allows infiltration of stormwater into the surface of the ground shall be provided for all required parking facilities sufficient to provide a durable and dust free surface over a minimum base 12 inches deep of compacted gravel, provided such design includes erosion control;
- E. 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, and away from the sky;
- F. Parking areas shall provide for proper drainage of surface water to prevent accumulation of water onto adjacent property or sidewalks;
- G. Bumper guards or wheel blocks should be used where necessary to control parking and traffic, and to avoid encroachment upon a building or adjacent property or streets;
- H. 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.
- I. Lots in the CD 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. 82-1305. Discontinued use.**

When a use on either property which has been permitted to utilize shared off-site parking is discontinued or changed, the shared parking shall be null and void. Any existing or new use of any property currently operating under a shared parking agreement where that shared parking has become null and void shall be subject to the provisions of this ordinance [chapter].

**Sec. 82-1306. 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 dust free, 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 building or 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. 82-1307. No net loss of parking.**

Applicants for development or redevelopment within the CD or CL zoning districts who cannot meet parking requirements on site shall demonstrate that there will, at a minimum, be no net loss of parking on site. Parking below the minimum requirement established in this section shall be allowed only through TRC Advisory Review per Sec. 82-410.C (as a substantial modification) and 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.
- B. As many parking spaces as reasonably feasible have been added on site in an attempt to meet the district parking requirements, and, at a minimum, there has been no reduction in the existing number of parking spaces on site.

Sec. 82-1307.1. Procedure for no net loss of parking.

An applicant for no net loss of parking must submit an application for special use permit to the zoning enforcement officer which contains a statement addressing each of the requirements set forth in this section 82-1307. The zoning enforcement officer shall forward the application to the zoning board of review for consideration in accordance with Article 3 of this ordinance [chapter].

## **Article 14. Sign Regulations**

**Sec. 82-1400. General intent.**

It is the intent of this chapter to:

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

**Sec. 82-1401. Building permit required.**

No sign shall be erected without the issuance of a building permit by the zoning enforcement officer unless otherwise specified in this Article 14. 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 Article 14.

**Sec. 82-1402. Building permit not required.**

The following signs do not require a building permit from the zoning enforcement officer and shall not be counted toward the maximum number of signs specified in Sec. 82-1405 or Sec. 82-1407. However, these signs are still subject to the design standards within this ordinance unless specifically noted otherwise. Violation of applicable standards shall constitute a zoning violation and be addressed as such.

- A. One or more wall signs affixed to a place of residence and not to exceed in aggregate two square feet. Such sign or signs are traditionally used for building identification for a residence, home occupation or other legal use, nameplates, or historical plaques noting the date of construction or other such historical information but may be used for any other legal communication desired.
- B. 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.
- C. Signs posted for the purposes of protecting public health and safety and deterring intentional or unintentional illegal activity. These signs may include, but shall not be limited to those prohibiting trespass, hunting and the like, signs warning of danger, such as high voltage, and necessary public utility signs. These signs shall not exceed two square feet in area.
- D. Normal displays of merchandise in windows shall not be considered signs.

- E. Temporary signs posted for the purposes of protecting public health and safety including, but not limited to those that would direct traffic in the presence of potentially hazardous conditions and any other governmental signs erected by a public safety agency in the discharge of any governmental function. Illumination of such signs may deviate from the standards of Sec. 82-1408 where such deviation is integral to the protection of public health and safety.
- F. Signs associated with historical places or points of interest and other such interpretive signs, erected by governmental authority or the like (such as the Jamestown Historical Society), not to exceed a total area of 12 square feet.
- G. Signs posted for the purposes of protecting public health and safety as related to the circulation of automobiles, bicyclists, and pedestrians. Individual signs posted for this purpose shall not exceed an area of more than 2 square feet. Examples of these signs include, but are not limited to, those indicating entrance, exit or parking, erected on a premise[s] for the direction of people and vehicles.
- H. Church, school, and public uses may have one ground sign, not to exceed a total area of 12 square feet. Public schools and other public uses may have, in addition, one wall sign that may run the horizontal length of the front façade of the building but not to exceed a vertical height of 2 feet. Where any of these signs are illuminated, illumination shall comply with Sec. 82-1408.
- I. Standard gasoline or other fuel pumps bearing thereon any information required by state or federal law.

**Sec. 82-1403. General prohibitions.**

The following signs are prohibited in all zoning districts, unless otherwise conditioned below:

- A. Animated signs. Temporary signs erected for the purposes of protecting public health and safety pursuant to Sec. 82-1402.E may be animated where conducive to those purposes.
- B. Billboards.
- C. Interior-lighted signs.
- D. Posted signs.
- E. Roof signs.
- F. Trailer signs.

**Sec. 82-1404. Signs reviewed as part of an application for a Special Use Permit.**

Where any application for a Special Use Permit includes the erection or alteration of a sign, the proposed sign shall be reviewed as part of that application by the zoning board of review.

**Sec. 82-1405. 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 for multiple uses on a single lot (see Sec. 82-1405.G below).

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

- A. Wall sign. One or more wall signs are allowed per established business for each street frontage, not exceeding a total of 16 square feet in the aggregate.
- B. Window sign. 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.
- C. Ground sign or ladder sign. One ground sign or ladder sign, not to exceed five feet in height (as measured from the ground) or 20 square feet in area, shall be permitted for each lot. Such signs are permitted in the CL and CD Districts only.
- D. Projecting sign. Such signs will be restricted to one per business and are only allowed in the first layer (as described in Article 11). The zoning enforcement officer shall require proof of adequate public liability coverage applicable to all signs extended over town property.
- E. Awning or canopy sign. A single awning or canopy structure may include one awning or canopy sign for each business located on the premises.
- F. Sandwich Board.
  - 1) No more than one sandwich board shall be allowed per business, per lot.
  - 2) Sandwich boards that are to be located on a lot which abuts a residential zoning district shall be required to comply with the side yard and rear yard setbacks of that residential zoning district.
  - 3) Sandwich boards shall be placed on the lot of record for that business and shall not be placed in public rights of way without a permit. See Sec. 82-1406 below.
  - 4) Sandwich boards shall not exceed 24 inches in width or 40 inches in height.
  - 5) Sandwich boards shall only be allowed to be displayed during hours of business operation. Signs shall be removed and stored so that they are not visible when the business is closed.
  - 6) Sandwich boards shall be properly secured, weighted, placed, and used in a manner so as to not cause harm to the public.
  - 7) Sandwich boards shall not be permanently anchored, attached or chained to a pole, utility pole, newspaper box or other structures or appurtenances.
  - 8) Sandwich boards shall not contain any electrical components nor have any moving parts.
- G. Signs for multiuse commercial establishments. A single lot containing more than one commercial use as an identifiable group shall be allowed one wall, ground or ladder sign for all commercial uses on the lot, up to 20 square feet in area. Additionally, one wall-mounted sign shall be allowed for each separate commercial use, each sign not to exceed 12 square feet in area.
- H. Temporary commercial signs. Temporary signs, banners, posters and special promotions, except posters intended for window display, are prohibited for commercial uses. Sandwich boards are not considered temporary commercial signs.

**Sec. 82-1406. 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.

**Sec. 82-1407. Regulations for residential districts.**

Regulations for residential districts are as follows:

- A. Customary home occupations, including bed and breakfast. Other than any sign for which a permit is not required per Sec. 82-1402, one single or double faced ground or projecting sign installed perpendicular to the façade, to identify premises of a permitted customary home occupation or bed and breakfast, shall be permitted provided such sign does not exceed two square feet in area. Any such projecting sign may only be located within the first layer (as described in Article 11).
- B. Shared unnamed driveway or private road. One ladder-type sign is permitted for group listings of any residential properties sharing an unnamed driveway or private road.
- C. Real estate development and subdivision. Any sign related to long-range property development or subdivision will comply with the standards of the Town of Jamestown's Subdivision and Land Development Regulations.
- D. Subdivision entrance signs. Permanent signs at major entrances to residential developments designed to identify such developments shall be permitted provided such signs do not exceed 15 square feet in area.
- E. Temporary residential signs. Temporary signs, banners, posters and special promotions, except posters intended for window display, will be permitted by right. The content of such signs has no bearing on the requirements of this section, but such signs traditionally include notices for special events, yard sales, political signs, or other signs expressing the views of the property owner(s). Any property may display such signs up to 12 square feet in cumulative area, with no one sign being larger than 4 square feet. No such sign shall be displayed for more than 45 days. Sandwich boards are not considered temporary residential signs.

**Sec. 82-1408. Illumination.**

The light from any sign component 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, nor into the sky.

Sodium-vapor type lighting is prohibited.

Neon signs (fluorescent paint or gaseous tube illumination) are permitted provided that:

- Such signs are placed in the window of commercial establishments;
- Such signs do not exceed three per establishment (this is in addition to the total limit on signs for commercial uses in the opening paragraph to Sec. 82-1405);
- The area of such signs does not exceed 25 percent of the window area of any window in which they are placed.

**Sec. 82-1409. 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 Article 14.

**Sec. 82-1410. Maintenance required.**

The components of all signs shall be kept in good repair, clean, neatly painted, and free from all hazards so as to not endanger the public health or safety. If the zoning enforcement officer deems any sign to be faded, torn,

broken, or in general disrepair, the sign will be considered in violation and must be removed, repaired or replaced.

## Article 15. Conservation Developments

### Sec. 82-1500. Purpose.

The purposes of this section, entitled Conservation Developments, are:

- A. To conserve open land by setting aside from development those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, floodplains, wetlands, reservoirs and their drainage areas, and agricultural lands;
- B. To preserve historical, agricultural and archaeological resources;
- C. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of streets, utility runs, and the amount of paving required for residential development;
- D. To provide for a diversity of lot sizes and layouts;
- E. To provide housing choices for various age and income groups and residential preferences to maintain population diversity in the community;
- F. To implement adopted municipal policies to conserve a variety of irreplaceable and environmentally important resources as set forth in the Comprehensive Plan;
- G. To provide reasonable incentives for the creation of a greenway / trail system within the Town;
- H. To implement land use, housing, environmental and open space policies as set forth in the Comprehensive Plan;
- I. To protect areas with productive agricultural soils for continued or future agricultural use by conserving blocks of land large enough to allow for efficient farm operations;
- J. To create neighborhoods with direct visual and/or physical access to open land, with amenities in the form of neighborhood open space, and strong neighborhood identities;
- K. To provide for the maintenance of open land set aside for active or passive recreational use, stormwater drainage or conservation;
- L. To conserve and create scenic views and preserve the rural character of the Town, particularly along existing streets;
- M. To provide buffers between new developments and existing neighborhoods, delicate natural features and habitats; and,
- N. To encourage low impact development (LID) techniques to control and reduce stormwater impacts.

### Sec. 82-1501. Applicability

- A. In accordance with the standards set forth in this section, the Planning Commission shall require all major subdivisions or land development projects to be developed in the form of a conservation development, whether a subdivision or not, except as provided in subsection B., below, only in the RR-200, RR-80, R-40 and R-20 zoning districts.
- B. If an applicant requests approval of a major conventional subdivision, the Planning Commission shall first require the applicant to submit a plan(s) of a conservation development for the property proposed for development, following the requirements and procedures for conservation developments provided in this section. As a com-

parison, the applicant shall also submit plan(s) for the conventional type of development requested. If the Commission finds that the conventional subdivision meets the general purposes of the Subdivision and Land Development Regulations and is consistent with the Comprehensive Plan, and after consideration of the purposes of conservation developments set forth in Sec. 82-1500 herein, the Commission may permit the application to be reviewed in a form other than conservation development. For major subdivisions or land development projects, the Commission may make this determination at the pre-application meeting, but no later than the master plan stage of review.

- C. The Planning Commission may not require an application for a minor conventional subdivision to be submitted as a conservation development. Applications seeking approval of either a minor conventional subdivision or a minor conservation development shall be at the discretion of the applicant.
- D. Administrative subdivisions and subdivisions that create lots which are not for the purpose of present or future development (e.g., open space lots) shall not be required to be developed as a conservation development.

**Sec. 82-1502. Utilities required in R-20 zoning districts.**

In R-20 zoning districts, all conservation developments must be provided with public water and sewer service. Privately owned wells and Onsite Wastewater Treatment Systems (OWTS) shall not be allowed for individual lots in a conservation development in this zoning district.

**Sec. 82-1503. Permitted residential uses.**

The following residential uses are permitted by right (Y) in a conservation development, unless otherwise noted:

- A. Single-family dwelling (in RR-200, RR-80, R-40 and R-20 districts)
- B. Two-family dwelling or duplex (in R20 district only)
- C. Multi-family dwelling structure, 3-12 units (in R20 district only)
- D. Multi-family dwelling project (in R20 district only)
- E. Accessory Dwelling Units shall be permitted per Sec. 82-1201. These units shall not count towards the maximum number of dwellings allowed in a conservation development.
- F. Community residence
- G. Family day care home

**Sec. 82-1504. Affordable housing in conservation developments.**

The maximum number of dwelling units permitted in a conservation development shall be increased for the development of Low and Moderate Income housing as provided in Article 16. Where a conservation development of 4 or more dwelling units is submitted to the Planning Commission for review and approval, the Commission shall require at least twenty percent (20%) of the units to qualify as Affordable Housing, as defined in this Ordinance. All the provisions of Sec. 82-1605 entitled Inclusionary Zoning shall apply, including density bonus provisions. Lot dimensional requirements and the minimum amount of required open space shall be modified by the Planning Commission in order to accommodate the increased number of total housing units. Provided, however that any reduction in the minimum amount of required open space shall be the least amount required to accommodate the increase in density.

**Sec. 82-1505. Permitted open space uses.**

The open space in a conservation development shall be devoted only to conservation purposes; for park and passive recreation uses; or for the preservation and management of agricultural, habitat or forestry resources. The following provisions shall apply:

- A. Any agricultural use listed in Table 6-1 – Permitted Uses in Subsection III – Agricultural Uses. Uses marked with a Y are permitted by right; uses marked with an S are permitted by special use permit; uses marked with an N are prohibited in a conservation development.
- B. In all conservation developments, the uses listed below shall be permitted by right within the open space areas.
  - Reservations for the production or protection of wildlife, including conservation lands, wildlife preserves, forest management activities and woodlots.
  - Passive recreation, hiking trails and walking trails.
- C. In all zoning districts where conservation developments are permitted, stormwater drainage areas may also be allowed in open space areas subject to the approval of the Planning Commission in accordance with the applicable provisions of the Subdivision and Land Development Regulations.
- D. Buildings, structures, parking areas or other impervious improvements which are accessory to and subordinate to a permitted open space use may be located on any open space lot provided that, in all cases, they occupy no more than two (2) percent of the total open space area of the conservation development.
- E. The required amount of open space in a conservation development shall be as provided in sub-section 82-1509.B of this Article, below.

**Sec. 82-1506. Maximum number of dwelling units.**

The maximum number of dwelling units permitted in a conservation development shall not exceed the number of single family lots (or dwellings) which could reasonably be expected to be developed upon the conservation development site under a Conventional Yield Plan as defined in Sec. 82-104 herein, and as further described in Article V.A.8 (Basic Maximum Number of Dwelling Units) of the Subdivision and Land Development Regulations.

**Sec. 82-1507. Land unsuitable for development.**

Land unsuitable for development as defined in Sec. 82-104 may be included as part of any lot in a conservation development but may not be included in the calculation of minimum lot area as provided in Table 15-2 below. In addition, land unsuitable for development may be included as part of any open space area but may not be included in the calculation of minimum required open space as provided in Table 15-1 below.

**Sec. 82- 1508. Lot dimensional requirements.**

The dimensional regulations provided in Table 15-2 below shall apply to all lots in a conservation development proposed as building lots for single or two-family dwellings.

**Sec. 82-1509. Open space in conservation developments.**

Every conservation development shall provide protected open space in accordance with the following requirements and standards:

- A. The open space shall be established as a lot or lots separate and distinct from the lots intended for residential and accessory uses, and from land dedicated as street rights-of-way.
- B. The minimum amount of required open space area shall be based on a percentage of the land suitable for development in the entire conservation development as provided in Table 15-1 below. None of the minimum required open space area shall be devoted to land unsuitable for development as defined herein.

Table 15-1	
Zoning District	Minimum Percentage of Land Suitable for Development to be Dedicated as Open Space

RR-200	70%	
RR-80	60%	
R-40	50%	
R-20	Both Public Sewer and Public Water Required	50% - All Single-Family Units
		50% - All Two-Family Units

- C. Open space provided by a conservation development for public or common use, shall either (1) be conveyed to and accepted by the Town for park, open space, agricultural, or other permitted use or uses; or (2) be conveyed to and accepted by a nonprofit organization, the principal purpose of which is the conservation of open space or resource protection; or (3) be conveyed to and accepted by 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; or (4) remain in private (non-common) ownership if the use is limited to agriculture, habitat or forestry. In accordance with the Comprehensive Plan and this Zoning Ordinance, it is determined that private ownership may be necessary for the preservation and management of the agriculture, habitat or forest resources. In such cases, the Planning Commission, as part of its review of a conservation development, shall make positive findings as part of the record, setting forth the basis for such ownership.
- D. The Planning Commission may limit or restrict the amount of open space that may remain in private ownership where necessary to contribute to a connecting greenway system or to provide public access to open space, as provided in the Comprehensive Plan.
- E. All open space land provided by a conservation development or other land development project shall be subject to a management plan approved by the Planning Commission that will specify the permitted uses for the open space.
- F. In any case where the land is not conveyed to the Town, a restriction, in perpetuity, enforceable by the Town and by any owner of property in the land development project in which the land is located shall be recorded providing that the land shall be kept in the authorized condition(s) and not be built upon or developed except as approved by the Planning Commission.
- G. All open space, regardless of whether it is conveyed to the Town, shall be protected against further development and unauthorized alteration in perpetuity by appropriate deed restrictions, and by the grant of a conservation or preservation restriction pursuant to Title 34, Chapter 39 of the Rhode Island General Laws, as amended to at least one entity other than the Town, which entity shall be a nonprofit organization, the principal purpose of which is the conservation of open space or resource protection.
- H. The perpetual maintenance of all open space shall be guaranteed by appropriate deed restrictions and by the grant of a conservation or preservation restriction to the Town, pursuant to Title 34, Chapter 39 of the Rhode Island General Laws, as amended and/or homeowner restrictive covenants. The Planning Commission or Administrative Officer shall approve the form and content of all deed restrictions at the time of final approval of the subdivision. Every deed restriction providing a maintenance guarantee shall contain the following provision:  
 “If the owners, or their successors or assigns fail to maintain the open space or any improvements thereon, the Town may perform any necessary maintenance and enforce the payment for such costs, including reasonable attorneys’ fees, by an action at law or in equity against the owners or their successors or assigns.”



Table 15-2

*Lot Dimensional Requirements in a Conservation Development*

Type of Water Supply & Sewage Disposal Infrastructure Provided	Minimum Lot Size		Maximum Lot Coverage (%)	Maximum Height (feet)		Minimum Yard Dimensions (feet)				Accessory Structures	
	Area (square feet)	Width <sup>1</sup> (feet)		Principal Building	Accessory Building	Front	Crn. Side	Side	Rear	Side	Rear
<i>Single Family Dwellings – RR-200, RR-80 and R-40 Zoning Districts</i>											
<i>On-Site Well &amp; OWTS</i>	<i>20,000</i>	<i>100</i>	<i>25</i>	<i>35</i>	<i>25</i>	<i>30</i>	<i>25</i>	<i>10</i>	<i>30</i>	<i>10</i>	<i>10</i>
<i>Single Family Dwellings – R-20 Zoning Districts</i>											
<i>Both Public Water &amp; Public Sewer Present</i>	<i>7,500</i>	<i>70</i>	<i>35</i>	<i>35</i>	<i>25</i>	<i>20</i>	<i>15</i>	<i>10</i>	<i>30</i>	<i>7</i>	<i>10</i>
<i>Two-Household Dwellings - R-20 Zoning Districts</i>											
<i>Both Public Water &amp; Public Sewer Present</i>	<i>20,000<sup>2</sup></i>	<i>100</i>	<i>25</i>	<i>35</i>	<i>25</i>	<i>30</i>	<i>25</i>	<i>10</i>	<i>30</i>	<i>10</i>	<i>10</i>
<b>Notes:</b>											
1. The Planning Commission may authorize modifications to the lot width as provided in Sec. 82-602.4 of this Ordinance.											
2. Each lot contains two dwelling units. The total number of permitted two-household dwelling structures in a conservation development would be one-half the number of single family dwelling units. See Sec. 82-1506.											
3. Where multifamily dwellings of three or more units per structure are proposed to be developed upon a single lot, including attached townhouse or condominium projects, the dimensional provisions of Sec. 82-1200 shall apply.											

## Article 16. Low- and Moderate-Income Housing

### Sec. 82-1600. 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. 82-1601. 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 and land development regulations of the Town of Jamestown as determined by the director of planning and development. (Ord. of 4-10-2006)

### Sec. 82-1602. 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. § 45-53-3(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 afford-

able 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)

**Sec. 82-1603. Municipal Subsidy.**

The Town of Jamestown may grant municipal government subsidies for the development of Low and Moderate Income 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 Commission shall have sole authority to exercise this authority for any applications submitted under this Sec. 82-1600.

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 a Low and Moderate Income housing development.

**Sec. 82-1604. Low and Moderate Income Housing Incentives**

The Town of Jamestown, in compliance with the housing chapter of its 2014 Comprehensive Plan (which serves as the Jamestown Affordable Housing Plan) allows the following incentives to encourage the development of Low and Moderate Income housing:

- A. Applications containing Low and Moderate Income Housing that meets the requirements of the Jamestown Village Special Development District Section shall be processed in accordance with Sec. 82-1105. Others shall be processed by Comprehensive Permit according to this Article 16 of the Jamestown Zoning Ordinance.
- B. Applications containing Low and Moderate Income 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 Low and Moderate Income Housing.
- D. The Town may waive or reduce review fees for applications containing Low and Moderate Income Housing.
- E. The Town may increase density for projects containing Low and Moderate Income Housing.
- F. The Town may waive or reduce parking requirements for Low and Moderate Income Housing units located within a quarter mile of a transit stop.
- G. The Town may provide a property tax exemption for Low and Moderate Income Housing units meeting established criteria.

**Sec. 82-1605. Inclusionary Zoning**

- A. Applicability. This section shall apply to all subdivisions of four (4) or more units and all Land Development Projects including new development and redevelopment of existing buildings, with four (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 25 percent (25%) of the units on site must qualify as Low and Moderate Income 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 or built in phases at a similar rate as 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, with the exception of Cottage Community Developments (CCD), 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, at the Planning Commission's discretion, pay a fee in-lieu of providing the required number of Low and Moderate Income Housing units. In so choosing to make such a payment, the applicant will not receive the density bonus described in Sec. 82-1605.D.1.
  - a) For affordable, single-family homes and condominium units, the per-unit fee shall be the difference between the maximum affordable sales price for a family of four (4) earning eighty percent (80%) of the area median income as determined annually by the U.S. Department of Housing and Urban Development and the average cost of developing a single unit of affordable housing. The average cost of developing a single unit of affordable housing shall be determined annually based on the average, per-unit development cost of affordable homes financed by Rhode Island Housing over the previous three (3) years, excluding existing units that received preservation financing. Notwithstanding this calculation, in no case shall the per-unit fee for affordable single-family homes and condominium units be less than forty thousand dollars (\$40,000).
  - 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 but must be allocated within two (2) years of receipt.
  - 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 Commission'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 Sec. 82-1605.E.1.a 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.

F. Off-site option

- 1) Off-Site Options. The Planning Commission at its sole discretion may allow any developer of an inclusionary project to comply with the requirements of Sec. 82-1605.B through one of the following off-site exactions:
  - a) Off-site rehabilitation of Low and Moderate Income units in existing buildings.
  - b) Off-site new construction of Low and Moderate Income 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 Low and Moderate Income units on-site shall not be entitled to a dimensional incentive as described in sec. 82-1605.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) Rehabilitated off-site units shall be in full compliance with all applicable construction and occupancy codes and shall be sufficiently maintained or rehabilitated so that all major systems meet standards comparable to new construction. Rehabilitation of existing Low and Moderate Income housing units with an affordability deed restriction will only count towards this off-site option if the units are able to “restart the clock” on their deed restrictions, for the minimum number of years required by state law.
  - 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 Low and Moderate Income units on-site because of environmental, public health, public safety, and/or regulatory reasons. “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 the applicant.
- 2) The following is the Town’s preferred progression of Low and Moderate Income housing options:
  - a) First preference - Low and Moderate Income 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 Low and Moderate Income units in existing buildings
    - ii. Off-site new construction of Low and Moderate Income 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 Low and Moderate Income 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 this Sec. 82-1600 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 for at least the minimum time period required by State law 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 Commission as part of Jamestown's Land Development and Sub-division Regulations, shall further describe the submission requirements and review timelines for the Inclusionary Housing Plan and Inclusionary Housing Agreement.

## Article 17. Amendment

### **Sec. 82-1700. 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. 82-1701. 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 Sec. 82-1702. 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 Sec. 82-1702 . The town council shall hold a public hearing within 65 days of receipt of a proposal, giving proper notice as prescribed in Sec. 82-1703. 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. 82-1702. 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 Sec. 82-101.

### **Sec. 82-1703. 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 pub-

lic 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 Sec. 82-1703, 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 Sec. 82-1703.
- C. Where a proposed text amendment to an existing zoning ordinance would cause a conforming lot of record to become nonconforming by lot area or frontage, written notice shall be given to all owners of the real property as shown on the current real estate tax assessment records of the town. The notice shall be given at least two (2) weeks prior to the hearing at which the text amendment is to be considered, with the content required by subsection (A). The notice shall include reference to Sec. 82-909 Merger of contiguous nonconforming lots of record and the impacts of common ownership of nonconforming lots. The sender of the notice shall utilize and obtain a United States Postal Service certificate of mailing, and the certificate or an electronic copy thereof shall be retained to demonstrate proof of the mailing.
- D. 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 Sec. 82-1703, 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, certified or first-class mail to the last known address of the owners, as shown on the current real estate tax assessment records of the town; provided, for any notice sent by first-class mail, the sender of the notice shall utilize and obtain a United States Postal Service certificate of mailing, PS form 3817, or any applicable version thereof, to demonstrate proof of such mailing.
- E. Notice of a public hearing shall be sent to the governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water resource

and/or surface watershed that is used or is suitable for use as a public water source and that is within 2,000 feet of any real property which is the subject of a proposed zoning change; provided, however, that the governing body of any state or municipal water department or agency, special water district, or private water company has filed with the 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.

- F. No defect in the form of any notice under this section shall render any ordinance or amendment invalid, unless the defect is found to be intentional or misleading.
- G. Costs of any notice required under this section shall be borne by the applicant.
- H. In granting a zoning ordinance amendment, notwithstanding the provisions of 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.
- I. The above requirements are to be construed as minimum requirements.

## **Article 18. Legal Status**

### **Sec. 82-1800. 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. 82-1801. 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.