

APPENDIX A ZONING*

***Editor's note--**Printed herein is the zoning ordinance of the town, as adopted on June 27, 1994, and effective on the same date. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

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ARTICLE I. INTRODUCTION

Section 1. Title.

This ordinance shall be known as the Tiverton Zoning Ordinance, or appendix I [appendix A] of the Tiverton Town Code.

Section 2. Statement of purposes.

The zoning regulations and districts herein set forth have been made to achieve the following purposes:

- a. Promoting the public health, safety and general welfare.
- b. Providing for a range of uses and intensities of use appropriate to the character of the Town of Tiverton, and

reflecting current and expected future needs of its residents.

- c. Providing for orderly growth and development which recognizes:
 - (1) The goals and patterns of land use contained in the Tiverton comprehensive plan;
 - (2) The natural characteristics of the land, including its suitability for use based on soil characteristics, topography and susceptibility to surface [water] or groundwater pollution;
 - (3) The values and dynamic nature of coastal and freshwater ponds, the shoreline, and freshwater and coastal wetlands;
 - (4) The values of unique or valuable natural resources and features;
 - (5) The availability and capacity of existing and planned public and/or private services and facilities;
 - (6) The need to shape and balance urban and rural development; and
 - (7) The use of innovative development regulations and techniques.
- d. Providing for the control, protection and/or abatement of air, water, groundwater and noise pollution, and soil erosion and sedimentation.
- e. Providing for the protection of the natural, historic, cultural and scenic character of the Town of Tiverton.

- f. Providing for the preservation and promotion of agricultural production, forest, silviculture, aquaculture, timber resources and open space.
- g. Providing for the protection of public investment in transportation, water, stormwater management systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space and other public requirements.
- h. Promoting a balance of housing choices, for all income levels and groups, to assure the health, safety and welfare of all citizens and their rights to affordable, accessible, safe and sanitary housing.
- i. Providing opportunities for the establishment of low and moderate income housing.
- j. Promoting safety from fire, flood and other natural or manmade disasters.
- k. Promoting a high level of quality in design in the development of private and public facilities.
- l. Promoting implementation of the Tiverton comprehensive plan.
- m. Providing for coordination of land uses with contiguous municipalities, other municipalities, the state and other agencies, as appropriate, especially with regard to resources and facilities that extend beyond the municipal boundaries of, or have a direct impact on, the Town of Tiverton.
- n. Providing for efficient review of development proposals, to clarify and expedite the zoning approval process.

- o. Providing for procedures for the administration of the zoning ordinance, including but not limited to variances, special use permits, and, where adopted, procedures for modifications.

Section 3. Consistency with comprehensive plan.

The regulations and standards set forth in this zoning ordinance are consistent with the goals and recommendations contained within the Tiverton comprehensive plan, adopted or amended pursuant to G.L. 1956, § 45-22.2-1 et seq. In the instance of uncertainty in the construction or application of any section of this ordinance, it shall be construed in a manner that will further the implementation of, and not be contrary to, the goals, policies and applicable elements of the comprehensive plan.

Section 4. Conformance with zoning ordinance.

- a. After the effective date of this ordinance, no building, structure or land shall be used or occupied, and no building, structure, sign, or part thereof shall be erected, constructed, reconstructed, altered, enlarged or moved unless it conforms with all of the regulations specified for the zoning district in which it is located.
- b. Uses and structures, legally existing as of the effective date of this ordinance or any previous ordinance, will be permitted to continue under the provisions of article XIV of this ordinance.

ARTICLE II. DEFINITIONS

- a. Where words or terms used in this ordinance are defined in this article, they shall have the meanings stated therein, unless a contrary meaning is specifically prescribed. In addition, words used in the present tense include the future, the singular includes the plural, and the plural includes the singular. The word "used" includes "designed, maintained, occupied, intended or arranged to be used." The word "shall" is mandatory; the word "may" is

permissive; the word "building" includes the word "structure"; the word "lot" includes the word "plot" or "parcel"; and the word "land" includes all wetland categories as defined herein.

- b. Definitions are also contained within articles IX, XI and XII relating to cluster developments, special flood hazard areas and sign regulations, respectively.
- c. For the purposes of this ordinance, the following terms shall have the following meanings (underline denotes state definitions):
 - (1) Abutter: One whose property abuts, that is, adjoins at a border, boundary or point with no intervening land.
 - (2) Accessory family dwelling unit: An accessory dwelling unit for the sole use of one or more members of the family of the occupant or occupants of the principal residence, but not needing to have a separate means of ingress and egress.
 - (3) Accessory use: A use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building, and located on the same lot as the principal use. An accessory use shall not be permitted without the principal use to which it is related.
 - (3a) Adult book/video store: The retail sales of magazines, books, photographs, film, video or any type of reproduction depicting sexual activity or the showing of human male or female genitals, pubic area or buttocks, or the female breast, with less than a fully opaque covering.
 - (3b) Adult entertainment: An activity where any individual works or performs in the nude, meaning the exposure of human male or female genitals, pubic area or buttocks, or the showing of the female breast, with less than a fully opaque covering.
 - (4) Aggrieved party: Either:

- (a) Any person or persons or entity or entities who can demonstrate that their property will be injured by a decision of any officer or agency responsible for administering the provisions of this ordinance; or
 - (b) Anyone requiring notice pursuant to this ordinance.
- (5) 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.
- (6) Antennae, satellite receiving: A structure used to receive television broadcast signals transmitted via satellite.
- (7) Applicant: An owner or authorized agent of the owner submitting an application or appealing an action of any official, board or agency under the provisions of this ordinance.
- (8) Application: The completed form or forms and all accompanying documents, exhibits and fees required of an applicant by an approving authority for development review, approval or permitting purposes as required under the provisions of this ordinance.
- (8a) Aquaculture: The cultivation, rearing or propagation of aquatic plants or animals under either natural or artificial conditions.
- (8b) Art center: A facility used for arts instruction, promotion, display and/or sale.
- (9) Bed and breakfast: A single-family dwelling offering transient lodging accommodations to the general public within a portion of said dwelling, and which must include

limited food preparation and the serving of such food within a common area.

- (10) Billboard: An outdoor sign advertising products or services not made, sold, used or served on the premises, or advertising displayed so as to attract the attention of persons on any public highway; see "Off-site sign" in article XII, section 2.
- (11) 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.
- (12) Building: Any structure used or intended for supporting or sheltering any use or occupancy.
- (13) Building envelope: The three-dimensional space within which a structure is permitted to be built on a lot, and which is defined by regulations governing building setbacks, maximum height and bulk.
- (14) Building height: The vertical distance measured from the average natural lot grade at the front of the building, to the top of the highest point of the roof or structure, excluding spires, chimneys, flagpoles and the like.
- (15) Building official or inspector: The person(s) designated by the town as responsible for enforcement of the state building code.
- (16) Building permit: An official certificate issued by the building official which authorizes interior or exterior alterations to any structure in conformance with the state building code.
- (17) Campground: An area which provides sites and sanitary facilities for the overnight parking of motorized dwelling units, camping trailers, tents and other similar structures. A

campground may be commercial, public or private enterprises.

- (18) Cluster: A site planning technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space and/or preservation of environmentally, historically, culturally or other sensitive features and/or structures.
- (18a) Common driveway: A driveway passing through private property for the use of adjacent property owners in rural residential developments (see article IX).
- (19) Common ownership: Either:
- (a) Ownership by one or more individuals or entities in any form of ownership of two or more contiguous lots; or
 - (b) Ownership by any association, or municipality, of one or more lots under specific development techniques.
- (20) Community residence: A home or residential facility where children and/or adults reside in a family setting and may or may not receive supervised care. This shall not include halfway houses or substance abuse treatment facilities. This shall include but not be limited to the following:
- (a) Whenever six or fewer retarded children or adults reside in any type of residence in the community, as licensed by the state pursuant to G.L. 1956, § 40.1-24-1 et seq.;
 - (b) A group home providing care or supervision, or both, to not more than eight mentally disabled or mentally handicapped or physically handicapped persons, and licensed by the state pursuant to G.L. 1956, § 40.1-24-1 et seq.;

- (c) A residence for children providing care or supervision, or both, to not more than eight children, including those of the caregiver, and licensed by the state pursuant to G.L. 1956, § 40.1-24-1 et seq.; or
 - (d) A community transitional residence providing care or assistance, or both, to no more than six unrelated persons or no more than three families, not to exceed a total of eight persons, requiring temporary financial assistance, and/or to persons who are victims of crimes, abuse, or neglect, and who are expected to reside in that residence not less than 60 days nor more than two years.
- (21) Comprehensive plan: The comprehensive plan of the town, adopted and approved pursuant to G.L. 1956, § 45-22.2-1 et seq., and to which the provisions of this ordinance shall be in compliance.
- (22) Day care--day care center: Any other day care center which is not a family day care home.
- (23) Day care--family day care home: Any home other than the individual's home, in which day care in lieu of parental care or supervision is offered at the same time to six or less individuals who are not relatives of the caregiver, but which may not contain more than a total of eight individuals receiving day care.
- (24) Density calculation: The method for calculating development density and/or lot coverage for any given parcel.
- (25) Density, residential: The number of dwelling units per unit of land.

- (26) Development: The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance; or any change in use, or alteration or extension of the use, of land.
- (27) 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 providing for such review.
- (28) District: See *Zoning use districts*.
- (29) 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 ground waters, and the prevention and/or alleviation of flooding.
- (30) Duplex: A building containing two single dwelling units each with separate entrances divided by a common party wall.
- (31) Dwelling, single-family: A building used exclusively for occupancy by one household.
- (32) Dwelling, two-family: A building used exclusively for occupancy by two households living independently of each other.
- (33) Dwelling, multifamily: Any dwelling containing more than two dwelling units and for occupancy of households living independently of each other, including apartment houses, apartment hotels and flats.
- (34) Dwelling unit: A structure or portion thereof providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping,

eating, cooking and sanitation, and containing a separate means of ingress and egress.

- (35) 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.
- (36) Family: A person or persons related by blood, marriage or other legal means; see also *Household*.
- (36a) Flexible zoning: A land development tool that allows reduced lot areas and dimensional regulations in order to preserve character defining features of a site.
- (37) Floating zone: An unmapped zoning district adopted within this ordinance which is established on the zoning map only when an application for development, meeting the zoning district requirements, is approved.
- (38) Floodplains 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 Management Agency pursuant to the National Flood Insurance Act of 1968, as amended (PL 90-448).
- (39) Garage: A detached accessory building or portion of a main building, used for the storage of self-propelled vehicles.
- (40) Gasoline filling station or service station: A building or premises, or portion thereof, arranged, intended or designed to be used for the sale of gasoline or other motor vehicle, airplane or motorboat fuel, oils and accessories for the use of motor vehicles; and the rendering of services such as lubrication, washing and minor repairs, where such service

facilities are incidental to such principal filling station uses, but not including body or fender work, or major repairs.

- (41) Groundwater: Groundwater and associated terms, as defined in G.L. 1956, § 46-13.1-3.
- (42) 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.
- (43) Hardship: See article XVII of this ordinance.
- (44) Historic district: One or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites, and [that] 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.
- (45) Historic site: 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.
- (46) Home occupation: Any activity customarily carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit.
- (47) Hotel: A building of two or more stories providing transient lodging accommodations to the general public, without individual kitchen facilities or separate exterior entrances. Such use may contain accessory facilities including, but not limited to, a restaurant, meeting rooms and recreation facilities. Hotels include inns and similar establishments.

(48) Household: One or more persons living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit. The term "household unit" shall be synonymous with the term "dwelling unit" for determining the number of such units allowed within any structure on any lot in a zoning district. An individual household shall consist of any one of the following:

- (a) A family, which may also include servants and employees living with the family; or
- (b) A person or group of unrelated persons living together. The maximum number may be set by this ordinance, not to exceed three such persons.

(48c) Improved lot: A lot upon which a building is located that is used for a principal use. For the purposes of determining merger requirements (see article VII), an unimproved lot is a lot without a principal use structure.

(49) Incentive zoning: The process whereby additional development capacity is granted in exchange for a developer's provision of a public benefit or amenity as specified in this ordinance.

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

(51) Reserved.

(52) Impervious surface: Material on the ground that severely restricts or prohibits surface water from penetrating into the soil.

- (53) Land development project: A project in which one or more lots, tracts or parcels of land are to be developed or redeveloped as a coordinated site for a complex of uses, units or structures, including, but not limited to, planned development and/or cluster development for residential, commercial, institutional, recreational, open space and/or mixed uses, as may be provided for in this ordinance. Such developments shall be reviewed as major land developments in accordance with the land development and subdivision regulations of the Town of Tiverton and approved by the planning board.
- (54) Line, street: A lot line separating a lot from an adjacent street.
- (55) Lot: Either:
- (a) The basic development unit for determination of lot area, depth and other dimensional regulations; or
 - (b) A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or recorded map, and which is recognized as a separate legal entity for purposes of transfer of title.
- (56) Lot area: The total area within the boundaries of a lot, excluding any street right-of-way, usually reported in acres or square feet.
- (57) Lot building coverage: That portion of the lot that is or may be covered by buildings and accessory buildings.
- (58) Lot, corner: A lot at the junction of, and fronting on, two or more intersecting streets.
- (58a) Lot coverage: That portion of the lot that is or may be covered by both buildings and impervious surfaces,

the latter which shall include paved driveways and parking areas and sidewalks.

- (59) 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 this distance.
- (60) Lot frontage: That portion of a lot abutting a street. Only contiguous (unbroken) frontage will be considered applicable in meeting the minimum frontage requirements of a given zoning district.
- (61) Lot line: A line of record, bounding a lot, which divides one lot from another lot, or from a public or private street or any other public or private space, and shall include:
- (a) Front: The lot line separating a lot from a street right-of-way;
 - (b) Rear: The lot line opposite and most distant from the front lot line, or, in the case of triangular or otherwise irregularly shaped lots, an assumed line at least ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line; and
 - (c) Side: Any lot line other than a front or rear lot line. On a corner lot, one side lot line will also be a street lot line.
- (62) Lot of record: A parcel of land recorded in the office of the town clerk of the Town of Tiverton.
- (63) 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.
- (64) 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.

- (65) Low influx sustainable agriculture (LISA): Agricultural techniques that promote the use of biological interactions and cultural practices over the use of agricultural chemicals. The goal of LISA is productive, profitable farming that protects natural resources and is economically sustainable. It includes such measures as integrated pest management, crop and livestock diversification, soil and water conservation practices and green manures whose application reduces the need for purchased pesticide and fertilizer input.
- (66) Membership athletic club: An organization catering to members and their guests, including premises and buildings utilized for recreational or athletic purposes, which are not conducted for profit.
- (67) Mere inconvenience: See article XVII of this ordinance.
- (67a) Mini-storage facility: A one-story building or buildings used for public storage and consisting of attached individually rented units.
- (68) Mixed use: A mixture of land uses within a single development, building or tract.
- (69) Mixed use residential: A structure which is used for both residential and commercial purposes, each of which is totally separated from the other.
- (70) Mobile home: Any vehicle or similar structure designed and constructed so as to permit the occupancy thereof as a dwelling by one or more persons, and so designed and constructed that it was or may be mounted on wheels and used as a conveyance on a street or highway, propelled or drawn by its own or other motive power. Mobile home shall

include previously portable vehicles or structures which have been placed on a permanent foundation, but shall not include a prefabricated home or structure.

- (71) Modification: If later allowed by amendment to this ordinance, permission granted and administered by the zoning enforcement officer to grant a dimensional variance, other than lot area, from the requirements of this ordinance, but not to exceed 25 percent of each of the applicable dimensional requirements.
- (72) Motel: A one- or two-story building providing transient lodging accommodations to the general public consisting of rooms or suites with separate entrances facilities. Such use may include a general kitchen and common dining room. Motels include motor inns, motor lodges, tourist courts, cabins and other similar establishments.
- (73) Nonconformance: A building, structure or parcel of land, or use thereof, lawfully existing at the time of the adoption or amendment of this ordinance and not in conformity with the provisions of the zoning ordinance or amendment. Nonconformance shall be of only two types:
- (a) Nonconforming by use: A lawfully established use of land, building or structure which is not a permitted use in that zoning district, including a building or structure containing more dwelling units than are permitted by the use regulations of this ordinance; or
 - (b) Nonconforming by dimension: A building, structure or parcel of land not in compliance with the dimensional regulations of this zoning ordinance, including a building or structure containing a permitted number of dwelling units by the use regulations of this ordinance, but not meeting the lot area per dwelling unit regulations.

- (74) Overlay district: A district established in this ordinance 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 district.
- (75) Performance standards: A set of criteria or limits relating to elements which a particular use or process either must meet or may not exceed.
- (76) Permitted use: A use by right which is specifically authorized in a particular zoning district.
- (77) Planned development: A "land development project" as defined herein, and developed according to a plan as a single entity and containing one or more structures and/or uses with appurtenant common areas.
- (78) Planning board: The planning board of the Town of Tiverton.
- (79) Preapplication conference: A review meeting of a proposed development held between applicants and reviewing officials and/or agencies prior to formal submission of an application for a permit or approval.
- (80) Principal or main use: The specific primary purpose to [for] which a lot of land or structure is used.
- (81) Professional home office: Not more than one office or studio of a physician, dentist, attorney, architect, engineer, land surveyor, real estate broker, accountant, insurance agent or other professional person licensed by law or certified by a recognized professional society or agency and providing professional services, residing on the premises, and having not more than one employee or associate, and utilizing not more than 250 square feet of floorspace.

- (81a) Residential arts and crafts: The creation of art objects or functional items by a person residing on the premises, provided the following standards are met: no heat, smoke, glare, dust, odors, vibration or offensive noise detectable beyond the edge of the lot; no outside storage of materials; and no substantial increase in traffic. Residential arts and crafts shall not include tattoo parlors.
- (81b) Rural residential developments: Alternative residential subdivisions designed to protect rural character through the use of flexible zoning, different engineering and design standards and/or decreased site density, as compared to conventional subdivisions. There are three types of rural residential developments. Rural compounds, rural subdivisions and rural frontage subdivisions, as defined in article IX of this ordinance.
- (82) 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.
- (83) Site plan: The development plan for one or more lots on which is shown the existing and/or proposed conditions of the lot.
- (84) Special use: A regulated use which is permitted pursuant to a special use permit issued under the provisions of article XVI of this ordinance.
- (85) Street: A public or private thoroughfare used, or intended to be used, for passage of travel by motor vehicles.

- (86) Street, public: Either a street constructed, improved and accepted for maintenance by the Town of Tiverton, or a state road.
- (87) 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.
- (88) Substandard lot of record: Any lot lawfully existing at the time of adoption or amendment of this ordinance, and not in conformance with the dimensional and/or area provisions of the ordinance.
- (89) Unsuitable land: Street rights-of-way and lands which, when developed, would result in environmental harm and/or present a threat to the public health or safety. Such lands include, but are not limited to, the following:
- (a) Waters, and coastal and freshwater wetlands as defined herein.
 - (b) Land with slopes greater than or equal to 21 percent.
 - (c) Land located in any flood hazard area or coastal high hazard area, as shown on the most recent flood insurance rate map or floodway map for the Town of Tiverton published by the Federal Emergency Management Agency.
 - (d) Any unique sites having significant historic or archaeological value, or consisting of an endangered or threatened species habitat, as identified by the appropriate state or federal agency.
 - (e) An area of a tract proposed for development that is equal to the area of the street rights-of-way for such development.

- (90) 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.
- (91) Variance: An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land, which is prohibited by this ordinance. There shall be only two categories of variance:
- (a) Use variance: Permission to depart from the use requirements of this ordinance, where the applicant for the requested variance has shown by evidence upon the record that the subject land or structure cannot yield any beneficial use if it is to conform to the provisions of the ordinance; or
 - (b) Dimensional variance: Permission to depart from the dimensional requirements of this ordinance, where the applicant for the requested relief has shown by evidence upon the record that there is no other reasonable alternative way to enjoy a legally permitted beneficial use of the subject property, unless granted the requested relief from the dimensional requirements.
- (92) Waters: As defined in G.L. 1956, § 46-12-1(b).
- (93) Wetland, coastal: As defined in G.L. 1956, § 2-1-14.
- (94) Wetland, freshwater: As defined in G.L. 1956, § 2-1-20.
- (95) Yard: An area on the same lot with a main building which is open, unoccupied and unobstructed by buildings or structures from the ground to the sky, except as otherwise provided in this ordinance, and shall include:

- (a) *Front*: The area between a street line and a line parallel thereto drawn through the nearest point of a main structure, extending between side lot lines;
 - (b) *Rear*: The area extending across the full width of the lot between the rearmost main building and the rear lot line, the depth of which shall be the least distance between the rear lot line and the rear of such main building; and
 - (c) *Side*: The area between the main building and the side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the main building.
- (96) Zoning board or board: The zoning board of review of the Town of Tiverton.
- (97) Zoning certificate: A document signed by the zoning officer as required in this ordinance, which acknowledges that a use, structure, building or lot either complies with, or is legally nonconforming to, the provisions of the ordinance, or is an authorized variance or modification therefrom.
- (98) Zoning map: The maps which are a part [of] this ordinance, and which delineate the boundaries of all mapped zoning districts within the physical boundary of the Town of Tiverton.
- (99) Zoning officer: The zoning officer of the Town of Tiverton who is responsible for administering and enforcing the provisions of this ordinance. The zoning officer may also be the building official for the town.
- (100) 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.

(101) Retirement residence/assisted living/continuing care

facility: An elderly housing facility licensed in whole or in part in accordance with the assisted living provisions of Title 23, Chapter 7.4, Section 1, et seq., of the General Laws of Rhode Island, as amended, and where applicable, Title 23, chapter 17, Section 1, et seq. of the Rhode Island General Laws, as amended, that provides elderly residents with flexible living arrangements and choices with regard to services and assistance. Such facilities:

- (a) Consist of one primary structure housing central dining, recreational, cultural, avocational, personal care, and shared transportation facilities. Integral facilities for independent or semi-independent living and nursing care may also be included.
- (b) May include within the primary structure ancillary facilities such as retail services, beauty parlors, libraries and laundry rooms serving exclusively the residents of the facility, with no outside signs or direct outside entrances to such services permitted.
- (c) May include within the primary structure offices, meeting and conference rooms for administrative functions related to the operation, business, programs or services of the facility.
- (d) May have within the primary structure, or attached thereto, a nursing care facility licensed in accordance with Title 23, Chapter 17-1 et seq., of the General Laws of Rhode Island, entitled "Licensing of Health Care Facilities," primarily for the use of the residents.

- (e) Provide individual residential units consisting of either a studio, one bedroom or two bedrooms, with services to include but not limited to three daily meals in a communal setting, housekeeping services, 24-hour personal assistance, recreational facilities, and transportation services for the benefit of its residents. Individual units shall have not less than 400 square feet of living space, and shall be equipped with a bathroom, but shall not have exterior entrances, excluding access to ground level apartment private patio, nor shall they have a full kitchen, but may have a hospitality station consisting of a refrigerator, microwave oven, and/or a properly installed two burner cook-top.

(102) Manufactured home: A structure transportable in one or more sections which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. This term does not include park trailer, travel trailer, or other similar vehicles.

(103) Manufactured home elderly community (MHEC): See article IV, section 16.

(104) Retail business, office, and/or consumer service complex: A development of one or more commercial establishments, primarily retail, office, and/or consumer service-oriented in nature, located on a single parcel or contiguous parcels and consisting of 5,000 gross square feet of floor space or more, or a total land area (including off-street parking and travel areas) of 20,000 square feet or more. These developments include, but are not limited to, malls, mini-malls, strip-malls, and shopping centers. Such developments shall be considered land development projects, as defined here-in, and shall be reviewed as major land developments in accordance with the land

development and subdivision regulations of the Town of Tiverton and approved by the planning board.

(Ord. of 5-13-96; Ord. of 6-4-01(1))

ARTICLE III. ZONING DISTRICTS

Section 1. Establishment of districts.

To achieve the purpose of this ordinance, the Town of Tiverton is hereby divided into the following zoning districts:

- a. *Residential R-30.* This district contains areas of the town which are partially or fully developed at an approximate density of one dwelling unit per 30,000 square feet, or greater, and areas for which this density is considered appropriate. The R-30 District consists of the residential portions of the northwest corner of Tiverton, west of Fish Road and extending to Mount Hope Bay.
- b. *Residential R-40.* This district contains areas of the town which are partially or fully developed at an approximate density of one dwelling unit per 40,000 square feet, and areas for which this density is considered appropriate. The R-40 District consists of the residential portions of Tiverton west of Fish Road, lying generally between Route 24 and Bulgarmarsh Road.
- c. *Residential R-60.* This district contains areas of the town which are partially or fully developed at an approximate density of one dwelling unit per 60,000 square feet, and areas for which this density is considered appropriate. The R-60 District consists of the residential portions of Tiverton east of Fish Road and north of Bulgarmarsh Road, including areas on both sides of Stafford Road.

- d. *Residential R-80*. This district contains areas of the town which are composed of agricultural uses, low density residential areas and certain open spaces for which development at a density at or lower than one dwelling unit per 80,000 square feet is considered appropriate. The R-80 District consists of the residential portions of the entire area of Tiverton south of Bulgarmarsh Road.
- e. *Village Commercial VC*. This district is that area of town known as Tiverton Four Corners which is characterized by small scale retail, restaurant and office uses in a compact and historic setting.
- f. *General Commercial GC*. This district contains areas of the town which form the basic pattern of retail and service businesses serving the community, and the areas planned for expansion of such businesses. The GC District includes the major commercial area along Main Road in the northwest corner of Tiverton, and the smaller commercial area along Stafford Road, extending north from its intersection with Bulgarmarsh Road.
- g. *Highway Commercial HC*. This district contains areas of the town where businesses which serve regional needs rely on easy vehicular access and large land areas for parking and development. The HC District includes the commercial area bordering the City of Fall River and lying between Route 24 and Stafford Road, and the commercial area at the interchange of Route 24 and Fish Road and extending west along the south side of Souza Road.
- h. *Waterfront W*. This district includes certain non-residential and mixed-use areas along the Sakonnet River for which primarily water-dependent commercial uses are required.
- i. *Industrial I*. This district contains that area of the town currently used for industrial and related uses, and which is considered suitable for future industrial development. The I

District consists of a large land area east of Fish Road and on both sides of Route 24, and a smaller land area west of Fish Road and lying between the R-30 District and Souza Road.

- j. *Open Space/Conservation OS*. This district includes areas of coastal land and open space which are either owned publicly or by a private land conservation entity (e.g. land trust, Nature Conservancy, Audubon Society) and which are protected for one or more of the following purposes: keeping the land in a natural undeveloped condition, providing passive recreational opportunities to the public, and preserving specific habitat areas or agricultural uses. This district does not include undeveloped land which is privately owned but unprotected or protected by means of the purchase of development rights by the town or state, nor does it include land set aside as common open space as part of a rural residential development (see article IX).
- k. *Watershed Protection Overlay District WP*. This is an overlay district applied to those areas of Tiverton which comprise the watersheds of Stafford Pond and Nonquit Pond, public drinking water supplies. The WP Overlay District is governed by specific regulations (see article VIII).

(Ord. of 6-4-01(2))

Section 2. Official zoning map.

- a. The boundaries of the above zoning districts are hereby established as shown on a map entitled "Town of Tiverton Official Zoning Map," and filed with the town clerk. The Town of Tiverton Official Zoning Map, hereinafter called "zoning map," is hereby adopted and made a part of this ordinance.
- b. The zoning map shall be attested by the town clerk and town solicitor, and bear the signature of the town council president and the seal of the Town of Tiverton.

- c. Regardless of the existence of copies of the zoning map, which may be periodically made or published, the zoning map herein described, which shall be located in the office of the town clerk, shall be the Town of Tiverton official zoning map; it shall be the authority as to the current zoning status of land and water areas, buildings and other structures in the Town of Tiverton.

Section 3. Interpretation of zoning boundaries.

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

- a. Boundaries indicated as approximately following the centerlines of streets, railroads or utility rights-of-way shall be construed to follow such centerlines.
- b. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- c. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerline of streams, rivers, ponds or other bodies of water shall be construed to follow such centerlines.
- d. Land created by the filling of a stream or water body shall be considered to be within the district of the land from which such fill was extended.
- e. Boundaries indicated as approximately following town limits shall be construed as following such town limits.
- f. Boundaries indicated as parallel to or extensions of features indicated in paragraphs a through e above shall be so construed. Distances not specifically indicated on the

zoning map shall be determined by the scale of the zoning map.

- g. Where physical or cultural features existing on the ground differ from those shown on the zoning map, or in other circumstances not covered by paragraphs a through f above, the zoning officer shall interpret the zoning district boundaries.

Section 4. Lots of record divided by a zoning district boundary.

For those lots of record which are divided by a zoning district boundary, the regulations for either district shall apply, except that no zoning district shall in effect be extended for a distance greater than 50 feet.

ARTICLE IV. DISTRICT USE REGULATIONS

Section 1. Interpretation of zoning district use table.

The status of the uses listed in the following zoning district use table are indicated by symbols appearing under the appropriate column headings. The interpretation of the symbols is as follows:

P	The use is permitted.
S	The use is permitted only as a special use granted by the zoning board of review, in accordance with articles XV and XVI.
N	The use is not permitted.

(Ord. of 6-4-01(3))

Section 2. Residential uses.

		R-30		R-60	R-80	VC	GC	HC	W	I	OS
a.	Single-family dwelling	P	P	P	P	S	N	N	N	N	N
b.	Two-family dwelling	P	N	P	N	N	N	N	N	N	N
c.	Multi-family structure or apartment house	S	N	S	N	N	N	N	N	N	N

d.	Mixed-use residential	N	N	N	N	S	P	N	S	N	N
e.	Household	P	P	P	P	P	P	N	P	N	N
f.	Community residence	P	P	P	P	P	P	N	P	N	N
g.	Family day care	P	P	P	P	P	P	N	P	N	N

h.	Taking of boarders or the renting of rooms by a resident family (not to exceed two roomers or boarders)	P	P	P	P	P	S	N	S	N	N
i.	Bed and breakfast	S	S	S	S	S	S	N	S	N	N

j.	Mot el or hot el	N	N	N	N	N	P	P	S	N	N
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k.	Home occupation carried on by the occupant of the residence, including residential arts and crafts but excluding sales of such items	P	P	P	P	P	P	N	P	N	N
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n.	Satellite receiving antenna, more than one meter and up to two meters in diameter	S	S	S	S	P	P	P	P	P	N
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o.	Satellite receiving antenna, more than two meters in diameter, or more than one antenna of any size	S	S	S	S	N	S	S	S	S	N
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p.	Con val esc ent, rest or nur sin g ho me	S	S	S	S	N	S	N	N	N	N
q.	Reti rem ent resi den ce/a ssis ted livi ng faci lity/ and con tinu ing car e faci lity	S	S	S	S	N	S	N	N	N	N

r.	Man ufa ctur ed ho me eld erly co mm unit y*	P	N	P	N	N	N	N	N	N	N
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s.	Accessory building including a garage, shed, studio and any other building incidental to and located on the same lot as the residential	P	P	P	P	S	N	N	S	N	N
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*According to the provisions of section 16 of this article.

**See section 14 of this article.

(Ord. of 6-4-01(3))

Section 3. Farming or raising of animals.

		R-30	R-40	R-60	R-80	VC	GC	HC	W	I	OS
a.	Commercial raising of crops, including associated greenhouse or nursery*	P	P	P	P	P	P	P	N	S	S

b.	Commercial raising of animals or fowl. This includes kennels for the raising, boarding or sale of dogs, cats or other fur-bearing animals, but	N	S	S**	S**	N	S	N	N	S	N
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d.	An accessory building or structure to be used for the display and sale of the agricultural products produced by the uses allowed herein on said	P	P	P	P	N	P	P	N	P	S
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e.	Accessory building including a garage, greenhouse, stable, barn, pen, coop, kennel, crib, silo and any other building, equipment or acti	P	P	P	P	N	P	P	N	P	S
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b.	Non prof it org aniz atio n clu b, lod ge, soc ial or co mm unit y cen ter buil din g	S	S	S	S	S	P	N	N	P	N
c.	Art cen ter	N	N	N	N	P	P	P	S	S	N
d.	Me mb ers hip athl etic clu b	N	N	N	N	N	P	P	N	S	N

e.	Hospital, medical center or clinic	N	N	N	N	N	S	S	N	S	N
f.	Municipal or government building	S	S	S	S	N	P	P	N	P	N
g.	Fire or police station	P	P	P	P	N	P	P	N	P	N
h.	Day care center	S	S	S	S	S	S	N	N	S	N

i.	Private non-profit school	S	S	S	S	N	S	N	N	N	N
j.	Junior college, college or university	N	N	N	N	N	S	S	N	S	N
k.	Private trade, professional or other school	S	S	S	N	N	P	P	S	S	N

I.	School conducted as a private gainful business for teaching subjects such as music, singing, and dancing, karate or martial arts, and co	N	N	N	N	S	P	P	N	N	N
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b.	Electric power substation	N	N	S	S	N	S	S	S	P	N
c.	High voltage electric transmission towers	S	S	S	S	N	S	S	S	S	N

d.	Towers, including but not limited to, radio frequency towers	N	S	S	S	N	S	S	S	S	N
e.	Water tower	S	S	S	S	N	S	P	N	P	N

h.	Public utility structure not otherwise specified	S	S	S	S	N	S	S	S	S	N
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(Ord. of 6-4-01(3))

Section 6. Open recreation uses.

		R-30	R-40	R-60	R-80	VC	GC	HC	W	I	OS
a.	Golf course or golf club	S	S	S	S	N	N	N	N	N	N

	(1) To incl ude stru ctur es for she lter, edu cati on and co mfo rt of use rs	P	P	P	P	S	P	P	S	N	S
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	(2) To incl ude furn ishi ng of foo d and drin k, and per son al ser vic es and equ ipm ent inci den tal to use of suc h par k	S	S	S	S	N	P	P	S	N	N
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d.	Bat hin g bea ch	P	P	P	P	N	P	N	S	N	N
e.	Mun icip al or co mm erci al swi mm ing poo l	N	N	N	N	N	P	P	N	N	N
f.	Swi mm ing poo l as an acc ess ory use	P	P	P	P	N	P	P	P	P	N
g.	Ridi ng sta ble or aca de my	N	S	S	S	N	N	N	N	N	N

h.	Yacht club or marina	S	S	N	N	N	N	N	P	N	N
i.	Waterfront recreation business. This includes boat rentals and tours, charter fishing boats or similar uses	N	N	N	N	N	N	N	P	N	N

j.	Other open commercial recreational use	N	N	N	N	N	S	S	N	N	N
k.	Campground	N	S	S	S	N	N	N	N	N	N

(Ord. of 6-4-01(3))

Section 7. Office uses.

		R-30	R-40	R-60	R-80	VC	GC	HC	W	I	OS
a.	Professional home office	S	S	S	S	P	P	P	P	N	N

	(1) Not including drive through service	N	N	N	N	N	P	P	N	S	N
	(2) Including drive through service	N	N	N	N	N	S	S	N	S	N

d.	Temporarily sales or promotion office in connection with adjacent construction, limited to one year	S	S	S	S	N	P	P	S	P	N
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(Ord. of 6-4-01(3))

Section 8. Restaurants and entertainment.

	(1) Without adult entertainment	N	N	N	N	N	S	S	N	S	N
	(2) With adult entertainment	N	N	N	N	N	N	S*	N	N	N
c.	Theater or concert hall	N	N	N	N	S	S	P	N	N	N
d.	Indoor commercial recreation	N	N	N	N	N	P	P	N	N	N

e.	Res taur ant wit h driv e- thro ugh ser vic e	N	N	N	N	N	S	S	N	N	N
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* Such use shall not be located within 1,000 feet of any church, school, day care center or residence.

(Ord. of 6-4-01(3))

Section 9. Service business.

	R- 30	R- 40	R- 60	R- 80	VC	GC	HC	W	I	OS
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a.	Personal convenience services, including but not limited to: barber shop, beautician, shoe repair, tailor	N	N	N	N	P	P	P	N	N	N
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b.	Lau ndr om at or dry cle ani ng faci lity	N	N	N	N	N	P	P	N	N	N
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c.	Specialty services, including but not limited to: printing shop, photo studio, interior decorating shop, catering service	N	N	N	N	P	P	P	N	N	N
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d.	Mor tuar y or fun eral ho me, cre mat oriu m	N	N	N	N	N	P	P	N	N	N
e.	Ele ctro nic or app lian ce rep air sho p	N	N	N	N	S	P	P	N	N	N
f.	Vet erin ary offi ce or ani mal hos pita l	N	S	S	S	N	P	P	N	N	N

k.	Storage, repair and sales of boats and marine accessories	N	N	N	N	N	S	P	S	S	N
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(Ord. of 6-4-01(3))

Section 10. Retail business.

	R-30	R-40	R-60	R-80	VC	GC	HC	W	I	OS
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a.	General retail business, including but not limited to: grocery/convenience store, pharmacy, hardware store, variety/general merchandise store, furn	N	N	N	N	S	P	P	S	N	N
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b.	Specialty retail business, including but not limited to: antique store, bookstore, decorative arts/housewares/furnishings store, specialty food	N	N	N	N	P	P	P	S	N	N
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c.	Supermarket/department store, discount center, furniture or other chain retail outlet, including shopping centers	N	N	N	N	N	S	P	N	N	N
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d.	Retail business, office and/or consumer service complex,	N	N	N	N	N	P	P	S	P	N
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e.	Retail sales accessory to the manufacture or assembly of products on the premises	N	N	N	N	N	P	P	S	P	N
f.	Retail sales with open lot storage	N	N	N	N	N	S	S	S	N	N

g.	Ret ail sal es of agri cult ural pro duc ts, the maj orit y of whi ch are not gro wn on the pre mis es*	N	N	N	N	S	P	P	N	N	N
h.	Pac kag e liqu or stor e	N	N	N	N	P	P	P	N	N	N

i.	Adu lt boo k/vi deo stor e	N	N	N	N	N	N	S**	N	N	N
j.	Gas olin e filli ng stat ion, incl udi ng reta il sal es as an acc ess ory use	N	N	N	N	N	S	S	N	N	N

k.	Auto or truck sales in a building (including repairs) or an open lot	N	N	N	N	N	S	P	N	N	N
l.	Trailer sales, service and storage	N	N	N	N	N	S	P	N	S	N

*See section 2.1 for sale of home-grown agricultural products and section 3.a for sale of agricultural products grown commercially.

**Such use shall not be located within 1,000 feet of any church, school, day care center or residence.

(Ord. of 6-4-01(3))

Section 11. Transportation uses.

		R-30	R-40	R-60	R-80	VC	GC	HC	W	I	OS
a.	Commercial airport or heliport	N	N	N	N	N	N	N	N	S	N
b.	Private landing strip or helipad	N	N	S	S	N	S	S	S	S	N
c.	Bus or rail passenger station	S	N	N	N	N	S	S	S	S	N

d.	Commercial off-street parking facility, including bus or other vehicle storage	N	N	N	N	N	S	S	N	S	N
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(Ord. of 6-4-01(3))

Section 12. Wholesale business and storage.

	R-30	R-40	R-60	R-80	VC	GC	HC	W	I	OS
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a.	Wh ole sal e bus ine ss and stor age of non fla mm abl e and non - exp losi ve mat eria l in a buil din g	N	N	N	N	N	S	P	S	P	N
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b.	Wh ole sal e bus ine ss whi ch ma y incl ude ope n lot stor age of mat eria l, pro duc ts and/ or con stru ctio n or oth er equ ipm ent	N	N	N	N	N	N	S	S	P	N
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c.	Min i- stor age faci lity	N	N	N	N	N	S	S	N	S	N
d.	Stor age of fla mm abl e and/ or exp losi ve mat eria l	N	N	N	N	N	S	S	S	S	N
e.	Ret ail outl et acc ess ory to a who les ale or stor age use	N	N	N	N	N	S	P	S	S	N

(Ord. of 6-4-01(3))

Section 13. Industrial uses.

		R-30	R-40	R-60	R-80	VC	GC	HC	W	I	OS
a.	Manufacturing, storing, processing, fabricating, activities in conformance with article XIII	N	N	N	N	N	N	N	S	S	N

b.	Product assembly, including but not limited to: electronic items, computers, optical goods and instruments, laboratory and scientific instruments	N	N	N	N	N	P	S	S	P	N
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(Ord. of 6-4-01(3))

Section 14. Accessory uses.

- a. An accessory use which is clearly incidental and secondary to the principal permitted use of the premises or structure shall be allowed, provided, however, that such accessory use shall be located on the premises to which it applies, and shall not be detrimental to or impair adjacent properties or the neighborhood.
- b. Where a principal use is allowed by special use permit, an accessory use which is clearly incidental and secondary to the principal use shall be allowed by special use permit, provided that such accessory use shall be located on the premises to which it applies, and shall not be detrimental to or impair adjacent properties or the neighborhood.

Section 15. Prohibited uses.

Uses not listed or not generally provided for in the zoning district use table shall not be permitted anywhere in the Town of Tiverton. Additionally, the following specific uses shall not be permitted within the Town of Tiverton:

- a. Loam stripping, for the purposes of removal off-site.
- b. Offal or dead animal dumping.
- c. Any industrial use which is obnoxious by reason of the emission of odors, gases, dust, noise or vibration or by reason of danger of fire or explosion or of hazards to health; see article XIII for standards and enforcement.
- d. Manufactured (mobile) home parks.

- e. The installation of underground storage tanks, including underground pipes connected thereto, which are used to contain an accumulation of petroleum product (gasoline, no. 1 or no. 2 fuel oil, no. 1 or no. 2-D diesel oil, waste oil or gasohol) or hazardous material, and the volume of which, including the volume of the underground pipes, is ten percent or more beneath the surface of the ground, in all residential zoning districts or in any other district where its purpose is to serve a residential or farm dwelling. This prohibition does not apply to storage tanks located in an underground area such as a basement or cellar, if the tank is situated upon or above the surface of the floor.
- f. Incinerators or hazardous waste management facilities.
- g. Concrete manufacturing plants
- h. Bituminous concrete manufacturing plants
- i. Petroleum refining.
- j. Drive-in theater.
- k. Junkyard or storage of unregistered vehicles.
- l. Open lot storage of junk, scrap or salvage materials, or construction equipment or materials not associated with a wholesale business (see section 12.b).
- m. Quarrying of or mining for sand, gravel, rocks or minerals.

(Ord. of 6-4-01(3))

Section 16. Manufactured home elderly community.

- a. *Purpose.* The purpose of this section is to provide for the construction, erection, placement and regulation of manufactured

homes for residents in a self-contained retirement community expressly for and specifically limited to the use and residency by elderly persons, which such retirement community shall be no less than thirty (30) contiguous acres in size and shall be reviewed as a major land development in accordance with the land development and subdivision regulations for the Town of Tiverton and approved by the Tiverton planning board.

b. *Definitions.*

- (1) *Manufactured home elderly community:* A self-contained retirement community expressly for and specifically limited to use and residency by persons 55 years of age or older or as expressly required by state and federal regulations. Such retirement community shall have both municipal water and sewerage, comport with the density calculations as set forth in Section 3 of Article V herein and be constructed on no less than 30 contiguous acres of land and at all times held under single ownership.
- (2) *Manufactured home assigned area:* A parcel of land for the placement of a single manufactured home for the exclusive use of its occupants.
- (3) *Trailer:* The following for the purposes of these regulations shall be considered a trailer and not permitted in or within a manufactured home elderly community.
 - a) *Travel trailer:* A vehicular, portable structure built on a chassis, designed as a temporary dwelling for travel, recreation, or vacation, having a body width not exceeding 8 feet, and a body length not to exceed 32 feet.
 - b) *Pick-up coach:* A structure to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, or vacation.

- c) *Motor home*: A portable, temporary dwelling to be used for travel, recreation, or vacation, constructed as an integral part of self propelled vehicle.
 - d) *Camping trailer*: A folding structure, mounted on wheels and designed for travel, recreation, and vacation use.
- (4) *Manufactured home stand*: A manufactured home stand, which is a foundation or concrete pad with adequate anchoring spots, shall be considered as that part of the manufactured home site which is reserved for the manufactured home.
 - (5) *Community building*: A building solely for the use of the residents of the park and their guests, which may contain, but is not limited to, a TV room, card room, sewing room, library, pool tables, kitchen, laundry, emergency station, toilet, lavatory, and bathing facilities for men and women, retail convenience store, and such activities as may serve the needs of the residents. Community buildings and other community facilities shall be designed in accord with the most recent Rhode Island standards for accessibility for the handicapped.
 - (6) *Person*: The word "person" shall include individuals, corporation, owners, lessees, licensee, and agents for each of them.
 - (7) *Permittee*: The term "permittee" shall be deemed to be any person, firm, or corporation conducting, operating, or maintaining a manufactured home elderly community.
- c. *General provisions*. A manufactured home elderly community shall be allowed in the R-30 and R-60 Districts subject to the specific requirements and conditions set forth herein, and the review procedures and applicable development standards contained in article XX, development plan review.

- d. *Requirements.* Each manufactured home elderly community shall conform to the following requirements:
- (1) *Assigned area requirements:* Minimum assigned area size shall be 6000 square feet, provided however, that each unit is served by municipal water and sewerage. Each assigned area is to have a minimum of 50 feet of frontage. Adequate surface water drainage is to be provided for each assigned area. There shall be a minimum sideline clearance of 22 feet between each manufactured home with a set back from the road layout of 20 feet. There shall be a minimum side yard requirement for each assigned area of 4 feet. Maximum building coverage for each assigned area shall be 30 percent.
 - (2) A minimum of two on-site parking spaces together with a driveway shall be required for each manufactured home assigned area.
 - (3) No manufactured home site shall be located nearer than 40 feet from the traveled portion of any public highway. A buffer shall be provided along the perimeter of the community which shall be a minimum width of 50 feet, up to 20 feet of which may [be] part of the assigned area of any unit as set forth in paragraph (1) above. Existing vegetation shall be retained within the buffer, which may be enhanced by landscaping if required by the planning board. Fencing or screening shall be an acceptable alternative to natural landscaping within the buffer if approved by the planning board.
 - (4) No travel trailer, pick-up-coach, motor home, or camping trailer or other manufactured trailer adaptable to living shall be permitted in a manufactured home elderly community, except in areas approved for such storage.
 - (5) No manufactured home shall be permitted in a licensed manufactured home community which does not meet the

standards set up by the Manufactured Home Manufacturers' Association under U.S.A. standard #A1191-1969, as from time to time updated. It will be the responsibility of the permittee to enforce this regulation.

- (6) Each building and manufactured home stand shall be an element of overall plan for site development.
- (7) Where possible, manufactured home stands shall be oriented with respect to scenic views, natural landscape features, topography, and natural drainage areas. Development proposals shall include a landscape program to illustrate the proposed treatment of space, roads, paths, service and parking areas. Screening devices shall not impair pedestrian or vehicular safety. Residual open space within the allowable density limits shall be allocated to the recreational amenity and environmental enhancement of the manufactured home elderly community shall be designed as such on the site plan for the proposed development.
- (8) All utilities shall be installed underground wherever possible. All transformer boxes, substations, pumping station, and meters shall be located and designed so as not to be unsightly or hazardous to the public.
- (9) Each manufactured home shall be skirted. One or more access hatches must be provided through the skirting, but shall be located only in the rear or side(s) of the manufactured home. No foundation of a manufactured home shall extend no more than 24 inches above the finished grade in the front of the manufactured home. Skirting material will be either the same material as the manufactured home siding, or an impregnated or treated wood siding, or masonry, or aluminum.
- (10) Enclosed tenant storage must be provided for material which is used only seasonally or infrequently, and which cannot be conveniently stored in a manufactured home. The

permittee may provide community storage or may provide storage by constructing individual storage buildings for manufactured home sites. Such individual storage buildings must be uniformly constructed, must be erected on a concrete slab and outside dimensions must be a minimum of 5 feet by 7 feet with a maximum of 8 feet by 12 feet. Such storage buildings shall be located at the rear corner of the unit space, and where possible two or four storage buildings may be combined. In the event the permittee elects to combine the storage buildings, the outside dimensions except the height, may be increased by the number of buildings being combined. In this event, side yard requirements for the storage building may be waived. Construction must be of non-ferrous metal, if metal is used.

- (11) No permanent additions, such as lean-tos, enclosures or rooms shall be added to any manufactured home. Open porches with awnings and removable skirting may be installed with permission of the permittee.
- (12) A single one-family dwelling for the on-site manager may be permitted on the site, provided further, that such dwelling complies with the building requirements of the Town of Tiverton, Rhode Island. A portion of such dwelling may be utilized for the management office.
- (13) All roads in the manufactured home elderly community shall be constructed and paved to a width in conformance with standards in the land development and subdivision regulations and the right-of-way width shall be the same as the paved width.
- (14) At least ten percent of the gross land area of the manufactured home elderly community shall be reserved for recreational and open space usage exclusive of the buffer as set forth in paragraph (3) above.

e. *Responsibilities of manufactured home elderly community permittee.*

- (1) The permittee shall operate the manufactured home elderly community in compliance with all regulations, and shall provide adequate supervision to maintain the community, its facilities, and equipment in good order and in clean and sanitary condition.
- (2) The sale of a manufactured home by the permittee for placement within the manufactured home elderly community may be accomplished only if there is a free and available assigned area in the park on which such manufactured home shall be placed. No manufactured homes shall be allowed unless they are placed on sites for future residence.
- (3) All roads in the manufactured home elderly community shall be maintained by the permittee. They shall be kept passable and in good condition at all times. Snow and ice removal shall be done by the permittee at its expense.
- (4) The permittee shall insure compliance by all tenants with these rules and regulations and all community rules and regulations to be adopted.
- (5) The applicant shall submit to the planning board for review all assigned area rental agreements and elderly community rules and regulations applicable to residents of the manufactured home elderly community.

f. *License requirements.*

- (1) *Required:* A license issued by the town council shall be required prior to the operation of any manufactured home elderly community within the town.
- (2) *Issuance:* A manufactured home elderly community license may be issued to the permittee by the town council upon final approval of the planning board and the payment of the

appropriate fee. Licenses shall be valid for one (1) year, expiring on June thirtieth.

- (3) *Renewal:* The manufactured home elderly community license may be renewed by the town council upon receipt of a report from the building official and approval of the planning board. The building official's report shall note all violations that occurred and corrective actions taken during the previous year. Planning board approval shall be required for modifications to the community within the scope of these regulations. The town council may require performance sureties as a condition for license renewal if it determines, in its sole discretion, that substantial deficiencies exist.

(Ord. of 11-24-97; Ord. of 6-4-01(3))

Section 17. Age restricted mixed use community.

A. *Purpose.* It has been determined that:

1. There is a need for alternative housing in the Town of Tiverton for members of the adult population who will no longer maintain a residence for minor children and that such housing should be comprehensively designed to meet the needs of adults and;
2. That such a use is in accordance with the Tiverton comprehensive plan.

The purpose of this section 17 is to provide for an Age Restricted Mixed Use Community in appropriate locations and settings, in which the residential uses are expressly for and specifically limited to the use and residency by persons as defined herein and the permitted associated uses are also as defined herein. Any application for an Age Restricted Mixed Use Community shall be reviewed and approved by the planning board as a major land development in accordance with the land development and subdivision regulations.

B. *Definitions.*

1. *Age Restricted Mixed Use Community ("ARMUC")*: A self-contained community expressly for and limited to use and residency by persons 55 years of age or older, or as otherwise expressly required by state and federal law and regulation. Such a community shall have both public water and sewerage and shall, with its associated uses, be constructed on a lot or combination of contiguous lots ("contiguous" lots shall mean abutting lots or lots divided by public streets, railroad rights of way or any similar dividing barrier) containing not less than a total of 90 acres of land with at least 2,600 feet of combined frontage on the tidal navigable waters of the State of Rhode Island. The use and occupancy in an ARMUC shall be restricted to:
 - (a) Any person of the age of 55 years or over;
 - (b) A husband or wife, regardless of age, residing with his or her spouse, provided the spouse of such person is of the age of 55 years or over;
 - (c) The child or children residing with a permissible occupant, provided the child or children is or are of the age of 19 years or over; or
 - (d) The individual or individuals, regardless of age, residing with and providing necessary physical or economic support to a permissible occupant as authorized by the C & R's.

The foregoing occupancy restrictions shall not be construed to prohibit the occupants of any unit in an ARMUC from entertaining guests, of any age, in their units, including temporary residency not to exceed three months with no financial or other pecuniary consideration to be paid therefor.

2. *Associated uses:* Those associated uses permitted in this section 17 in an ARMUC, which may be for the use of the residents of the community and for the use of the general public and which shall be located on a separate lot in the ARMUC and which may be under separate ownership when the project is complete.
 3. These definitions shall be considered to be definitions as if they were part of article 11 of this zoning ordinance. Any references to the "zoning ordinance" in this section 17 shall mean the zoning ordinance as adopted June 27, 1994, as amended through the date of adoption of this section 17.
- C. *Zoning district.* An ARMUC shall be allowable in any zone under this zoning ordinance except R15, R30, R40, R60 and R80 zones or any other or future residential zone, subject to the specific area requirements and water frontage requirements set forth above and subject to the further requirements of this section 17.
- D. *Permitted residential uses in an ARMUC.* The following residential uses are permitted in an ARMUC:
1. Single family dwellings, two family dwellings, or multi-family dwellings and appurtenant structures, all as defined in this ordinance and as restricted in the C & R's, or any combination of such dwellings and structures, provided, however, that all residential dwellings shall be owned, operated and administered as a condominium under title 34, chapters 36 and 37 of the General Laws of Rhode Island, 1956, as amended, or shall be owned, operated and administered under similar provisions, except as noted hereafter in this section 17.
 2. Permitted principal uses. The principal residential uses of buildings in an ARMUC shall be limited to the following:
 - a. Dwelling units.

- b. Recreation facilities.
 - c. Sales and administrative offices required for the construction, sale, resale and management of the ARMUC.
 - d. Maintenance buildings within which fertilizer, pesticides, paint, and all other equipment or materials necessary for road, ground and building maintenance may be stored in compliance with all state and federal laws and regulations governing storage of hazardous materials.
3. Permitted accessory uses. The accessory uses of buildings and structures in the residential portion of an ARMUC shall be limited to the following:
- a. Master television antenna system and/or cable television antenna/reception facilities in compliance with town ordinances.
 - b. Common parking areas for guest parking or dedicated for specific parking purposes.
 - c. Buildings for storage of vehicles, equipment and supplies.
 - d. Outbuildings and structures as part of recreation facilities.

E. *Density requirements for residential uses.*

- 1. The land suitable for development in the entire parcel proposed for an ARMUC shall be calculated to determine total allowable lot coverage in accordance with article V, section 3(a) of this ordinance.

2. Once the area available for development has been calculated, at least 80 percent of the suitable land area shall be dedicated to residential uses.
3. Once the area dedicated to residential uses is defined, it shall be demarcated as a separate lot for residential purposes.
4. Within the lot demarcated for residential uses the density allowed shall be one dwelling unit (whether one family, two family, or multi-family units are involved) per 6,000 square feet of suitable land. The maximum number of units shall be 370.

F. *Dimensional requirements.*

1. Single family units and two family units on common property shall have a minimum setback from any interior roadway or circulation driveway of 20 feet.
2. Minimum distance between detached units:
 - (i) For units oriented side-to-side to each other the minimum distance between buildings shall be 20 feet for buildings of two stories and ten additional feet for each story over two stories.
 - (ii) For units oriented essentially at 90 degrees to each other the minimum distance between buildings shall be 20 feet for buildings of two stories and 10 additional feet for each story over two stories.
 - (iii) For units oriented essentially rear-to-rear to each other the minimum distance between buildings shall be 30 feet for buildings of two stories and 10 additional feet for each story over two stories.
3. For multi-family units:

- (i) Minimum setback from interior roadway or circulation driveway 20 feet.
 - (ii) Minimum setback from interior parking lot 20 feet.
 - 4. Minimum distance between multi-unit buildings:
 - (i) For multi-unit buildings oriented essentially at 90 degrees to each other the minimum distance between buildings shall be 20 feet for buildings of two stories and ten additional feet for each story over two stories.
 - (ii) For multi-unit buildings oriented essentially end-to-end to each other, the minimum distance between buildings shall be 20 feet for buildings of two stories and ten additional feet for each story over two stories.
 - (iii) For multi-unit buildings oriented essentially with the parallel axis facing each other, the minimum distance between buildings shall be 35 feet for buildings of two stories and ten additional feet for each story over two stories.
 - 5. Maximum building height: All buildings shall be constructed in compliance with the Rhode Island State Building Code and no building shall be higher than four stories plus the roof. In no event shall the maximum height of any building exceed 65 feet measured from the downslope or lowest grade. No buildings for storage of vehicles, equipment or supplies or recreational buildings shall be higher than two stories plus the roof.
 - 6. The maximum percentage of lot building coverage shall be 30 percent for the lot demarcated as residential.
- G. *Minimum parking requirements (including parking for residents and visitors).*

1. For each detached single family unit: a one car garage plus one additional parking space.
 2. For each unit in a two family or multi-family building: Two and one-half spaces.
 3. A private driveway with capacity for off-street parking of one automobile shall be deemed to constitute one parking space.
 4. The gross area per car space shall be no less than 200 square feet.
- H. *Utilities.* An ARMUC must be fully serviced by public water and public sanitary sewerage facilities. All utilities shall be underground.
- I. *Recreation facilities.* Any ARMUC shall contain and provide for the benefit, use and enjoyment of its residents, recreation facilities which can include, but shall not be limited to, the following:
1. A recreation area containing a recreation building or buildings.
 2. Swimming pool or pools with amenities.
 3. Picnic-barbecue areas.
 4. Jogging trail or trails.
 5. Tennis courts.
 6. Fitness-exercise course or courses.
 7. Gardening areas (including greenhouses).

8. Such other activities as the developer may propose and the planning board shall find to be consistent with the lifestyle of residents of an ARMUC and which are accessory to the residential character of an ARMUC.
9. Ownership of recreation facilities: All recreation facilities shall be owned by the homeowners association (defined below).
10. However, no boats or recreational vehicles shall be stored in the ARMUC.

J. *Permitted associated uses in an ARMUC.* The following associated uses are permitted on the lot demarcated for the associated uses in an ARMUC, all of which shall be for the use of the residents of the ARMUC and for the general public:

1. Marina.
2. Hotel or motel.
3. Retail businesses as described in article IV, section 10(a), (d), (f), and (g) of this zoning ordinance consisting of general retailing activities, a package liquor store, commercial docks or piers and sales of boats and marine accessories, except that there shall be no storage or repair of boats.
4. Restaurants, including entertainment and liquor.
5. Maintenance buildings within which fertilizer, pesticides, paint and all other equipment or materials necessary for road, ground and building maintenance may be stored, in compliance with all state and federal laws and regulations governing storage of hazardous materials.
6. Residential dwelling units, but only in the second floor of any building except for a hotel or motel. Use and occupancy

of any such dwelling units shall be subject to the residency restrictions contained in section 17(B)(1.) above.

7. Maximum building height shall be four stories of no more than ten-foot each of living space, plus the roof and not more than 65 feet for one hotel or motel; three stories plus the roof for one combined dockmaster/maintenance building; and two stories plus the roof for any other building.

K. *Density requirements for associated uses.*

1. Once the lot dedicated to the associated uses is defined, it shall be demarcated as a separate lot of record and may or may not be part of the condominium or similar entity which owns, operates and administers the lot demarcated for residential uses.
2. The lot demarcated for the associated uses shall not require frontage by a public or private street, but access to it must be provided on either a public or private street built to the specifications required in the land development and subdivision regulations for a collector street. In the event that pre-existing manmade or natural conditions on the land make it difficult or expensive to construct all or part of such a street to this standard, the planning board may grant waivers so that construction of the street can proceed.
3. The maximum percentage of lot building coverage on the lot demarcated for the associated uses shall be 50 percent.

- L. *Buffer zones.* No residential unit shall be constructed within 40 feet of any adjacent land located bordering the ARMUC land. No associated use shall be constructed within 40 feet of any adjacent land bordering the ARMUC land. The buffer zone shall be landscaped in such a manner as the planning board finds will reasonably separate the ARMUC land from adjacent land. Where a public or private street abuts a buffer zone, the pavement of the street may be placed so that the outer edge of the pavement directly abuts the inner edge of the buffer zone and the

landscaped area of the buffer zone may be used in calculating the right of way width, resulting in the paved portion of the right of way being placed completely to the interior side of the right of way. In the event that pre-existing man-made or natural conditions on the land make it difficult or expensive to construct all or part of a public or private street without intrusion into the buffer zone, the planning board may allow the public or private street to be constructed within the buffer zone.

- M. *Frontage.* The ARMUC shall have not less than 120 feet of frontage on an existing public street.
- (i) The ownership, maintenance, operation and upkeep of all recreation facilities, open space, streets and other common areas within the ARMUC by the homeowners association;
 - (ii) The restrictions on residential unit occupancy (including restrictions on individuals providing necessary physical or economic support to a permissible occupant) set forth above both for the lot demarcated as residential and for the associated uses lot;
 - (iii) The procedure for creating, imposing and collecting assessments from each unit owner to finance the foregoing;
 - (iv) The organization, operation and management of the homeowners' association;
 - (v) Restrictions against occupancy of any house trailer (except during construction) or any modular or prefabricated dwelling; and
 - (vi) A provision that, if the homeowners association fails to enforce or carry out any provision of the C&Rs, the town may enforce and carry out such provision and charge the homeowners association and/or the unit owners for any costs incurred by the town including the placement of liens

on the property of the homeowners' association or unit owners.

A complete copy of the proposed C&Rs and all documents creating and organizing the homeowners' association shall be submitted to the planning board for review and approval prior to final approval of the ARMUC.

- Q. [*Waivers and modifications.*] In its review, pursuant to the provisions of this section 17, the planning board may grant waivers and/or modifications from the land development and subdivision regulations as may be reasonable and within the general purposes and intent of the land development and subdivision regulations and this section 17. The grounds for such waivers and/or modifications under this section 17 are whether such waiver and/or modification is in the best interest of good planning practice and/or design as evidenced by consistency with the comprehensive plan and the zoning ordinance.
- R. *Phases.* Either the residential uses or the associated uses in an ARMUC, or both, may be phased in accordance with article VIII, sections 23--42 of the land development and subdivision regulations.
- S. [*Planning board review.*] If any portion of this section 17 is declared invalid by a court of competent jurisdiction and all appeals from such declaration have been exhausted, any change to this section 17 must be reviewed by the planning board prior to enactment.

(Ord. of 4-10-00(2))

Section 18. Large scale office park development.

- A. *Purpose.* It has been determined that:
1. There is a need for large scale office park development in the Town of Tiverton; and

2. That such a use is in accordance with the Tiverton comprehensive plan. The purpose of this section 18 is to provide for a large scale office park development in appropriate locations and settings.

B. *Definitions.*

1. *Large scale office park development: (LSOPD):* A development for the uses hereinafter enumerated in this section 18, subject to the applicable dimensional provisions of this zoning ordinance.

An LSOPD shall have both public water and public sewerage and shall be constructed on a lot or combination of contiguous lots ("contiguous" lots shall mean abutting lots or lots divided by public street, easement or any dividing barrier) containing not less than 125 acres of land, which may be further subdivided in accordance with the provisions of this zoning ordinance.

This definition of LSOPD shall be considered to be a definition as if it were a part of article 11 of this zoning ordinance. Any references to the "zoning ordinance" in this section 18 shall mean the zoning ordinance as adopted June 27, 1994, as amended through the date of adoption of this section 18.

- C. *Zoning district.* An LSOPD shall be allowable in a General Industrial (GI) Zone under this zoning ordinance, subject to the specific area requirements as set forth above and to the further requirements of this section 18.

- D. *Permitted uses in a LSOPD.* The following uses are permitted in a LSOPD:

1. Motel or hotel (with restaurant, including entertainment and/or liquor).

2. Professional office and bank, credit union or office building as permitted in article IV, section 7 (b) and (c) of this zoning ordinance.
3. Any retail business permitted in article IV, section 10.
4. Restaurant (including entertainment and/or liquor).
5. Any wholesale business or storage as described in article IV, section 12.
6. Any industrial use as described in article IV, section 13.
7. Any facility engaged in the creation or operation of information technology or financial services.
8. Any commercial office or office building not otherwise included in this section 18.

E. *Prohibited uses in a LSOPD.* The following uses are prohibited in a LSOPD:

1. No materials, manufactured items, supplies or equipment shall be stored in any area on a lot except inside a closed building or behind a visual barrier screening such areas from the view of adjoining property and/or a street. No storage or parking of goods, vehicles, and/or equipment shall be permitted on the street. In addition, no portable structures, including but not limited to trailers, storage units or similar objects, shall be permitted within the LSOPD except during periods of construction.
2. All approved off-street loading facilities shall be paved with asphalt or concrete with adequate drainage and curbing. Loading areas shall be located to the rear of any building wherever possible. Loading areas in the rear of side yards

shall be screened by substantial means to minimize exposure from the street.

3. All developed land not covered by buildings, parking areas, driveways or other site improvements shall be appropriately landscaped. The owner of any lot shall at all times keep the property, including undeveloped areas, in good order and condition and properly maintained.
4. There shall be no excessive noise, dust, smoke, fumes, odors, vibrations, glare, vermin, or liquid or solid waste which is not kept in appropriate containers. There shall be no uses that will result in unsafe or hazardous conditions such as toxic or noxious materials, fire and explosion hazard materials, or radiation hazard materials.

(Ord. of 11-27-00)

ARTICLE V. DISTRICT DIMENSIONAL REGULATIONS

Section 1. Dimensional regulations table.

The following table contains minimum lot areas, lot widths and front, rear and side yards, maximum lot coverage and height of structures for each zoning district:

		Minimum Lot Dimensions and Building Setbacks					Maximum Building Coverage and Height		
		Lot Area	Lot Width	Front Yard	Rear Yard	Side Yard, each side	Bldg. Coverage	Height, main bldg.	Height, access. bldg.
Uses in R-30 Residential District									
	Single-family dwelling	30,000 SF	150 ft	30 ft	30 ft	20 ft	15%	35 ft	20 ft
	Two-family dwelling	40,000 SF	150 ft	30 ft	50 ft	20 ft	20%	35 ft	20 ft

	Multi-family structure or apartment house	40,000 SF plus 10,000 SF for each unit above 2 units, plus 5,000 SF for each additional bedroom over 2 bedrooms per unit	150 ft	40 ft	50 ft	30 ft	20%	35 ft	20 ft
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	Convalescent, rest or nursing home; retirement residence /assisted living facility	3 acres	200 ft	40 ft	60 ft	30 ft	25%	35 ft	20 ft
	Uses allowed under Article IV, Section 3. Farming or raising of animals	40,000 SF	150 ft	40 ft	50 ft	30 ft	15%	35 ft	20 ft

	Public, semi-public and recreation uses	60,000 SF	175 ft	40 ft	60 ft	30 ft	20%	35 ft	20 ft
	Other permitted or special uses	30,000 SF	120 ft	35 ft	40 ft	20 ft	20%	35 ft	20 ft
Uses in R-40 Residential District									
	Single-family dwelling	40,000 SF	150 ft	40 ft	40 ft	25 ft	15%	35 ft	20 ft

	Convalescent, rest or nursing home; retirement residence /assisted living facility	3 acres	200 ft	40 ft	60 ft	30 ft	25%	35 ft	20 ft
	Commercial raising of animals or fowl	100,000 SF	200 ft	40 ft	60 ft	50 ft	10%	35 ft	40 ft

	All other uses allowed under Article IV. Section 3. Farming or raising of animals	40,000 SF	150 ft	40 ft	60 ft	30 ft	15%	35 ft	20 ft
	Public, semi-public and recreation uses	60,000 SF	175 ft	40 ft	60 ft	30 ft	20%	35 ft	20 ft
	Other permitted or special uses	40,000 SF	150 ft	40 ft	60 ft	30 ft	15%	35 ft	20 ft

Uses in R-60 Residential District									
	Single-family dwelling	60,000 SF	175 ft	40 ft	60 ft	30 ft	15%	35 ft	20 ft
	Two-family dwelling	60,000 SF	175 ft	40 ft	60 ft	30 ft	20%	35 ft	20 ft

	Multi-family structure or apartment house	60,000 SF plus 10,000 SF for each unit above 2 units, plus 5,000 SF for each additional bedroom over 2 bedrooms per unit	175 ft	40 ft	60 ft	30 ft	20%	35 ft	20 ft
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	Convalescent, rest or nursing home; retirement residence /assisted living facility	3 acres	200 ft	40 ft	60 ft	30 ft	25%	35 ft	20 ft
	Commercial raising of animals or fowl	100,000 SF	200 ft	40 ft	60 ft	50 ft	10%	35 ft	40 ft

	All other uses allowed under Article IV. Section 3. Farming or raising of animals	60,000 SF	175 ft	40 ft	60 ft	30 ft	15%	35 ft	20 ft
	Public, semi-public and recreation uses	60,000 SF	175 ft	40 ft	60 ft	30 ft	20%	35 ft	20 ft
	Other permitted or special uses	60,000 SF	175 ft	45 ft	80 ft	35 ft	15%	35 ft	20 ft

Uses in R-80 Residential District									
	Single-family dwelling	80,000 SF	200 ft	50 ft	80 ft	35 ft	10%	35 ft	25 ft
	Convalescent, rest or nursing home; retirement residence /assisted living facility	3 acres	200 ft	50 ft	100 ft	35 ft	25%	35 ft	25 ft

	Com merc ial raisi ng of anim als or fowl	100, 000 SF	200 ft	50 ft	100 ft	35 ft	10%	35 ft	40 ft
	All other uses allo wed unde r Artic le IV. Secti on 3. Farm ing or raisi ng of anim als	80,0 00 SF	200 ft	50 ft	100 ft	35 ft	15%	35 ft	25 ft
	Publi c, semi - publi c and recre ation uses	80,0 00 SF	200 ft	50 ft	100 ft	35 ft	20%	35 ft	25 ft

	Other permitted or special uses	80,000 SF	200 ft	50 ft	100 ft	35 ft	10%	35 ft	25 ft
Uses in VC Commercial District									
	Any permitted or special use	12,000 SF	100 ft	20 ft	10 ft	10 ft	25%	35 ft	25 ft
Uses in GC Commercial District									
	Any permitted or special use (see Note 1 regarding residential uses)	12,000 SF	100 ft	50 ft	20 ft	20 ft	25%	40 ft	25 ft

	Com merc ial rais ing of anim als or fowl	100, 000 SF	200 ft	40 ft	60 ft	50 ft	10%	35 ft	40 ft
	Publi c, semi - publi c and recre ation uses	12,0 00 SF	100 ft	50 ft	20 ft	20 ft	25%	35 ft	25 ft
Uses in HC Commercial District									
	Any perm itted or spec ial use	20,0 00 SF	120 ft	40 ft	50 ft	20 ft	25%	40 ft	25 ft

	Public, semi-public and recreation uses	20,000 SF	120 ft	50 ft	20 ft	20 ft	25%	35 ft	25 ft
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Uses in W Waterfront District*

	Any permitted or special use (see Note 1 regarding residential uses)	10,000 SF	80 ft	10 ft	10 ft	10 ft	25%	35 ft	20 ft
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* The dimensional standards applied to any particular development within the Waterfront District are also subject to the requirements of the Coastal Resources Management Council (CRMC) as appropriate.

Uses in I Industrial District

	Any permitted or special use (see Note 1 regarding residential uses)	40,000 SF	150 ft	40 ft	60 ft	35 ft	50%	40 ft	25 ft
	Uses allowed under Section 3. Farming or raising of animals	40,000 SF	150 ft	40 ft	60 ft	35 ft	15%	35 ft	40 ft

	Public and semi-public uses	20,000 SF	120 ft	40 ft	50 ft	20 ft	25%	40 ft	25 ft
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Note 1: For residences in a GC, W or I District, the dimensional regulations of the nearest residential district shall apply.

Note 2: The minimum lot areas listed above may not be adequate in certain cases to meet state standards for on-site sewage disposal; a larger lot area may be specified by the department of environmental management as part of the approval of an individual septic disposal system.

(Ord. of 5-13-96; Ord. of 4-23-01(1))

Section 2. General requirements.

- a. The requirements and regulations provided in section 1 of this article are presented only as minimum standards for the protection of the public health, safety and welfare. The owner of any tract or parcel of land may exceed the minimum requirements if he or she so desires.
- b. In any district, not more than one structure housing a permitted use, or principal use allowed by special use permit, may be erected on a single lot, except however, more than one principal building may be allowed on a lot within a commercial, waterfront or industrial district provided the project undergoes development plan review under the provisions of article XX, or as otherwise provided for in this ordinance. Where more than one principal structure is allowed, the maximum building coverage and all other dimensional standards shall otherwise be complied with.

- c. If 25 percent or more of the buildings fronting on a street do not have the minimum front yard depth, then the required front yard for a building hereafter erected shall be the average of the front yards of the lots having buildings thereon, except that all subsequent front yards shall not be less than 25 feet.
- d. Lot frontage shall not be less than 120 feet, except that where a lot fronts on a cul-de-sac, with no defeasible easement for future street extension, the frontage shall not be less than 75 feet, provided however that the lot width at the front yard depth be a minimum of 120 feet. The cul-de-sac shall conform to the standards in the Tiverton land development and subdivision regulations.
- e. The front lot line on lots fronting on more than one street, such as through lots and corner lots, shall be that along the street line which is the greater of the two, and shall conform with the front yard requirements as provided in section 1.
- f. Where a rear yard, as defined, is not possible for a given lot, one side yard as designated may be considered to be a rear yard, and shall conform with the rear yard requirements as provided in section 1.
- g. Where the location of a lot width or lot depth line, or a front, side or rear yard, is otherwise uncertain, the zoning officer shall determine their position in a manner complying as closely as possible with the requirements of this ordinance.

(Ord. of 4-23-01(2); Ord. of 6-4-01(4))

Section 3. Density and lot area calculations.

- a. When calculating lot coverage for any given lot, unsuitable land shall be excluded from the total lot area prior to multiplying by the allowable lot coverage for the zoning district in which the lot is located. The calculation shall be as follows:

$$TC = (TA - UL) \times LC$$

TA	=	Total area
UL	=	Unsuitable land area
LC	=	Percent lot coverage for district
TC	=	Total allowable lot coverage

- b. When calculating density, or the total number of units allowed for any given parcel, unsuitable land shall be excluded from the total land area prior to dividing by the minimum required lot size for the zoning district in which the parcel is located. The calculation shall be as follows:

$$TU = \frac{(TA - UL)}{LS}$$

TA	=	Total area
UL	=	Unsuitable land area

LS	=	Minimum lot size for district
TU	=	Total allowable units

- c. The density calculation provided for in section b. hereof shall not apply to a parcel of land put to use as a site for a retirement residence/assisted living facility/and continuing care facility when such facility or facilities are contemplated to consist of a primary structure, in a centralized location thereon, and shall not consist of scattered, independent living facilities. In the event that a retirement residence/assisted living facility were to consist of several free-standing buildings for the living accommodations of its residents, then the density calculations of sections 3 a. and b. of Article V shall apply, insofar as determining usable area.
- d. When designing and calculating lot size so as to contain the minimum land area required for the zoning district in which the parcel is located, unsuitable land shall be excluded.

(Ord. of 5-13-96; Ord. of 11-24-97)

ARTICLE VI. OTHER DISTRICT REGULATIONS

Section 1. Yard regulations.

The front and side yards as required in article V shall be unoccupied and unobstructed by buildings or structures, except fences as permitted in this ordinance, and shall not be used to fulfill the off-street parking, loading or unloading requirements of this ordinance, or used for outdoor storage. Driveways and walkways may be located within any required front or side yard.

Section 2. Departures from yard requirements.

Yards required in article V, and the space above them, shall be open and unobstructed except as provided below:

- a. Ordinary projections of windowsills, cornices and other structural features may extend up to 12 inches into the space above a required yard.
- b. Signs as permitted in article XII may be located in front yards.
- c. Outdoor telephone booths in manufacturing, commercial or rural residential zoning districts may be located in front yards as a special use.
- d. Fences and walls not exceeding ten feet in height in industrial districts, and seven feet in height in all other districts, may be constructed within any required yard.
- e. The planting and maintenance of trees, shrubs or other vegetation shall be allowed within all yard spaces.

Section 3. Accessory structures.

- a. In nonresidential zoning districts, no accessory building, structure or use, except fences as permitted by section 2 above, shall be located closer than five feet to any lot line within the required rear yard.
- b. In a residential district, a permitted accessory structure may cover up to 25 percent of the rear yard area, but may not be placed closer to a boundary line than the minimum side or rear yard requirements of that district, unless the structure is on a temporary footing, in which case it may not be placed closer than five feet to any lot line.

Section 4. Vision clearance at corners.

Notwithstanding the provisions of section 2 above, the following regulation shall apply in all zoning districts: No structure shall be erected and no vegetation shall be planted or allowed within the space between the heights of 3 1/2 feet and ten feet above the street level in the triangle formed, at street intersections, by the two street lines and a third line joining points on the street lines 15 feet from the intersection.

Section 5. Height modifications.

- a. Structures permitted above the maximum heights provided in article V include roof structures for housing of elevators, stairways, ventilating fans or similar equipment required to operate and maintain the building; fire or parapet walls; and skylights, cupolas, steeples, flagpoles, chimneys and antennae less than 12 feet in height. However, no roof structure, or any space above the height limit, shall be allowed for the purpose of providing additional floorspace for residential, business or manufacturing uses.
- b. Structures permitted above the maximum height requirements shall be set back from any lot line one additional foot for each foot by which it exceeds the maximum height limit for the zoning district in which it is located.

Section 6. Home occupation.

Home occupation is allowed as an accessory use within all residential zoning districts, provided that it conforms to the following requirements:

- a. The occupation is clearly incidental to the use of the dwelling as a residence.
- b. It is conducted entirely within the dwelling only by members of the residing family.

- c. No more than 200 square feet of floor area is devoted to such use.
- d. It does not create a nuisance to neighboring dwellings or result in a substantial increase in traffic.
- e. There is no exterior building alteration or evidence of the occupation.

Section 7. Setbacks from certain water bodies.

- a. The installation of individual sewage disposal systems (ISDS), or other facilities for the leaching of fluid waste into the soil, shall be set back from the water bodies listed in [subsection] c below, as follows, except where they are exceeded by state requirements:

- (1) For single-family homes: 125 feet.

- (2) For all other uses: 200 feet.

Setbacks shall be measured to the water body's average annual high-water mark, or biological edge of wetland, whichever is greater.

- b. Any such facility which cannot meet the setback requirements listed above shall require the issuance of a special use permit by the zoning board of review under the provisions of article XVI.
- c. The specific water bodies to which the setback requirements shall apply include, but are not limited to, the following: Pocasset Cedar Swamp; Sucker Brook; Sakonnet River; Creamer (Lent) Pond; Archer Brook; Sin and Flesh Brook; Quaket River; Basket Swamp; Borden Brook; Cedar Swamp; Seapowet Marsh; Adamsville Brook; Great Swamp; Nonquit Pond; Nonquit Brook; Almy Brook; Fogland Marsh; unnamed perennial streams as designated on the United States Geologic Service (USGS) quadrangle map; and any other waters or wetland as defined herein.

Stafford Pond and associated wetlands and watercourses within the Stafford Pond watershed overlay district shall have setbacks as established in article VIII of this ordinance.

Section 8. Unaccepted streets.

- a. A platted unimproved street or road, also known as a "paper street", is an unaccepted street or road and shall remain such until improved to current town street standards, as specified in the Tiverton land development and subdivision regulations, and formally accepted by the town.
- b. Building permits shall not be issued for lots fronting on a platted, unaccepted street unless the unaccepted street or road serving the house lot is constructed in accordance with the following "standards for unaccepted streets" and completed along the length of the lot frontage to a stage of completion that is satisfactory to the director, public works department.
- c. Prior to the start of any construction of an unaccepted street or road however, building permit applications along with plans detailing the location, design, and construction details of such street or road shall be submitted to the building official. The plans shall be prepared in accordance with the checklist for an administrative subdivision of the Tiverton land development and subdivision regulations. The building official shall transmit these plans with recommendations within five working days to the planning board and to the director of public works. The planning board shall review and approve/disapprove the plans within 40 working days. If approved, the planning board shall also require and set the surety for guarantee of completion of construction. All construction shall be inspected and approved by the director of public works.
- d. Each landowner served by such an unaccepted street or road shall be equally liable and responsible for maintenance and repair of that street or road. In addition, since it does not meet town

standards, such an unaccepted street or road shall remain an unaccepted street or road.

- e. The town shall provide no services, such as trash pickup, road sanding or plowing, or road maintenance on unaccepted streets or roads.
- f. The provisions of this section shall apply to streets or roads constructed after the date of the adoption of this ordinance.

Standards for unaccepted streets. Unimproved/unaccepted streets shall be constructed in accordance with the Tiverton land development and subdivision regulations and shall conform to all design, stormwater management and erosion and sediment control requirements with the exception of paving. If unpaved, such streets or roads shall comply additionally as follows:

- 1. Minimum travel width: Two ten feet lanes, 20 feet total.
- 2. Minimum curvature (centerline radius): 90 feet.
- 3. Construction of a 20-foot "T shape turnaround", 25 feet in length, for the purpose of providing fire and emergency vehicle turn around and a place to deposit removed snow.
- 4. Construction standards:
 - a. Top shall consist of three inches of compacted processed permeable material with aggregate no greater than three-fourths inch that is suitable for road travel, maintenance, plowing, etc.
 - b. Base shall consist of 15 inches of compacted bank run or processed gravel, per the construction specifications appendix of the Tiverton land development and subdivision regulations.

(Ord. of 4-23-01(3))

ARTICLE VII. SUBSTANDARD LOTS OF RECORD

Section 1. Substandard original lots.

- a. Any lot or parcel of land with frontage on a street but having a lot width or area of lesser amounts than required in article V may be used for any purpose permitted in the zoning district in which it is located, provided such lot or parcel of land was shown on a recorded plat [or] recorded deed in the office of the town clerk on the effective date of this ordinance, or any prior ordinance or amendment rendering it substandard.

Section 2. Merger of lots under single ownership.

- a. Notwithstanding the provisions of section 1 above, where two or more unimproved substandard contiguous lots are under single ownership on the effective date of this ordinance, such lots shall be considered to be an undivided parcel of land for the purposes of this ordinance, and no single lot or portion thereof shall be used in violation of the lot width and area requirements of article V.
- b. However, any lot which is lawfully existing at the time of zoning map amendments dated June 4, 2001, and which is made nonconforming by virtue of said map amendment, shall become a lawful nonconforming lot of record and shall not be subject to the merger requirement of paragraph a. above.

(Ord. of 6-4-01(5))

Section 3. Standards for merger on a district-by-district basis.

The merger provisions of section 2 shall apply to all areas within the Town of Tiverton. On a district-by-district basis, the following standards shall provide the basis for the merger requirement:

- a. *North Tiverton*. The North Tiverton merger district is defined as follows:

North boundary: State line.

East boundary: Fish Road.

West boundary: Sakonnet Passage.

South boundary: Carey Lane and Souza Road.

Merger justification for this district includes the following: no public sewers and poor soil conditions for individual sewage disposal systems (ISDS); excessive drainage problems due to inadequate storm drains combined with high slopes along the Sakonnet Passage shoreline; existing high population density; road system which is presently over capacity; and the existence of many substandard lots of record. For the purposes of this ordinance, this merger district is a combined zoning district which consists primarily of R-30.

- b. *Stone Bridge*. The Stone Bridge merger district is defined as follows:

North boundary: Carey Lane and Souza Road.

East boundary: Fish Road.

West boundary: Sakonnet Passage south to Nanaquaket Bridge, east bank of Nanaquaket Pond south to Bulgurmarsh Road.

South boundary: Bulgurmarsh Road.

Merger justification for this district includes the following: predominantly an historic area with a large number of homes designated by the state historical preservation

commission as qualifying for the National Register of Historic Places; scenic shoreline designated in comprehensive plan as essential for preservation of the town character; no public sewers and poor soil conditions for ISDS; excessive drainage problems due to inadequate storm drains combined with high slopes along the Sakonnet Passage shoreline; and a road system which is presently over capacity. For the purposes of this ordinance, this merger district is a combined zoning district which consists primarily of R-40.

- c. *Stafford Pond*. The Stafford Pond merger district is defined as follows:

North boundary: State line.

East boundary: State line.

West boundary: Fish Road.

South boundary: Bulgurmarsh Road and Route 177.

Merger justification for this district includes the following: existence of a public drinking water supply (Stafford Pond) and threats to the quality of this supply due to overdevelopment and lack of adequate drainage systems; and the presence of a number of agricultural properties that should be preserved in accordance with the comprehensive plan. For the purposes of this ordinance, this merger district is a combined zoning district which consists primarily of R-60.

- d. *Seapowet*. The Seapowet merger district is defined as follows:

North boundary: Nanaquaket Bridge.

East boundary: Main Road.

West boundary: Sakonnet Passage shoreline, north around Nanaquaket point to Nanaquaket Bridge.

South boundary: Town line.

Merger justification for this district includes the following: the existence of several environmental and conservation sites which define the area and its ecology, to which increasing population density poses a threat and would be in conflict with the goals of [the] comprehensive plan to preserve these unique feature; the existence of a potential designated scenic roadway as described in the comprehensive plan; the existence of a public drinking water supply (Nonquit Pond) serving the City of Newport; and no public sewers, water system or fire mains. The conservation areas within this district include Nanaquaket Pond, Emilie Reucker Wildlife Preserve, Gould Island, Seapowet Marsh, Seapowet Wildlife Management Area beach and dunes, Fogland barrier beach and estuaries and Fogland Marsh. For the purposes of this ordinance, this merger district is a combined zoning district which consists primarily of R-80.

- e. *Stone Church*. The Stone Church merger district is defined as follows:

North boundary: Bulgurmarsh Road and Route 177.

East boundary: State line.

West boundary: Main Road.

South boundary: Town line.

Merger justification for this district includes the following: predominantly an agricultural area that should be preserved in accordance with the comprehensive plan; the existence

of a large portion of the Nonquit Pond public drinking water supply; no public sewers and a preponderance of wetlands, ledge and/or poor soils for ISDS; and no public water system or fire mains; and no public schools. For the purposes of this ordinance, this merger district is a combined zoning district which consists primarily of R-80.

(Ord. of 6-4-01(5))

Section 4. Applicable dimensional requirements.

- a. No parcel, tract or lots of land contiguous to each other and under single ownership shall be subdivided in a manner where the lot width or area shall be below the dimensional requirements of article V of this ordinance.
- b. Where a substandard lot of record exists, the side yard and rear yard dimensional requirements for a structure may be reduced, and the maximum lot coverage for a structure may be increased, both in the proportion that the area of such substandard lot is less than the minimum area requirements of the district in which the lot is located. However, in no case shall the side yard be less than five feet nor the rear yard be less than ten feet, nor shall the maximum lot building coverage exceed 25 percent. In addition, where any substandard lot is less than 10,000 square feet in area, the maximum building height shall be 25 feet. The necessary computations and determination of the modifications for building setback and lot coverage requirements for each substandard lot will be made by the Tiverton zoning officer at the time of the application for a building permit.

(Ord. of 6-4-01(5))

Section 5. Special use permit.

Petition for relief from the requirements of this article may be made to the zoning board of review as a special use permit, under the provisions of article XVI of this ordinance.

ARTICLE VIII. WATERSHED PROTECTION OVERLAY DISTRICT

Section 1. Purpose.

The purpose of the watershed protection overlay district is:

- a. To protect, preserve and maintain the quality and quantity of surface water decreed by the town council to be of irreplaceable value as a public water supply upon which the residents of the Town of Tiverton and others depend.
- b. To protect the quality and quantity of drinking water supplies by regulating the use and development of land adjoining watercourses or primary water recharge areas, and to prevent uses of land within the watersheds of Stafford and Nonquit Ponds that would adversely affect the quality of water.
- c. To protect the health, safety and general welfare of the public.

It is intended by the town council that this article be interpreted liberally in view of the paramount public interest involved in the preservation of critical water supplies.

(Ord. of 6-4-01(6))

Section 2. Designation of watersheds.

- a. The watersheds of Stafford and Nonquit Ponds are herein established as watershed protection overlay districts. The watershed areas shall be those delineated in the Rhode Island Geographic Information System (RIGIS) data base, as represented on the town zoning map.

- b. The overlay district as applied to the watershed of Nonquit Pond shall be divided into two areas, a primary protection area, and a secondary protection area. The primary area shall be defined as that area south of Cedar Swamp which is either within 2,000 feet from Nonquit Pond or within 500 feet from the pond's direct tributaries. Direct tributaries shall be defined as perennial rivers and streams as delineated on the current United States Geologic Service (USGS) topographic map. The secondary area shall be the remaining portion of the watershed (that which is not defined as the primary area).
- c. Where the bounds of a watershed protection overlay district are in doubt or in dispute, the burden of proof shall be upon the owners of the land in question to show where they should properly be located. At the request of the landowners, the town may engage a professional hydrogeologist or a soil scientist to determine more accurately the location and extent of the watershed area and may charge the owner for all or part of the cost of the investigation.

(Ord. of 6-4-01(6))

Section 3. Use regulations.

The watershed protection overlay districts shall be considered to be superimposed over any other district established by this ordinance. Land in a watershed protection overlay district shall be subject to the following regulations:

- a. *Permitted uses.*
 - (1) Uses allowed by right or special use permit, including lawful pre-existing nonconforming uses, in the underlying district, except as otherwise prohibited.
 - (2) Single-family residential units at a density of no greater than one unit per three acres in the watershed of Stafford Pond and in the primary protection area of

the watershed of Nonquit Pond, and at a density of no greater than one unit per 100,000 square feet in the secondary protection area of the watershed of Nonquit Pond.

- (3) Recreation, conservation, agricultural and open space uses.
- (4) Water supply facilities and structures.
- (5) Stormwater retention areas and systems.
- (6) Streets and rights-of-way.
- (7) Uses incidental to residential uses.

b. *Prohibited uses.*

- (1) Storage of petroleum or other refined petroleum products, except within buildings which it will heat or for normal household or agricultural use. This includes the parking for a period exceeding two hours in any 24-hour period of vehicles used for the storage and/or delivery of fuel.
- (2) The storage or disposal of hazardous wastes, as defined by G.L. 1956, § 24-19.1-1 et seq.
- (3) Disposal of solid wastes, other than brush and stumps native to site, except within a state department of environmental management approved solid waste facility.
- (4) The disposal of liquid, or leachable wastes, except for approved subsurface waste disposal systems.
- (5) Industrial, commercial and service uses which discharge process wastewater on-site, and

discharging wastewater containing contaminants other than normal organic waste.

- (6) Storage of road salt or deicing chemicals unless stored in a publicly maintained roofed structure with an impervious floor, or used for the deicing of privately maintained roads and stored in a water tight container.
 - (7) Automotive service and repair shops, junk and salvage yards.
 - (8) Incinerators and sanitary landfill sites.
- c. *Special use permits.* All uses not specifically permitted or prohibited shall be by special use permit only. Prior to an application for a special use permit, the zoning board of review shall require the applicant to submit an environmental review statement (ERS) approved by the planning board under the provisions of section 4 and section 5 of this article. The approval of the ERS and conditions set by the planning board shall become a part of the application for the special use permit, and be made a part of the final record of the zoning board of review.
- d. *Limitations.* All development and activities in a watershed protection overlay district are subject to the following limitations and conditions:
- (1) No development may occur within 200 feet of Stafford or Nonquit Ponds and their direct tributaries, unless a use variance is granted under the provisions of article XVII. Unless specifically exempted in writing, natural vegetation shall not be disturbed within this buffer area. Efforts to improve existing buffer areas are encouraged.

- (2) The use of septic system cleaners and/or acids is prohibited.
- (3) The rendering impervious of more than ten percent of any lot, or its allocated common area, is prohibited. For those developments that have no legally defined lot lines, impervious area shall be computed based on the fractional area of each owner.
- (4) The use of chemicals for deicing, excluding road salt, shall be prohibited unless deemed necessary for public safety; the use, amount and mixtures of same shall be reported on a monthly basis and made a public record.
- (5) Dumping of snow brought in from outside the watershed shall be prohibited.
- (6) Agricultural practices, including the use and storage of pesticides, fertilizers and other agricultural inputs and byproducts, shall be protective of surface and groundwaters, and consistent with the recommendations of the division of agriculture of the state department of environmental management and/or the US department of agriculture, federal and state statutes and regulations, and the viability of the farming operation.

e. *On-site sewage disposal system (OSDS) upgrades.*

- (1) To further the purposes of this article, and because of the soil constraints within the watersheds, all new septic systems and septic system repairs, alterations and upgrades occurring within the watershed overlay districts shall conform to standards acceptable to state and local regulating authorities for on-site sewage disposal systems.

- (2) All persons seeking to upgrade their septic systems within a watershed overlay district shall notify the building official in writing, concurrent with the application to the department of environmental management for OSDS upgrade or emergency repair.
 - (3) The building official shall review all proposed building additions and alterations, with the exception of decks, to determine the need for an OSDS upgrade under the department of environmental management standards.
 - (4) By the year 2005, all OSDS within the watershed overlay district of Stafford Pond shall be improved to the prevailing state and local standards for on-site sewage disposal systems.
- f. *Rural residential developments.* New residential subdivisions developed within the watershed overlay districts shall be designed as rural residential developments in accordance with the provisions of article IX.

(Ord. of 6-4-01(6))

Section 4. Environmental review procedures.

- a. Prior to the receipt of any permit relating to a proposal for development in a watershed protection overlay district, the applicant shall submit an environmental review statement (ERS) for review and approval by the planning board, except however, the following developments shall be exempt from this requirement:
 - (1) Building repairs and upgrades that do not involve a significant change in impervious surfaces, as determined by the building official.

- (2) Soil disturbances that do not require a soil erosion and sedimentation control plan in accordance with the town's Soil Erosion and Sedimentation Control Ordinance.
 - (3) Individual residential developments (on single lots) which are greater than 2,000 feet from Stafford Pond and 500 feet from a direct tributary.
 - (4) Any development within the secondary protection area of Nonquit Pond.
- b. The purpose of the ERS is to assist the town in determining whether the proposed project conforms with the express intent of this article. It shall be the burden and responsibility of the applicant to prove to the satisfaction of the planning board that the issuance of the permit will not adversely effect municipal water supplies.
 - c. Where deemed necessary by the planning board, the applicant shall be required to submit an ERS prepared by one or more of the following: a registered engineer; an environmental scientist; an aquatic ecologist; a soil scientist; a registered land surveyor; a landscape architect; a certified erosion and sediment control specialist; or other qualified professional knowledgeable in the areas of concern and accepted by the planning board as an expert witness.
 - d. The determination as to the need for a recognized professional to prepare the ERS shall be based upon the size and/or location of the project and the extent and nature of the resources, or other characteristics of the land likely to be affected.
 - e. Should a variance be granted for development within 200 feet of Stafford Pond, Nonquit Pond or their direct tributaries, the ERS shall be prepared by a professional. Where the development is a single-family home and the construction is greater than 200 feet from the appropriate water body, the homeowner may prepare his or her own ERS. Subdivisions and applications for permits other

than for a single-family home will require an ERS prepared by a professional even if the development or activity is greater than 200 feet from the water body.

(Ord. of 6-4-01(6))

Section 5. Contents of environmental review statement.

- a. The environmental review statement shall contain appropriate and sufficient data to determine the probable effect of the proposed development on the water supply resource. In compiling such statement, the applicant shall consult with the various town departments, such as the department of public works, conservation commission, etc., having knowledge and authority in the various subjects cited below. The ERS shall include, where applicable, an analysis of local, state and federal performance standards as they relate to the proposed project. The specific scope of each ERS shall be determined by the planning board based on the particular circumstances of each application.
- b. The planning board shall have the power to require an applicant to submit additional documentation in support of its application, where the planning board believes that such information is necessary in determining the impact of the proposal. The ERS shall be analytical rather than encyclopedic, and must, at a minimum, contain the following:
 - (1) A concise description of the proposed project including its use, purpose, need, total land area and total area of proposed development, and proposed phasing.
 - (2) A concise description of the environmental setting of the project and the area to be impacted, to include all manmade, natural and physiographic features within 500 feet of the property line. This shall include but not be limited to wetlands or water bodies, soils, topography, vegetation, unique species and habitat areas and existing

development. The use of mapped data is encouraged. Data must be sufficient so that the effects of and alternatives to the proposed project can be understood.

- (3) A wetlands permit or a finding of no significant impact (FONSI) from the department of environmental management (DEM), where applicable.
- (4) Approval for an OSDS upgrade from the DEM, where applicable.
- (5) A complete list of all chemicals, pesticides, fertilizers, fuels and other hazardous materials to be used or stored on the premises in quantities substantially greater than those associated with normal household use. This list shall be accompanied by a description of the measures to protect them from vandalism, corrosion, and leakage and to provide for spill prevention and countermeasures.
- (6) A description of potentially hazardous wastes to be generated, indicating a storage and disposal method.
- (7) A statement of any prior or anticipated flood levels, and of the expected flood hazard present on the site.
- (8) An erosion and sediment control plan.
- (9) A plan for stormwater management.
- (10) A statement of both the favorable and adverse environmental impacts of the proposed project, including short and long term effects, on-site and off-site impacts and the cumulative impact of the proposed project as it relates to the entire watershed. Such discussion must include nutrient loading, point and non-point-source water quality impacts to surface and ground waters, applicable data on wetlands and identification of significant habitats impacted by the project.

- (11) A discussion and evaluation of the alternatives considered in the design and location of the project.
 - (12) The identification of any irreversible commitment, or alteration of natural features as a result of the proposed action.
 - (13) The means and estimated costs necessary to minimize adverse environmental impacts.
 - (14) A list of any underlying studies, reports and other information obtained and considered in preparing the ERS.
- c. Drawing standards and documentation requirements for building permit requests within the watershed protection overlay districts are contained in the written procedures of the Tiverton planning board. In addition, as described in these procedures, a corporate survey is required for any application that involves one of multiple or shareholder parties leasing land within the Stafford Pond watershed. This corporate survey, minimum class IV, must be on file in the office of the building official one year from zoning ordinance amendments effective June 4, 2001, and must indicate all structures, roadways and overall area of the corporate or multiple leased area.
- d. In reviewing the appropriateness of the development for a watershed protection overlay district, the planning board shall give consideration to the simplicity, reliability and feasibility of the control measure proposed, and the degree of threat to water quality and/or quantity which would result if the control measures were to fail. In its review, the planning board may impose restrictions and conditions which in its judgment will safeguard the source of water supply for the town, upon finding that the issuance of said permit will not adversely effect said source of water supply.

(Ord. of 6-4-01(6))

ARTICLE IX. RURAL RESIDENTIAL DEVELOPMENTS*

***Editor's note--**An Ord. of June 4, 2001(7) repealed article IX, sections 1--12, and replaced it with a new article IX, sections 1--9. Former article IX pertained to cluster developments and derived from an Ord. of Nov. 24, 1997.

Section 1. Introduction.

- a. Rural residential developments are alternative residential subdivisions designed to protect rural character through the use of flexible zoning, different engineering and design standards and/or decreased site density as compared to conventional subdivisions. Design flexibility is allowed so that the character defining features of a site may be preserved. These features include forests, farmland, historic and archeological sites, scenic vistas and ecologically sensitive resources. Rural residential developments also result in less storm water runoff than conventional subdivisions by reducing the amount of impervious surfaces. At a maximum, overall site density is limited to that which would be allowed for a conventional subdivision on the same site. To maximize design flexibility, planning board input is encouraged during the early stages of project planning.
- b. There are three types of rural residential developments:
 - (1) *Rural compounds* are minor subdivisions (five or fewer lots) that may use flexible zoning and where the maximum density is half that allowed for a conventional subdivision. Common driveways and frontage on unpaved, privately maintained roads constructed to modified town design standards are allowed. No common open space is required, but may be provided.

- (2) *Rural subdivisions* are subdivisions that use flexible zoning. New lots must have frontage on paved roads constructed to town design standards. A minimum of 50 percent of the total land available for development (land area remaining after the exclusion of unsuitable land as defined in article II) must be permanently protected as open space.
- (3) *Rural frontage subdivisions* are minor subdivisions that are located along existing public roads and may use flexible zoning and/or common driveways to preserve scenic character by minimizing curb cuts and creating roadside buffers. No common open space is required, but may be provided.

(Ord. of 6-4-01(7))

Section 2. Purposes.

Rural residential developments are intended to achieve the following purposes:

- a. Encourage creative and flexible site design that is sensitive to the land's natural features.
- b. Protect environmentally sensitive areas of the development site and permanently preserve open space, prime agricultural land, unique habitat, and areas of cultural, historical, archeological or scenic significance.
- c. Promote interconnected greenway development and encourage quality recreational facilities.
- d. Minimize non-point source pollution impacts by reducing the amount of impervious surfaces in the development.
- e. Promote variety and quality in housing type and site design.
- f. Reduce public expenditures for infrastructure maintenance by reducing utility and road lengths.

(Ord. of 6-4-01(7))

Section 3. General provisions.

- a. Rural residential developments are a permitted and desirable form of development in all residential districts.
- b. Rural residential developments are required in the Watershed Protection Overlay District. Where rural residential developments are required, the planning board may permit a conventional subdivision when the applicant can demonstrate, to the satisfaction of the board, that a rural residential development is inappropriate due to environmental conditions or the configuration of the land.
- c. Rural residential developments are reviewed in accordance with the Tiverton land development and subdivision regulations (subdivision regulations) as either a major or minor subdivision, as appropriate. Rural residential developments must meet the alternative dimensional regulations and open space provisions of this article, and the applicable design standards specified in the subdivision regulations.
- d. The planning board may approve a project that contains a combination of any of the three types of rural residential developments defined herein, if the individual design elements are consistent with their respective requirements and the overall plan achieves the purposes of this article.
- e. The planning board shall not approve a rural residential development project if, in their determination, the plan as proposed will have a detrimental effect on the neighboring properties or the town in general, or is otherwise inconsistent with the Tiverton comprehensive plan, the purposes of this appendix, and/or the design requirements of the subdivision regulations.

(Ord. of 6-4-01(7))

Section 4. Density.

- a. The density for a rural compound shall be restricted to 50 percent of the density allowed for a conventional subdivision.
- b. The density for a rural subdivision or a rural frontage subdivision shall not exceed that which would be allowed for a conventional subdivision on the same site. The density for a rural subdivision shall be based on the planning board's evaluation of a conventional concept plan as described in the subdivision regulations. Minor rural subdivisions shall be exempt from the requirement of preparing a conventional concept plan.
- c. All rural residential developments must include a restriction on all impacted property deeds that prevents the further subdivision of land.

(Ord. of 6-4-01(7))

Section 5. Permitted uses.

- a. The following are permitted uses on the developed portions of a rural residential development site:
 - (1) Single-family dwellings.
 - (2) All principal and accessory uses that are allowed in the residential district, or applicable overlay district, except as noted in section 6 below.
- b. The following are permitted uses on the open space portions of a rural residential development site:
 - (1) Conservation, natural buffer, wildlife management area and forestry.

- (2) Agriculture and farming as permitted in article IV, section 3 of this ordinance.
- (3) Non-commercial active and passive recreation including a community center/recreation facility.
- (4) Approved utilities owned by the homeowners and operated for their own use such as community wells, septic disposal systems and drainage facilities.

(Ord. of 6-4-01(7))

Section 6. Prohibited uses.

Manufactured homes, mobile homes, multifamily homes and duplexes, as well as any use prohibited in the zoning or applicable overlay district, are prohibited uses within rural residential developments.

(Ord. of 6-4-01(7))

Section 7. Dimensional regulations for rural residential developments.

- a. Dimensional regulations for rural residential developments are contained in the following table of flexible zoning standards and shall, except as noted below, replace those regulations contained in article V:

Zoning District	Minimum Lot Area	Maximum Building Coverage	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
R-30	15,000 SF	3,000 SF	25 ft	15 ft	20 ft

R-40	20,000 SF	4,000 SF	30 ft	15 ft	30 ft
R-60	25,000 SF	4,500 SF	35 ft	20 ft	35 ft
R-80	30,000 SF	4,750 SF	40 ft	20 ft	40 ft

- b. Where a rural frontage subdivision does not provide for the permanent protection of 50 percent of the land suitable for development as open space, the conventional dimensional regulations for lot area and building coverage contained in article V shall apply.
- c. Where a perimeter lot of a rural residential development is contiguous with an existing conventional subdivision, the minimum side and rear yard setbacks for the perimeter lot shall be the same as for a conventional subdivision lot in that district.
- d. The minimum lot width, as measured within the building envelope, shall be 120 feet. The minimum lot depth shall be limited only by the required setbacks and house footprint.
- e. Each lot shall have a minimum driveway access of 12 feet to a public or private street. The access may be shared with other lots pursuant to the minimum requirements of the subdivision regulations.
- f. A permitted accessory structure may cover up to 25 percent of the rear yard area, but may not be placed closer to a property line than the minimum side or rear yard requirements in the table above, unless the structure is on a temporary footing in which case it may not be placed closer than five feet to any lot line.
- g. Minimum road frontages are as follows:
 - (1) *Rural compounds* may be permitted on land comprised of one or more contiguous lots in common ownership having a minimum frontage of 40 feet on a public road. The minimum

individual lot frontage shall be 40 feet, which may be on a private road.

- (2) *Rural subdivisions* shall have a minimum individual lot frontage of 50 feet on a public road.
 - (3) *Rural frontage subdivisions* shall have a minimum individual lot frontage of 50 feet on a public road. The total contiguous frontage of the parcel, however, shall at least equal that required for the number of proposed frontage lots in a conventional subdivision.
- h. Maximum building heights are governed by the regulations contained in article V.

(Ord. of 6-4-01(7))

Section 8. Common open space requirements.

- a. The location, design, use, ownership and maintenance of the common open space shall be subject to planning board approval of a project-specific open space management plan. The developer shall submit the open space management plan as part of the subdivision review process.
- b. The common open space shall be protected from development or alterations not authorized by the open space management plan, by the grant of a conservation or preservation easement to the Town of Tiverton pursuant to title 34, chapter 39 of the RI General Laws.
- c. Up to 20 percent of the open space may be devoted to active recreation.
- d. The common open space shall be conveyed in one of the following ways:

- (1) To a corporation or trust owned by owners of lots or dwelling units in the development, or owners of shares within a cooperative development. If a corporation or trust is used, ownership of the common open space shall pass with conveyances of lots, dwelling units or shares, as appropriate, and each individual owner shall be responsible for a equal share of the open space maintenance expenses and property taxes. The corporation or trust shall be responsible for open space maintenance and the operation and maintenance of any facilities thereon.

In the event of dissolution of the corporation or trust, the ownership, maintenance, responsibility and tax liability for the common open space will revert to the lot or dwelling unit owners.

- (2) To the Town of Tiverton for community use, if mutually agreed to by the town and the owner and approved by the town council.
- e. The planning board shall approve conveyance and maintenance agreements following review and approval of said agreements by the town solicitor. Conveyances that would remove land from the tax rolls or that would incur liability for ownership or maintenance by the town must be approved by the town council.
 - f. Conveyances shall include easements that permit the town to either maintain, or contract to have maintained, the common open space where the responsible party has not done so in accordance with the approved open space management plan. The town shall either assess the homeowners association for the full cost of the work or may proportionately assess each individual owner. Unpaid assessments shall result in property liens. The provisions of this section shall be included in the condominium declaration, homeowners' association by-laws and all similar documents.

(Ord. of 6-4-01(7))

Section 9. Private roads and common drives.

- a. Roads designed and constructed for private use, or as common driveways, shall not be accepted as public roads, nor shall the town be liable for their construction, reconstruction, maintenance or snow removal. Trash pickup shall only be provided at the curbside of the nearest public road. Each lot fronting on a private road or common driveway must be recorded with a deed restriction so stipulating the above.
- b. Deeds for all lots fronting on a private road or a common driveway shall also include easements that permit the town to either maintain, or contract to have maintained, the roadway. The town may elect to do this only when the responsible party has not done so and the condition of the roadway would hinder the passage of emergency vehicles. The town shall either assess the homeowners association for the full cost of the work or may proportionately assess each individual owner. Unpaid assessments shall result in property liens.
- c. Development standards for private roads are contained in the subdivision regulations. The construction of private roads shall be inspected and approved by the director of public works or the town engineer. The planning board shall require a surety during road construction under the provisions of the subdivision regulations.

(Ord. of 6-4-01(7))

ARTICLE X. SPECIAL PROVISIONS

Section 1. Off-street parking regulations.

Any structure or use, erected or developed after the effective date of this ordinance, must provide off-street parking facilities in accordance with the minimum requirements of this section.

- a. Off-street parking requirements for specific uses shall be provided as follows:

Uses		Required Off-Street Parking
(1)	Dwelling use	1 1/2 car spaces for each dwelling unit.
(2)	Hotel or motel	5 car spaces, plus 1 space for each unit, room or suite.
(3)	Office use	3 car spaces, plus 1 space for every 250 square feet of gross floor area.
(4)	Retail and service business	1 car space for every 200 square feet of gross floor area.
(5)	Restaurants, theaters, churches and other places of public assembly	1 car space for every 4 seats, or for every 4 persons of occupancy.
(6)	Manufacturing and wholesale use	1 car space for every 2 employees based on the largest shift.

(7)	All other uses	1 car space for every 250 square feet of gross floor area.
(8)	Retirement residence/assisted living facility/and continuing care facility	1 car space for every 2 retirement units.

- b. Plans and specifications for the required parking facility shall be submitted at the time of application for a building permit for the principal use. The gross area per car space shall be no less than 200 square feet, and shall have adequate means of ingress and egress.
- c. All off-street parking facilities required under this section must be constructed on or adjacent to the site of the principal use.
- d. Off-street parking facilities shall conform to the following site and landscape requirements:
 - (1) The parking area shall be permanently surfaced and maintained, and shall have adequate and safe ingress and egress. Parking spaces required in connection with dwelling uses need not be permanently surfaced.
 - (2) Lighting fixtures used to illuminate the parking area shall reflect the light downward and away from adjoining property, and away from adjacent streets.
 - (3) Any parking area which adjoins or lies within a residential district and is not used in connection with dwelling uses shall be screened from neighboring residential properties by either an opaque fence or

double row of compact evergreens not less than five feet in height, or a 25-foot-wide vegetative buffer.

- (4) Where a parking area fronts on a public street, it shall be screened from the street by either a wall or fence not less than three feet in height, or a ten-foot-wide landscape strip planted with shade trees, with a minimum of one tree for every 30 feet of frontage.
- (5) Any parking area used for other than residential purposes shall be provided with interior landscaping of an area not less than five percent of the total parking area, including at all aisle ends and corner areas, and shall be planted with a five-foot-wide buffer around the perimeter, with a minimum of one tree for every 30 feet. For such areas, provisions shall be made for access between adjoining commercial uses.
- (6) Selected plant species used to meet the above landscaping requirements shall be diverse in height, form and color, and shall be disease resistant and suitable for the areas in which they are to be planted.

(Ord. of 5-13-96)

Section 2. Off-street loading regulations.

- a. No land shall be used or occupied, and no structure shall be erected or used for nonresidential purposes, in any zoning district unless the off-street loading spaces required herein are provided. Off-street loading spaces as specified in this ordinance shall be provided for any enlargement or alterations to any such existing structure or use.
- b. The off-street loading spaces required by this section shall in all cases be on the same or contiguous lot or parcel of land as the use or structure they are intended to serve. In no case shall any

required off-street loading space be part of an area needed to meet the off-street parking requirements.

- c. Each nonresidential use or structure in which services or commodities are used, sold, displayed, serviced, repaired, altered or fabricated as the principal use of the parcel or lot shall provide the following:
 - (1) Each use or structure of under 1,000 square feet of gross floor area, or used ground area, shall provide one off-street loading space of at least 450 square feet in area.
 - (2) Each use or structure of over 1,000 square feet of gross floor area, or used ground area, shall provide one off-street loading space, plus one additional loading space for each 20,000 square feet of area. Each loading space shall have a minimum area of 450 square feet, with a minimum vertical clearance of 14 feet, and shall include sufficient space for standing, loading and unloading of commercial vehicles.
- d. All loading spaces shall be permanently surfaced and shall be lighted and screened in accordance with the regulations governing required off-street parking spaces.

Section 3. Parking, storage and use of major recreational equipment in residential districts.

The parking or storage of major recreational equipment in residential districts, including travel trailers, pickup campers or coaches, motorized recreational vehicles, tent trailers, boats and boat trailers (but not including mobile homes), must comply with the following regulations:

- a. Not more than two of the above may be parked or stored on any lot, and any such equipment which is parked or stored shall be not more than 13 feet in height.

- b. No such equipment, while parked or stored, shall be used for living, sleeping or housekeeping purposes.
- c. Not more than one of the above shall be stored in any front or side yard area.
- d. No such equipment shall be stored out of doors in residential districts unless it is in condition for safe and effective performance of the function for which it was intended, or can be made so within a 30 day period.
- e. All such equipment must be registered, where required, and must be the personal property of the homeowner.

(Ord. of 6-4-01(8))

Section 4. Parking and storage of certain vehicles.

- a. No unserviceable, discarded or junked automobiles or trailers of any kind or type, or bodies, engines, tires, parts or accessories thereof, shall be parked or stored on any residentially zoned property other than in a completely enclosed building.
- b. In any residential district, the parking or storage of commercial vehicles of over 1 1/2-ton weight capacity shall not be permitted except where such parking or storage is directly related to, and in accessory to, a permitted use or legal nonconforming use on the premises.

Section 5. Service station location requirement.

No gasoline filling station or service station shall be located less than 1,500 feet from the premises of any church, school, hospital, park or playground.

Section 6. Freshwater wetlands.

No freshwater wetland, as defined in this ordinance, shall be excavated, drained or filled, nor shall any extraneous material be

placed into a wetland or water flow diverted into or out of a wetland by a dike or dam, or any other changes which add to, take from or otherwise alter the character of any freshwater wetland undertaken, without the prior approval of the director of the department of environmental management and the Town of Tiverton as set forth in G.L. 1956, § 2-1-21.

ARTICLE XI. SPECIAL FLOOD HAZARD AREAS

Section 1. Applicability.

- a. Notwithstanding any other provisions of this ordinance, the following regulations and restrictions shall apply within all areas designated as floodprone on the most current flood insurance rate map, Community Number 440012, published by the Federal Emergency Management Agency.
- b. No amendments, modifications, codifications or other changes shall be made to this section without prior notification to the state coordinator of the federal Flood Insurance Program.
- c. For the purposes of this article, the following terms shall have the following meanings:
 - (1) *Manufactured home*: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for longer than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

- (2) *Manufactured home park or subdivision:* A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Section 2. Development permit requirements.

Within all areas designated as floodprone, as well as within 200 feet of all watercourses shown on the flood insurance rate map (FIRM) and the flood hazard boundary map (FHBM), the following requirements shall apply:

- a. No proposed construction or other development, including placement of manufactured homes, shall proceed prior to the issuance of a development permit from the zoning officer. Such proposals shall be reviewed to ensure that:
 - (1) All such proposals are consistent with the need to minimize flood damage within the floodprone area;
 - (2) All public utilities and facilities such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
 - (3) Adequate drainage is provided to reduce exposure to flood hazards.
- b. All proposed new developments, including proposals for manufactured home parks and subdivisions, greater than 50 lots or five acres, whichever is the lesser, shall include base flood elevation data with the development application.
- c. No watercourse may be altered or relocated without approval from all appropriate local, state and federal agencies.
- d. To ensure that the flood-carrying capacity within an altered or relocated watercourse is maintained, the following provisions shall be taken:

- (1) Until a regulatory floodway is designated, no new construction, substantial improvements or other development, including fill, shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community;
 - (2) When flood data from any source, including the developer, is available to enable the community to designate a regulatory floodway:
 - (a) The regulatory floodway shall be selected and adopted on the principle that the area chosen for the regulatory floodway must be designed to carry waters of the base flood, without increasing the water surface of that flood more than one foot at any point;
 - (b) Encroachments shall be prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway that would result in any increase in flood levels within the community during the occurrence of the base flood discharge;
 - (c) The placement of any manufactured homes shall be prohibited except in an existing manufactured home park or manufactured home subdivision within the adopted regulatory floodway.
- e. All buildings shall be set back from a floodway for a distance of at least the average of the setbacks existing on similar improvements on plots within 200 feet. If there are no such improvements on the plots within 200 feet of the proposed building site, then the setback from the floodway shall be at least 30 feet. Accessory structures may, by

special use permit, extend to the floodway. Authorized public and semipublic bodies may be permitted to erect structures within a floodway only when the most extenuating circumstances warrant the issuance of a special use permit.

- f. No material shall be stored in floodprone areas which is likely to cause an obstruction, create a fire hazard or pollute the water during flood periods. Such material includes, but is not limited to, substantial quantities of lumber and other floatable materials, volatile materials, acids, poisons, liquids other than water and soluble materials.
- g. Below the lowest habitable floor level of any structure within a floodprone area, reasonable provision shall be made for anchoring down those items customarily found out of doors, which are capable of floating in water for a prolonged period of time and ordinarily not anchored. Such customary yard features shall include, but not be limited to, moveable structures and sheds, animal shelters, cages, feeders or dog houses, fuel containers, tanks, cylinders and cans, picnic benches, railroad ties, flower boxes and planters, barrels, refuse containers, storage boxes, pallets, tires and tubes, freezers and refrigerators, lobster and eel traps, boat hulls, docking and float materials, signs and stored vehicles.
- h. All manufactured homes to be placed or substantially improved within zones A1-30, AH and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation, and the structure is securely anchored to an adequately anchored foundation system in accordance with the provisions of the Rhode Island Building Code.

Section 3. Velocity zone requirements.

Within zones V through V30, the coastal area subject to high velocity waters, including hurricane wave wash, as designated on the flood insurance rate map, the following regulations shall apply:

- a. All new construction shall be landward of the reach of mean high tide.
- b. The placement of manufactured homes shall be prohibited except in existing manufactured home parks and subdivisions.
- c. The manmade alteration of sand dunes which would increase potential flood damages is prohibited.

Section 4. Variances.

The zoning board of review may grant relief from the provisions of this article in the case of a proven hardship in accordance with the standards for granting a use variance contained [in] article XVII. Variances granted under this section shall be noted on the property deed, and shall contain the following information:

- a. Flood hazard zone designation and date of flood map.
- b. Number in feet which the lowest habitable floor will be located in relation to the 100-year flood level.
- c. A statement that flood insurance rates may increase accordingly.

ARTICLE XII. SIGN REGULATIONS

Section 1. Statement of purposes.

The Town of Tiverton wishes to regulate signs within its jurisdictional boundaries under its zoning powers to accomplish the following:

- a. To promote the general business interests of the community by maintaining the visual quality of the town.
- b. To preserve and enhance the value of commercial and residential buildings in the area by creating a visually harmonious environment.
- c. To permit appropriate commercial signage that adequately identifies legal on-premises business enterprises.
- d. To promote the general health, safety, and welfare by removing signs not used to identify legitimate business locations.
- e. To protect the public investment in the safety and appearance of streets and highways.
- f. To further the objectives of the comprehensive community plan.

Section 2. Definitions.

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

- a. *Sign*: Any object, device or structure, or part thereof, situated outdoors which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any visual means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images.
- b. *Sign copy*: The characters, letters or illustrations displayed on a sign face.

c. [Types of signs according to structure.] The below definitions describe the types of signs according to their structure:

- (1) *Attached sign*: The general term for a sign that is attached to a building (wall, marquee, awning, canopy).
- (2) *Awning sign*: A sign made onto the surface of an awning, which is any nonrigid material (e.g., fabric or flexible plastic) supported by or stretched over a frame attached to an exterior wall.
- (3) *Banner*: A sign made onto a flexible material, such as cloth, plastic or paper, to be hung from a building or structure (other than an awning frame).
- (4) *Canopy sign*: A sign made onto a canopy, which is an extension of a roof of a building, or is a freestanding structure with a roof but no walls.
- (5) *Freestanding sign*: A sign supported from the ground and not attached to a building.
- (6) *Marquee sign*: A sign made onto a marquee or similar projection from a building: a marquee is a permanent structure (other than a roof) supported by and projecting from a building to provide protection from the elements.
- (7) *Monument sign*: A type of freestanding sign with a permanent base affixed to the ground which is at least two-thirds the horizontal length of the sign.
- (8) *Pole sign*: A type of freestanding sign supported by a pole or similar narrow width structure.
- (9) *Portable sign*: A sign not permanently affixed to a building or [the] ground.

- (10) *Projecting sign*: A sign supported by an exterior wall of a building and displayed perpendicular to the face of the building.
 - (11) *Temporary sign*: A sign built to be displayed for a specified period of time (e.g., an A-frame sign).
 - (12) *Wall sign*: A sign painted on or attached to a wall of a building and parallel to the wall.
- d. [*Types of signs according to sign character.*] The following definitions describe the types of signs according to content and design of the sign copy (sign character):
- (1) *Changeable copy sign*: A sign designed so that characters, letters or illustrations can be changed or rearranged without altering the face of the sign.
 - (2) *Directional sign*: A sign that provides on-site directional assistance for the convenience of the public such as location of exits and entrances, open/closed, [and] hours-of-operation signs.
 - (3) *Illuminated sign*: A sign illuminated by artificial light source, internal or external.
 - (4) *Point-of-sale sign*: A small sign designed to provide information at the point of sale, such as menu signs at walk-up windows or drive-through order locations of food establishments.
 - (5) *Two-day signs*: Signs to announce private or semiprivate events of brief duration, whose copy is of a noncommercial nature.
- e. [*Additional definitions.*] Additional definitions are as follows:

- (1) *Building frontage*: The length of a building facade facing a street, parking area or private drive.
- (2) *Business establishment*: A business established in compliance with the town Code.
- (3) *Illegal sign*: A sign erected, altered, or replaced in violation of a preceding ordinance, or in violation of this article.
- (4) *Inspector*: The designated town official(s) responsible for administering this article, including but not limited to reviewing, approving or denying applications for permits, inspecting signs and interpreting and enforcing the provisions of this article.
- (5) *Legal nonconforming sign*: A sign that met legal requirements when erected, but that is not in compliance with subsequent ordinances or with this article.
- (6) *Off-site sign*: A sign whose copy relates to an object, person, product, location or entity that is not located on the premises upon which the sign is located. This does not include governmental traffic, directional or regulatory signs or notices of government agencies.
- (7) *On-site sign*: A sign whose copy relates to an object, person, product, location or entity that is located on the premises upon which the sign is located.
- (8) *Shopping center*: Any lot in a commercial or industrial district which includes more than one business establishment.
- (9) *Street intersection triangle*: The triangle of land adjoining street intersections to be kept clear of

obstructions to protect the visibility and safety of motorists and pedestrians. The three points of the triangle are the point of intersection of the two street frontages, and two points 35 feet from the intersection along the frontage lines for local streets. For collector or arterial street intersections, the latter two points shall be 45 feet from the intersection point.

Section 3. General standards.

- a. In measuring the area of signs permitted under these regulations, the entire face of the sign, and any wall work incidental to its decoration, or unnecessary structural framework that serves primarily to enlarge the visual effect of the sign, shall be included. Where both sides of a sign contain lettering or other allowable display, one side only shall be used to compute the allowable size of the sign. Where the sign consists of raised letters or a sign face of irregular shape, the sign area shall include the area of the smallest rectangle that can encompass the sign face.
- b. The height of a sign shall be the distance from the grade level at the location of the sign, to the top of the sign or sign structure, whichever is greater.
- c. All wall signs shall be installed flat against the wall of a building, and shall not extend from the wall more than 12 inches.
- d. No sign shall be located over a public street or road without approval of the town council and appropriate state agency, with the exception of directional or traffic control signs installed by government.
- e. Setbacks are measured from the adjacent property line, and all signs must be outside the street intersection triangle.
- f. In cases where the regulations within this section do not specifically address a sign requested in conjunction with a permissible use, a special use permit must be obtained. If the

sign requested is a matter of interpretation of this article, the inspector may obtain a written interpretation from the town solicitor, which shall be kept in the permanent record for the sign permit application.

Section 4. Standards by use.

- a. *Residential districts.* General: Minimum setback is five feet. No lighting is permitted other than a continuous white light, arranged so as to reflect light away from adjoining premises and streets. Permitted sign types include monument, pole, projecting and wall.
 - (1) *Single-family subdivision identification signs.* Signs that are used solely to identify the name of a single-family residential subdivision shall be erected, one sign per entrance, not to exceed two per subdivision. A matched pair of signs in a "gateway" arrangement shall be considered one sign. Maximum area 20 square feet; maximum height eight feet.
 - (2) *Multifamily complex signs.* Signs that are used solely to identify the name and/or address of an apartment, townhouse, condominium or other multifamily residential complex. The permitted number and specifications will be the same as for single-family subdivisions, except that one additional sign no greater than six square feet, located below the roofline, may be erected to identify any accessory management or rental office.
 - (3) *Legal nonconforming use.* One sign no greater than 20 square feet with a maximum height of eight feet may be erected identifying a lawfully maintained nonconforming use.
- b. *Commercial and industrial districts.* General: Minimum setback is ten feet, and 50 feet from a residential district boundary.

- (1) *Permitted number.* For a lot with a single business establishment, a maximum of two signs may be permitted, only one of which may be a freestanding sign. Shopping centers may erect one freestanding sign for the lot, and one attached sign and one attached sign on each business establishment.
- (2) *Permitted types, sizes and heights.*
- (a) Freestanding, monument: Maximum of 28 square feet, five feet high.
 - (b) Freestanding, pole: Maximum of 28 square feet, 20 feet high.
 - (c) Attached, wall or marquee: The top of the sign shall be below the roof ridge line and below the height limitation of the applicable district. Size limits will be set by the distance of the sign from the street frontage that the sign faces, as follows:

Setback Distance (feet)	Maximum Sign Size (square feet)
0--25	20
26--49	50
50--99	60
100--149	70
150+	80

- (d) Attached, projecting: Maximum of 16 square feet, 16 feet high and below the roofline.
 - (e) Attached, awning or canopy: Maximum of 20 square feet and below the top of the awning or canopy.
- c. *Shopping centers.* Shopping centers shall conform to the regulations for the commercial and industrial districts, with the following exceptions. The one freestanding sign permitted may be a multiple sign structure, with one sign to identify the center, maximum 28 square feet, and one additional sign for each business establishment as part of the same sign, maximum of eight square feet each. An additional permanent changeable copy sign may be added to this freestanding sign, maximum size 28 square feet, in lieu of the commercial special event signs described in section 8.

Shopping centers with five or more business establishments planned as an integrated development, and located at a street intersection, shall be authorized a maximum of two freestanding signs, one each on two separate street frontages.

- d. *Gasoline stations.* Gasoline stations shall comply with applicable state and federal signage regulations. The following additional regulations shall apply:
 - (1) *Changeable fuel price signs.* An additional 16-square-foot sign may be added to the allowed freestanding sign to post current fuel prices.
 - (2) *Gas pump signs.* Each gas pump shall be permitted one square foot of sign area to identify product and price.

Section 5. Legal nonconforming signs.

No legal nonconforming sign shall be structurally altered, enlarged, moved or replaced unless the sign is brought into

compliance with the provisions of this article. All nonconforming signs in any district which are not maintained or are abandoned for a period of one year shall be removed. For the purposes of this article, a sign shall be considered abandoned if no copy or advertising matter is exhibited, if such copy is only partially legible, or if the business advertised has been abandoned.

Section 6. Violations.

Nothing contained in this article shall be construed in any way to ratify or approve the erection and/or maintenance of any sign which was erected in violation of this article or any prior ordinance. Any violation of the provisions of this article is declared to be a public nuisance, and enforcement actions shall be carried out in accordance with article XVIII of the zoning ordinance.

Section 7. Prohibited signs.

The following are prohibited except as stated otherwise in this ordinance:

- a. Animated or moving signs, including but not limited to pennants, flags with commercial messages, streamers, propellers, discs and searchlights.
- b. Flashing signs, including any sign with flashing, blinking or intermittent lights, not including time and temperature signs.
- c. Glaring signs, or those signs with light sources or reflectivity of such brightness to constitute a hazard or nuisance as determined by the inspector.
- d. Inflatable signs and objects.
- e. Off-site signs.

- f. Portable signs, with the exception of authorized temporary signs.
- g. Simulated traffic sign or obstructions, or those signs which may be confused with, or obstruct the view of, authorized traffic signs or signals.

Section 8. Temporary signs requiring a permit.

The following signs may be erected after obtaining a temporary sign permit from the inspector. The permit shall cite the length of time the sign may be displayed. If the sign is not removed by the expiration of the time limit, the inspector may remove the sign and charge the cost of removal to the individual or enterprise responsible.

- a. *Commercial special event signs.* One sign announcing special events may be displayed on commercial lots five times in a 12-month period, but not more than once in any 60-day period, for a maximum of 14 consecutive days. This applies to commercial lots, regardless of the number of businesses located on the lot. These signs shall be a maximum of 32 square feet. Alternatively, shopping centers may erect, as part of their freestanding sign structure, a permanent changeable copy sign, maximum size 28 square feet. (See section 4.c.) Shopping centers choosing to erect such a sign shall not be permitted commercial special event signs.
- b. *Construction signs.* Temporary signs announcing new buildings or projects may be erected after commencement of site development, not to exceed one sign, maximum 20 square feet. The sign must be removed before a permanent sign is erected, or a certificate of occupancy is issued.
- c. *Nonprofit organization special event signs.* Nonprofit organizations may display a maximum of two off-site special event signs twice in a 12-month period for 14 days, 20 square feet maximum. Signs must not be placed on

public property without written approval of the appropriate public authority, and shall be placed on private property only with the owner's permission. (See section 10 for nonprofit organization on-site signs.)

Section 9. Permits.

No sign shall be erected, significantly altered in structure, replaced or relocated unless a permit has been obtained from the inspector, with the exception of those signs described in section 10 below.

Section 10. Signs exempt from permits.

Sign permits shall not be required for the following:

- a. *Act of God.* A duplicate of a legal sign replaced within one year of damage or destruction, following an act of God; any grandfather rights will expire after one year.
- b. *Address and name of resident.* Attached signs indicating the address and/or name of residential occupants of the premises and/or date of construction for historical structures, not exceeding 1 1/2 square feet in size, and not including any commercial advertising or identification.
- c. *Artwork.* Works of art that do not include commercial messages or references.
- d. *Directional signs.* Directional signs, not exceeding four square feet.
- e. *Public and nonprofit organization flags and emblems.* Flags, emblems or insignia of any governmental agency, religious, charitable, public or nonprofit organization, not exceeding 20 feet in height, with a maximum of three flags per lot.

- f. *Handicapped parking signs.* Signs indicating handicapped parking spaces.
- g. *Public institutional signs.* One sign per lot for houses of worship, schools and public uses, not exceeding 16 square feet in size and eight feet in height.
- h. *Nonprofit organization special event signs.* An on-site special event sign displayed by a nonprofit organization, not exceeding 20 square feet, with a maximum of one such sign twice in a 12-month period for 14 days. (See section 8 for off-site signs for nonprofit special events.)
- i. *Point-of-sale sign.* A sign designed to provide information at the point of sale, such as menu signs at walk-up windows or drive-through order locations of food establishments, with one sign posted at each actual point of sale, not exceeding eight square feet in size and a letter height no greater than two inches.
- j. *Private road signs.* On-site signs not exceeding two square feet, limited to one per drive or road entrance, and limited to copy relating to the private road and location.
- k. *Political campaign signs.* Signs erected to promote the election of candidates for public office, or to address other issues included on ballots scheduled for public vote, posted on private property with the approval of the owner. Such signs must be removed within seven days following the election; the burden of removing the sign shall be on the property owner.
- l. *Public signs.* Signs erected by government agencies or utilities relating to traffic, utilities, safety issues and identification of public facilities.
- m. *Security or warning signs.* On-site signs regulating the use of the premises such as "no trespassing," "no hunting," "no

soliciting," and "warning: bad dog," not exceeding four square feet in residential areas, and 16 square feet in commercial and industrial areas.

- n. *Temporary farm product signs.* Temporary on-site signs announcing the availability of seasonal farm products, with a maximum of two signs, not exceeding 20 square feet in size per sign.
- o. *Temporary on-site real estate signs.* Signs indicating the availability of real property for lease or sale, limited to one per property not exceeding six square feet in residential areas, and 24 square feet in commercial and industrial areas. Such signs shall be removed within seven days of settlement or lease of the property.
- p. *Two-day signs.* Signs to announce private or semiprivate events of brief duration, whose copy is of a noncommercial nature, posted in the direct vicinity of the event on private property for 48 hours with the permission of the property owner, and not exceeding four square feet in size. The sign must be removed following the event; the burden of removing the sign shall be on the property owner.
- q. *"A" frame signs.* A commercial business located in a commercial zone shall be allowed one portable "A" frame type sign not to exceed three feet by two feet for sidewalk display during business hours.

(Ord. of 9-13-99)

Section 11. Special use permit.

Petition for relief from the requirements of this article may be made to the zoning board of review as a special use permit, under the provisions of article XVI of this ordinance.

Section 12. Sign maintenance and removal.

- a. Every sign and its supports, braces, guys, anchors and electrical equipment shall be maintained in safe condition, and be kept free from defective or missing parts or peeling paint. The inspector shall have the authority to order the removal of a sign which constitutes a hazard to the health, safety or public welfare by reason of inadequate maintenance, 30 days following legal notice to the owner of the property.
- b. The inspector shall also have the authority to order the removal of signs in any district which are abandoned for a period of one year. For purposes of this article, a sign shall be considered abandoned if no copy or advertising matter is exhibited, if such copy is only partially legible, or if the business advertised has been abandoned.
- c. The cost of removal may be added to other civil fines imposed under this ordinance. The assessed charges for removal shall be the actual cost of removal and disposal of all sign material, plus 50 percent.

Section 13. Protection under First Amendment rights.

Any sign, display, or device allowed under this article may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit, or to a commodity or service for sale.

ARTICLE XIII. REGULATION OF INDUSTRIAL OPERATIONS

Section 1. General requirements.

- a. Property and buildings to be used for industrial purposes shall be so designed and laid out as to minimize disturbance to adjacent property by such features as buffer fences, plantings, suitably located points of traffic ingress and egress, and areas for loading and parking.

- b. No structure shall be erected for any industrial use or occupied for industrial use, and no land shall be used for industrial purposes, unless such industrial use and operation is in accordance with the performance standards of this article.

Section 2. Administration and enforcement.

- a. The zoning board of review shall act upon all requests for building permits for industrial uses in accordance with article XVI, section 3.a [sic] and section 4 [sic], and make findings as to the compliance of the proposed uses to the performance standards of section 3 of this article.

It is intended that the burden of proof for the establishment of compliance with the performance standards of section 3 shall rest with the applicant. All information and evidence submitted in applications to indicate conformity to performance standards shall constitute a certification and an agreement on the part of the applicant that the proposed use can and will conform to such standards at all times.

No applicant shall be required to reveal any secret processes. The applicant or his representative shall be invited to appear before the zoning board of review at its scheduled meeting.

- b. The zoning board of review may require such evidence as may be pertinent to establishing assurance that the proposed use will comply with section 3, including expected levels or quantities of noise, vibration, liquid or solid wastes, smoke and other forms of air pollution, heat and glare, or other nuisances as set forth in section 3 in terms easily comparable with the values given in that section.

In cases where correction devices are to be used, they shall be stated, and examples of such correction devices in use will be given with such illustrations as are necessary to clearly convey the methods used to the zoning board of review.

Examples of similar industrial operations in actual use, with photographs, testimony and explanation, may be submitted to the zoning board of review to clearly convey the type of use and its performance.

- c. In the event of a determination by the zoning officer of a violation of the performance standards subsequent to the granting of a permit, a written notice of the violation shall be sent by registered mail to the owner of the industrial use. The notice shall further state that, upon the continuation of the violation, technical determinations as described in this ordinance shall be made by the zoning officer, and, if violations as alleged are found, costs of such determinations, including the costs of hiring qualified experts, shall be charged against those responsible for the violation, in addition to such other penalties as may be appropriate. If it is determined that no violation exists, the cost of the determination will be paid by the Town of Tiverton.

Section 3. Industrial performance standards.

The following standards for the operation of uses in the industrial districts shall apply:

- a. *Noise.* In an LI district, industrial noise shall be measured from any property line of the tract on which the industrial operation is located. Industrial noise shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness.

In a GI district, industrial noise shall be measured from the nearest industrial district boundary line. Industrial noise shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness.

At the specified points of measurement, the sound pressure level of noise radiated continuously from an industrial facility or activity (other than background noises not under the direct control of the industrial use, such as vehicular

traffic) shall not exceed the values given in tables 1 and 2 below, in octave bands of frequency between the nighttime hours of 7:00 p.m. and 7:00 a.m.

The instruments used for these measurements shall conform to the specifications published by the American Standards Association, Inc., New York, N.Y. The sound pressure level shall be measured with a sound level meter (American Standard Specification for Sound Level Meters for Measurement of Noise and Other Sounds, S1.4-1961) and an octave band analyzer (American Standard Specification for an Octave Band Filter Set, as indicated in table 1).

TABLE 1. MAXIMUM PERMISSIBLE SOUND PRESSURE LEVELS

Pre-1960 Octave Bands *a		Preferred Frequency Octave Bands *b	
Octave Band Frequency (hertz)	Decibels	Octave Band, Center Frequency (hertz)	Decibels
0--75	72	31.5	76
75--150	67	63	71
150--300	59	125	65
300--600	52	250	57
600--1,200	46	500	50

1,200--2,400	40	1,000	45
2,400--4,800	34	2,000	39
Above 4,800	32	4,000	34
		8,000	32

- *a Pre-1960 octave bands. A standardized series of octave bands prescribed by the American Standards Association in Z24.10-1953, Octave Band Filter Set for the Analysis of Noise and Other Sounds.
- *b Preferred frequency octave bands. A standardized series of octave bands prescribed by the American Standards Association in S1.6-1960, Preferred Frequencies for Acoustical Measurements. If the noise is not smooth and continuous and/or is not radiated between the hours of 7:00 p.m. and 7:00 a.m., one or more of the corrections in table 2 shall be added to or subtracted from each of the decibel levels given in table 1.

TABLE 2

Type of Operation or Character of Noise	Correction in Decibels
Daytime operation 7:00 a.m. to 7:00 p.m.	Plus 5
Noise source operated less than 20% of any one-hour period	Plus 5*

Noise source operated less than 5% of any one-hour period	Plus 10*
Noise source operated less than 1% of any one-hour period	Plus 15*
Noise of impulsive character (hammering and so forth)	Minus 5
Noise of periodic character (hum, screech and so forth)	Minus 5

*Apply one of these corrections only.

- b. *Vibration.* Vibration shall be measured at the nearest property line, and shall be regulated by the following standards:
- (1) No vibration is permitted which is discernable to human sense of feelings for three minutes or more duration in any one hour of the day between the hours of 7:00 a.m. and 7:00 p.m., or 30 seconds or more duration in any one hour between the hours of 7:00 p.m. and 7:00 a.m.
 - (2) No vibration at any time shall produce an acceleration of more than 0.1g or shall result in any combination of amplitudes and frequencies beyond the "safe" range of table 7, U.S. Bureau of Mines Bulletin No. 442, "Seismic Effects of Quarry Blasting," on any structure. The methods and equations of said Bulletin No. 442 shall be used to compute all values for the enforcement of this regulation.
- c. *Smoke and other forms of air pollution.* Industrial operations shall conform to the "Air Pollution Control Regulations" of the Rhode Island department of health, issued under the provisions of G.L. 1956, § 23-25-1 et seq., which regulations are hereby incorporated as part of this ordinance.

- d. *Industrial sewage and waste.* Sewage and waste shall be deposited in the public sewage system when available. Effluent from any industrial plant which is discharged into the ground shall at all times comply with the "Rules and Regulations Pertaining to Disposal of Sanitary Sewage in Unsewered Areas" of the Rhode Island department of health, issued under the provisions of G.L. 1956, § 23-23-1 et seq., which regulations are hereby incorporated as part of this ordinance.

- e. *Heat and glare.* Any industrial operation producing heat and glare, as differentiated from interior illumination, shall be shielded so that no heat or glare can be recorded at the property line. No industrial or exterior lighting shall be used in such a manner that produces glare on public highways or neighboring property.

- f. *Radiation.* Industrial operations shall cause no dangerous radiation at the property line as specified by the regulations of the United States Atomic Energy Commission.

ARTICLE XIV. NONCONFORMING DEVELOPMENT

Section 1. Definition.

Any use of land, premises, structure or combination thereof, which was lawfully in operation at the time of the effective date of this ordinance, but is not in conformity with the provisions of this ordinance, shall be considered to be a legal nonconforming development.

Section 2. Continuance.

All lawful nonconforming development shall be permitted to continue in the manner existing at the time of the passage of the ordinance rendering it nonconforming, until such use or structure is

abandoned, demolished or otherwise discontinued by the voluntary action of the owner.

Section 3. Abandonment.

A lawful nonconforming use of any land, premises, structures or combination thereof which has been abandoned shall not thereafter be used except in conformity with the regulations of the district in which it is located. Abandonment, as that term is used in this section, shall mean the discontinuance of the nonconforming use for a period of one year or more, and consisting of some overt act, or failure to act, which would lead one to reasonably believe that the owner of the nonconforming use neither claims nor retains any interest in continuing the nonconforming use. In all such cases, the owner will be presumed to have abandoned the nonconforming use, unless that presumption is rebutted by the presentation of sufficient evidence by the owner of his or her intent not to abandon the use.

Section 4. Demolition or destruction.

- a. If a legal nonconforming structure as to use, or otherwise not conforming to the provisions of this ordinance, is demolished in any lawful manner, such structure shall not be rebuilt unless it conforms with all provisions of this ordinance.
- b. Should a legal nonconforming structure, or nonconforming portion of a structure, be damaged by an accident or act of God to an extent of more than 51 percent of its replacement cost at the time of damage as determined by the zoning officer, it shall be given one year in which to commence rebuilding, repairing or replacing the damaged structure. If such action is not taken within said one-year period, then it shall not be rebuilt, repaired or replaced except in conformity with the provisions of this ordinance.

Section 5. Extension, enlargement or moving.

- a. A legal nonconforming use of any parcel of land shall not be extended beyond that portion of the lot thus used, or otherwise expanded, unless a use variance is granted pursuant to the provisions and standards set forth in article XVII.
- b. Notwithstanding the above, the expansion of quarrying or mining shall be allowed as described in section 6 below. The purpose of allowing such expansion is to balance the public purpose of preventing the loss of natural resources, including wildlife habitat, groundwater quality and scenic value, with the legitimate interests of companies that have made a considerable investment in their business.
- c. A legal nonconforming structure as to use shall not be added to or enlarged unless a use variance is granted pursuant to the provisions and standards set forth in article XVII.
- d. A structure which is nonconforming by dimension only shall not be added to or enlarged unless a dimensional variance is granted pursuant to the provisions and standards set forth in article XVII.
- e. A nonconforming building or structure shall not be moved in whole or in part unless such building or structure is made to conform to all of the regulations of the zoning district in which it is to be located.

(Ord. of 6-4-01(9))

Section 6. Expansion of quarrying or mining.

- a. When the nonconforming use is the quarrying of or mining for sand, gravel, rocks or mineral, a horizontal expansion to adjacent areas of the land where such use is located is permitted, provided such expansion is limited to 25 percent of the excavated surface as existing at the time of zoning amendments dated June 4, 2001.

- b. At such time no later than three months following the enactment of zoning amendments dated June 4, 2001, the owner of any quarrying or mining operation shall submit a survey of the excavated area to the building official. The survey shall be prepared by a registered land surveyor and show the excavated area as of the date of the zoning amendments, and remain on file in the office of the building official.
- c. Expansion of a quarrying or mining use beyond 25 percent of the excavated area as existing on June 4, 2001, may be allowed as a special use permit pursuant to the provisions and specific standards set forth in article XVI.

(Ord. of 6-4-01(9))

Section 7. Change of use.

- a. A nonconforming residential use may change only to a use that conforms to the provisions of this ordinance.
- b. A nonconforming agricultural, commercial or industrial use may be changed only to a use that conforms to the provisions of this ordinance unless one of the following occurs:
 - (1) A special use permit is issued by the zoning board of review under the provisions of article XVI, for a change to a similar nonconforming use; or
 - (2) A use variance is granted by the zoning board of review under the provisions of article XVII, for a change to any other nonconforming use.

In all cases, the zoning board of review must make a determination that the proposed use will have the same or a lesser undesirable impact upon the surrounding area than the former nonconforming use.

- c. When a nonconforming use is changed to a conforming use, it may not thereafter be changed back to a nonconforming use.

(Ord. of 6-4-01(9))

Section 8. Prior illegal establishment.

Any use or structure illegally established prior to the effective date of this or any previous ordinance or subsequent amendments thereof shall not become legally established or a legal nonconforming use by virtue of such an enactment or subsequent amendment.

(Ord. of 6-4-01(9))

ARTICLE XV. ZONING BOARD OF REVIEW

Section 1. Organization.

- a. There shall be a zoning board of review, herein referred to as the board, who shall have all the authority and be subject to all of the duties provided by G.L. 1956, § 45-24-57, as amended.
- b. The zoning board of review 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. Members of the board serving on the effective date of adoption of this ordinance shall be exempt from the provisions of this section respecting terms of originally appointed members, until the expiration of their current terms.
- c. In addition to the members herein provided for, the town council shall appoint two alternates, who shall serve as first and second alternate members of the board. The alternate members shall be appointed for a term of one year.

- d. All members shall serve until their successors are duly appointed and qualified. Members of the board shall be registered voters of the Town of Tiverton, and no member shall be an elected or otherwise appointed official of the town. In case any vacancy occurs in the board for any cause, the town council shall appoint a member to the board to fill the vacancy for the remainder of the term. Any member may also be removed for cause shown.
- e. The board shall organize annually by electing from its membership a chairperson and a vice-chairperson.

Section 2. Procedures of the board.

- a. Meetings of the board shall be held at least once a month and at such other times as the chairperson may determine are necessary. The chairperson, or, in his or her absence, the vice-chairperson, shall administer oaths and compel the attendance of witnesses and the submission of explanatory data. All hearings of the board shall be open to the public.
- b. In conducting hearings and arriving at its decisions, the board shall at all times consist of five participating members. If a conflict occurs for a member, that member shall recuse himself or herself, shall not sit as an active member and shall take no part in the conduct of the hearing.
- c. The alternate members shall attend and may actively participate in hearings. The first alternate shall vote if one 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. In the absence of the first alternate member, the second alternate member shall serve in the position of the first alternate. No member or alternate may vote on any matter before the board unless they have attended all hearings concerning that matter.
- d. The concurring vote of three members shall be necessary to reverse any order, requirement, decision or determination of the zoning officer or inspector of buildings. The concurring vote of

four members shall be required to decide in favor of an applicant on any matter concerning special use permits and variances, upon which it is required to pass under this ordinance.

Section 3. Powers and duties of the board.

The board shall have the following powers and duties:

- a. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the zoning officer in the enforcement of this ordinance. As a result of an appeal, the board may affirm or reverse, 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 the board shall have all the powers of the zoning officer from whom the appeal was taken.
- b. To hear and decide upon the issuance of special use permits upon which the board is authorized to pass as enumerated in articles IV and XVI of this ordinance.
- c. To authorize upon appeal, in specific cases, such variance in the application of the requirements of this ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.
- d. To refer matters to the planning board, or to other boards or agencies of the Town of Tiverton, as the board may deem appropriate, for findings and recommendations.
- e. To provide for the issuance of conditional zoning approvals where a proposed application would otherwise be approved except that [for] one or more necessary state or federal agency approvals which 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.

- f. To hear and decide other matters, according to the terms of this ordinance or other statutes, and upon which the board may be authorized to pass under this ordinance or other statutes.

Section 4. Procedure for appeals.

- a. Appeals to the zoning board of review may be taken by any person aggrieved, or by any officer, department, board or bureau affected by any decision of the zoning officer concerning the provisions of this ordinance. Such appeal shall be taken within 30 days as provided by the rules of the board, by filing with the zoning officer and with the board a notice of appeal, specifying the grounds for appeal.
- b. The zoning officer shall forthwith transmit to the zoning board of review all the papers constituting the record upon which the action appealed from was taken. Notice of the appeal shall also be transmitted to the planning board.
- c. An appeal shall stay all proceedings in furtherance of an action appealed from, unless the zoning officer certifies to the board, after the 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 case, proceedings shall be stayed only by a restraining order which may be granted by the board, or by a court of competent jurisdiction, on application therefor and upon notice to the zoning officer and for due cause shown.

Section 5. Procedure for special use permits and variances.

- a. Applications for special use permits and variances shall be filed directly with the zoning officer as provided by the rules of the board. An application for a prospective change in land use or for

a subdivision of land must, prior to a public hearing being held thereon by the zoning board of review, be referred to the planning board for a written recommendation thereon. If the planning board fails to act within 30 days, it shall be deemed to have waived its comment.

- b. Applications for special use permits and variances shall be accompanied by a list of all owners of property within 200 feet of the property in question, and by a site plan for the proposed development. Such site plan shall be prepared by a registered land surveyor or registered professional engineer and drawn to scale. It shall show all existing and proposed structures, parking spaces, driveway and driveway openings, outside storage areas and sign locations. It shall also show all water bodies and landscape features such as fences, walls, planting areas, walkways and buffer strips, and other such information as may be required by the board. The zoning officer may waive the requirements of this provision if he determines that strict compliance is unnecessary given the size or scope of the project involved.
- c. A special use permit or variance shall expire one year from the date of granting of such by the board, unless the applicant exercises the permission granted, or receives a building permit to do so and commences construction and diligently prosecutes the construction until completed. The board may, upon application thereof, for cause shown and without a public hearing, grant an extension, provided that not more than one such extension for a period of six months be granted.

Section 6. Public hearing requirement.

- a. The board shall fix a reasonable time for the hearing of an appeal or application for a special use permit or variance, and shall publish notice thereof in a newspaper of general circulation in the Town of Tiverton at least 14 days prior to the hearing; shall give due notice by registered mail to the applicant and owners of property within 200 feet of the property in question; and shall

hear the appeal, special use permit or variance within a reasonable time. In addition, notice shall be forwarded by first class mail to the following:

- (1) The city or town council of any adjacent community which is located within 200 feet of the subject property, or where there is a public, quasipublic or private water source lying within 2,000 feet of any area affected by the proposed action;
 - (2) 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 area affected by the proposed action, provided, however, that such governing body has filed with the zoning officer 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.
- b. The board shall make a record of all its proceedings and actions, showing specific reasons for its decisions, including all findings of fact and conditions, the vote of each member participating therein, and the absence of a member or his or her failure to vote. Decisions shall be recorded and filed in the office of the town clerk within 30 working days from the date when the decision was rendered, and shall be available for review by the public. For any proceeding in which the right of appeal lies to the superior or supreme court, the zoning board of review shall have the minutes taken either by a competent stenographer or recorded by a sound-recording device.
- c. Any decision by the board, including any special conditions attached thereto, shall be mailed to the applicant, to the zoning officer and to the associate director of the division of planning of the Rhode Island department of administration. Any decision

evidencing the granting of a special use permit or variance shall also be recorded in the land evidence records of the Town of Tiverton.

Section 7. Special conditions.

The zoning board of review, in granting a special use permit or variance or in making any determination upon which it is required to pass after a public hearing, may apply such special conditions that, in the opinion of the board, are required to promote the intent and purposes of the comprehensive plan or of this zoning ordinance; failure to abide by any special conditions attached to an approval shall constitute a zoning violation. The special conditions may include provisions for:

- a. Minimizing adverse impact of the development upon other land, including the type, intensity, design and performance of activities.
- b. Designating the exact location and nature of development.
- c. Controlling the sequence of development, including when it must be commenced and completed.
- d. Controlling the duration of use or development, and the time within which any temporary structure must be removed.
- e. Assuring satisfactory installation and maintenance of required public improvements.
- f. Establishing detailed records by submission of drawings, maps, plats or specifications.
- g. Establishment of setbacks from streets and neighboring property, placing of screen fencing or screen evergreen planting, and other matters as it may deem necessary to prevent nuisance to and promote harmony with nearby property.

Section 8. Filing fees.

The application for an appeal, special use permit or variance shall be accompanied by a filing fee of that amount contained in the current fee schedule as adopted by the town council, and payable to the Town of Tiverton. Prior to the hearing, the applicant will also reimburse the town for the cost of advertising the petition and notification of abutters.

Section 9. Appeal from a decision of the zoning board of review.

Any person or persons jointly or severally aggrieved by any provisions of this ordinance, or by any decision of the board or any officer, department, board or bureau of the town, may file an appeal to the superior court in the State of Rhode Island, as provided by G.L. 1956, § 45-24-69, as amended. The appeal shall set forth that such decision is illegal in whole or in part, and specify the grounds of the illegality. Such appeal shall be filed with the court within 20 days after filing of the decision in the office of the town clerk. No formal decision of the board will be forwarded to petitioners until said 20-day appeal period has expired.

ARTICLE XVI. SPECIAL USE PERMITS

Section 1. Applicability.

Where a use is allowed in this ordinance as a special use rather than allowed by right, such use may be granted to any person, group, agency or corporation only through the issuance of a special use permit by the zoning board of review under the procedures of article XV.

Section 2. Criteria for all special use permits.

- a. A use designated as a special permit use in article IV, and elsewhere in this ordinance, shall be permitted by the board

following a public hearing if, in the opinion of the board, such use in its proposed location meets the following requirements:

- (1) The public convenience and welfare will be served.
- (2) It will not be detrimental to the public health, safety, morals or welfare.
- (3) It will be compatible with neighboring uses and will not adversely affect the general character of the area.
- (4) It will not create a nuisance in the neighborhood, nor hinder or endanger vehicular or pedestrian movement.
- (5) It will have adequate provision made for water service, sanitary sewage disposal and fire protection. The board may accept reports of the state department of health and registered professional engineers, land surveyors or sanitarians, as proof of the adequacy of these facilities.
- (6) It will be compatible with the comprehensive community plan of the Town of Tiverton.

Section 3. Criteria for specific categories of special use permits.

- a. In a residential district, the board may grant a special use permit for the waiver of one side yard per lot to allow the construction of a double cottage on adjoining lots, provided that each dwelling unit shall conform to all other regulations of a residential district.
- b. In such areas as it exists as a legal nonconforming use, the board may grant a special use permit for the expansion of quarrying of or mining for sand, gravel, rocks or minerals beyond 25 percent of the excavated area as existing at the time of zoning amendments dated June 4, 2001, provided that the applicant can demonstrate that the expanded operation is not contrary to the comprehensive plan and to the purpose of this regulation, which is to prevent the loss of natural resources including wildlife habitat, groundwater

quality and scenic value. In addition, the following requirements shall be met:

- (1) All such expanded operations shall be located not less than 50 feet from any lot line, and 100 feet from any street right-of-way.
- (2) The applicant shall submit a site plan to the planning board for review and approval. The site plan shall include all applicable information required for a major land development project as contained in the Tiverton land development and subdivision regulations, as well as the proposed limits of excavation. The planning board shall focus their review on methods to control site drainage and soil erosion and sedimentation as required by the comprehensive plan, and visual buffering including landscaping and fencing.
- (3) The applicant shall submit a plan for reclamation of the land which shall also be reviewed and approved by the planning board. The reclamation plan shall establish a time period for reestablishing a grade level with adjacent road and properties, as well as identification of type of vegetative cover. This plan shall be used as a basis for an improvement guarantee that may be required as a condition of approval by the planning board under the provisions of article XI of the land development and subdivision regulations.

As a condition of granting the special use permit, the zoning board may establish additional requirements relating to the hours of operation; dust, noise and vibration control; and other matters as deemed necessary by the board to prevent nuisance to, promote harmony with, and protect the value of nearby property.

- c. In considering an application for a special use permit to allow the use of land for a cemetery or burial ground, the board must be provided evidence of the following:

- (1) The area to be used as a cemetery or burial ground will have permanent boundary markers and have a minimum size of not less than 625 square feet.
- (2) The area to be used as a cemetery or burial ground is located on a separately deeded parcel of land recorded in the land evidence records of the Town of Tiverton, which deed shall specifically set forth that the land contained therein is dedicated for use as a cemetery or burial ground.
- (3) That the proposed location of the cemetery or burial ground will not be detrimental to public health; that it will be compatible with neighboring uses and be not less than 30 feet from the boundary line with adjoining properties; that there is permanent access to the proposed burial ground; and that adequate provisions have been made for perpetual care of the cemetery.

A plan of the area to be used as a cemetery or burial ground showing the surrounding properties, and the present and proposed grave sites, shall, upon approval of the board, be recorded with the land evidence records of the Town of Tiverton.

- d. In considering an application for a special use permit to allow an individual sewage disposal system (ISDS) within the setbacks from certain wetlands and water bodies as designated in article VI, section 6 [7], the board must be shown that there will be no adverse impact to the functional values of such wetlands or water bodies. These functional values include, but are not limited to, groundwater recharge and discharge, fish and wildlife habitat, flood storage, erosion and sediment control, pollutant uptake, and public recreation and education. Specifically, the following must be demonstrated in regard to the proposed application:
 - (1) That it will not degrade the quality of groundwater or any wetland or surface water body, either directly or indirectly;

- (2) That it will not obstruct floodways or reduce the net capacity of the site to retain floodwaters;
- (3) That it will not cause any sedimentation of wetlands, and will include all necessary erosion and sediment control measures;
- (4) That it will not reduce the capacity of any wetland to absorb pollutants;
- (5) That it will not degrade the recreational, educational or research value of any wetland or water body;
- (6) That it will not reduce the capacity of any wetland to recharge groundwater; and
- (7) That it 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 must also be addressed.

- e. In considering an application for a special use permit for relief of the merger requirements for substandard lots of record as contained in article VII, the board must apply the criteria contained in section 2 of this article.
- f. In considering an application for a special use permit for relief of the sign regulations as contained in article XII, the board must be provided evidence of the following:
 - (1) That the establishment of the sign in a completely conforming manner will result in significant damage to the associated business.

- (2) That the establishment of a sign which is nonconforming by size will result in a clear visual improvement to a site by virtue of its replacement of an existing nonconforming sign.
- (3) That the location of the sign on a site in a nonconforming manner is necessary to achieve its intended visual effect.

(Ord. of 6-4-01(10))

ARTICLE XVII. VARIANCES

Section 1. Applicability.

Relief from the literal requirements of this ordinance because of hardship may be granted to any person, group, agency or corporation through the issuance of a variance by the zoning board of review under the procedures of article XV. Two types of variances can be considered: a use variance and a dimensional variance.

Section 2. Standards for granting variances.

- a. The board may authorize, upon application in specific cases, a variance in the application of the terms of this ordinance, in accordance with the following provisions:
 - (1) That special conditions and circumstances exist which are special or peculiar to the land or structure involved, and which are not applicable to other lands or structures in the same zoning district, and are not due to a physical or economic disability of the applicant.
 - (2) That such relief will not be contrary to the public interest, and that, owing to special or peculiar site or structural conditions, literal enforcement of the provisions of this ordinance would result in an unnecessary hardship to the applicant.

- (3) That the unnecessary hardship which an applicant seeks to avoid shall not have been imposed by any prior action of the applicant. Purely monetary gain or loss shall not be considered to be an unnecessary hardship.
 - (4) That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.
 - (5) That in allowing relief from the provisions of this ordinance, the board shall grant the least variance from the provisions needed to remove the unnecessary hardship, and may impose any condition or safeguard as may be deemed in the public interest.
 - (6) That no nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted use of lands, structures or buildings in an adjacent district, shall be considered grounds for the issuance of a variance.
- b. In addition to the above standards, the board shall require that evidence be entered into the record of the proceedings showing that:
- (1) In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the zoning ordinance; and
 - (2) In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience, which shall mean that there is no other reasonable alternative to enjoy a legally permitted beneficial use of one's property.

ARTICLE XVIII. ENFORCEMENT AND ADMINISTRATION

Section 1. Zoning officer.

- a. The zoning officer shall be appointed by the town council of the Town of Tiverton, and may hold both the office of zoning officer and the office of building official of the town. The zoning officer shall have, as minimum qualifications, a demonstrated familiarity with the zoning and other development regulations of the town, and at least five years' experience in the building or related construction trade industry, or similar experience in planning, zoning or related fields.
- b. It shall be the duty of the zoning officer of the Town of Tiverton to administer and enforce the provisions of this ordinance, including:
 - (1) The issuing of any required permits or certificates;
 - (2) Collection of required fees;
 - (3) Keeping of records showing the compliance of uses of land;
 - (4) Authorizing commencement of uses or development under the provisions of this ordinance;
 - (5) Inspection of suspected violations;
 - (6) Issuance of violation notices with required correction action;
 - (7) Collection of fines for violations; and
 - (8) Performing such other duties and taking such actions as may be assigned in this ordinance.
- c. The zoning officer shall, upon written request, issue a zoning certificate to the requesting party as to the determination by the zoning officer within 15 days of the written request. In the event

that no written response is provided within that time, the requesting party shall have the right to appeal to the zoning board of review for the determination. The fee for the issuance of a zoning certificate shall be \$300.00.

Section 2. Building permit.

- a. No structure shall be erected, moved, added to or structurally altered without a building permit therefor, issued by the building official. No building permit shall be issued except in conformity with the provisions of this ordinance, except those for which a building permit was obtained following a written order from the zoning board of review.
- b. If the work or use described in any building permit has not been initiated within 180 days from the date of issuance thereof, said permit shall expire.
- c. If the work described in any building permit has not been completed within two years of the date of issuance thereof, said permit shall expire, provided, however, that the board may, upon application and for cause shown, grant an extension, provided that not more than one such extension for a period of one year be granted.

Section 3. Ordinance provisions as minimum requirements.

In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety, morals or general welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinance, deed restrictions or covenants, the most restrictive, or that imposing the higher standards, shall govern.

Section 4. Vested rights.

Under the provisions of this article, any application considered by the town shall be reviewed according to the regulations applicable in the zoning ordinance in force at the time the application was deemed substantially complete. An application is deemed to be substantially complete under either of the following circumstances:

- a. The application for an appeal, special use permit or variance has been scheduled for a public hearing with the zoning board of review under the provisions of article XV, section 6, including the publication of public notice of said hearing; or
- b. The application for any development requiring review and approval from the planning board has received preliminary approval from the planning board, under the provisions of article II [sic] of the subdivision regulations of the town.

Section 5. Violations.

- a. Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the cause and basis thereof, shall be filed with the zoning officer. He shall record properly such complaint, immediately investigate and take action thereon as provided by this ordinance.
- b. If the zoning officer shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land or structures; removal of illegal structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.
- c. The town may also cause suit to be brought in the superior, supreme and municipal courts, including a municipal housing

court having appropriate jurisdiction, in the name of the Town of Tiverton, to restrain the violation of, or to compel compliance with, the provisions of this zoning ordinance. The town may consolidate an action for injunctive relief and/or fines under the ordinance in the superior court of the county in which the subject property is located.

Section 6. Penalty for violations.

- a. Any person or corporation, whether as principal, agent, employee or otherwise, who violates any of the provisions of this ordinance, shall be fined not exceeding \$500.00 for each offense. Each day of the existence of any violation shall be deemed a separate offense.
- b. The remedy provided for herein shall be cumulative and not exclusive, and shall be in addition to any other remedies provided by law.

Section 7. Maintenance of zoning ordinance and map by town clerk.

- a. The town clerk shall make available copies of this ordinance and all subsequent amendments to town officials and to the public at a reasonable cost. The town clerk shall also, from time to time, publish copies of the zoning map which shall be available for general distribution.
- b. It shall be the duty of the town clerk to have custody of the zoning map, and to ensure that entries are made on the zoning map as specified in article XIX, section 5.
- c. Upon publication of the zoning ordinance and map, and any amendments thereto, the town clerk shall send a copy to the associate director of the division of planning of the department of administration of the State of Rhode Island, and to the state law library.

Section 8. Review of zoning ordinance by planning board.

- a. At least once every two years, the planning board shall review this ordinance and make recommendations concerning revisions. Whenever changes are made to the Tiverton comprehensive plan, the planning board will identify any changes necessary in the zoning ordinance, and forward these changes to the town council.

Section 9. Repetitive petitions.

- a. Where the town council, in the case of an amendment, or the zoning board, in the case of a special use permit or variance, denies an application, the town council or the board may not consider another application requesting the same or substantially similar amendment, special use permit or variance, for a period of one year from the date of such denial or withdrawal.
- b. The town council or the zoning board, as the case may be, may accept such an application after six months, provided that the application is accompanied by an affidavit setting forth facts, to the satisfaction of said council or board, showing a substantial change of circumstances justifying a rehearing.

ARTICLE XIX. AMENDMENT

Section 1. Procedure for amendment.

- a. The regulations, restrictions and boundaries set forth in this ordinance may be amended by the town council; and any person, group of persons or corporation may make application to the town council for an amendment. All applications for amendment shall be filed at the office of the town clerk and shall be accompanied by a complete description of the proposed amendment and the portion of the ordinance proposed for amendment.

- b. Prior to the enactment of any amendment, a public hearing shall be held by the town council in relation thereto, at which hearing all interested persons shall be given an opportunity to be heard. The public hearing shall be held within 65 days of receipt of an application for amendment. The town council shall require the applicant to bear the cost of advertising and mailing relative to the public hearing.
- c. If the proposed amendment involves a change to the zoning map, the applicant shall submit the following:
 - (1) An accurately drawn plat, showing the shape and dimensions of the area in question, the tax assessor's plat and lot number, street location and street numbers, abutting property within 500 feet, and the location of all zoning district boundaries as they affect the property in question;
 - (2) A list of the names and addresses, determined from public record, of the owner or owners of the property in question and abutting property within 500 feet; and
 - (3) Other information as may be deemed necessary by the town council for the consideration of a proposed amendment.
- c. The town council shall render a decision on any proposal within 45 days after the date of completion of the public hearing. The town council shall act upon the proposed amendment in such manner as it deems to be in the best interest of the town.

Section 2. Review by planning board.

- a. Any proposal for an amendment shall be referred to the planning board, who shall report to the town council within 45 days after receipt of the proposal. Where a proposal for adoption, amendment or repeal of a zoning ordinance or zoning map is made by the planning board, the requirement for study by the planning board is waived.

- b. Among its findings and recommendations to the town council with respect to a proposal for adoption, amendment or repeal of this zoning ordinance or the zoning map, the planning board shall:
 - (1) Include a statement on the general consistency of the proposal with the Tiverton comprehensive plan, including the goals and policies statement, the implementation program and all other applicable elements of the comprehensive plan; and
 - (2) Include a demonstration of recognition and consideration of each of the applicable purposes of zoning, as presented in G.L. 1956, § 45-24-30.

Section 3. Public notice requirements.

Notice of the public hearing shall be published in a newspaper of general circulation in the Town of Tiverton once a week for three successive weeks prior to the date of the hearing. The newspaper notice shall be published as a display advertisement, using a type at least as large as the normal type size used in news articles, and shall include the following:

- a. The date, time and place of the hearing.
- b. A statement that amendment of the zoning ordinance is under consideration.
- c. A statement of the proposed amendment in its entirety, or a summary of the matter under consideration.
- d. The location where and times when a copy of the proposed amendment may be obtained, or examined or copied.
- e. A statement that the proposed amendment may be altered or further amended prior to the close of the public hearing without further advertising, as a result of further study or

because of views expressed at the public hearing; and that any alteration or amendment must be presented for comment at the public hearing.

Section 4. Written notice requirements.

Written notice, which may be a copy of the newspaper notice, or otherwise gives the date, time and place of the public hearing, and the nature and purpose thereof, shall be sent at least two weeks in advance of the public hearing date to the following:

- a. The associate director of the division of planning of the department of administration, by first class mail.
- b. Owners of all property, including that in any adjacent community, which is located in or within not less than 500 feet of the perimeter of a proposed map amendment, where the proposed amendment includes a specific change to the zoning map, by registered or certified mail.
- c. The town or city council of any adjacent community, by first class mail, to which either of the following pertain:
 - (1) Which is located in or within not less than 200 feet of the boundary of the area proposed for change; or
 - (2) Where there is a public or quasipublic water source, or private water source that is used or is suitable for use as a public water source, which lies within 2,000 feet of any area which may be affected by the proposed amendment.
- d. 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 area which may be affected by the

proposed amendment, by first class mail, provided, however, that such governing body has filed with the building official 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.

Section 5. Decision of the town council.

a. In granting an amendment to this ordinance, the town council may limit the change to one of the permitted uses in the district to which the subject land is rezoned, and impose such conditions and restrictions as it deems necessary, including, without limitation:

- (1) Requiring the applicant 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.

Such conditions or restrictions shall be clearly noted on the zoning map and recorded in the land evidence records of the Town of Tiverton, provided, however, in the case of a conditional zone change, the conditions or restrictions shall not be noted on the zoning map until the zone change has become effective.

b. 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, change the land to its original zoning use before the application was filed.

[Section 6. Reserved.]

Section 7. Protest by property owners.

No such amendment or repeal shall be passed except by three-fifths vote of the town council in the event there is filed in the office of the town clerk on or before the day of such hearing, or within three days thereafter, a written protest against such amendment or repeal signed and acknowledged by any of the following:

- a. The owners of 20 percent or more of the street frontage of the property proposed to be affected;
- b. The owners of 20 percent or more of the street frontage directly opposite the property proposed to be affected; or
- c. The owners of the property abutting on 20 percent or more at the boundary line between the property proposed to be affected and the property immediately in the rear thereof, when there is no street between said properties.

The word "owner," as used in this section, shall not be construed to include attaching creditors or lienholders, other than mortgagees.

Section 8. Recording of amendment.

If, in accordance with the provisions of this ordinance, amendments are made in zoning district boundaries or other matters shown on the zoning map, such amendments shall be depicted on the map within 90 days after their adoption by the town council. A description of an adopted amendment shall be attached to the zoning map until such time as the amendment is made a part of the map.

ARTICLE XX. DEVELOPMENT PLAN REVIEW

Section 1. Statutory authority and purpose.

Development plan review, a process by which the Tiverton planning board reviews the development plans of certain industrial, commercial or multi-unit residential projects, is enacted pursuant to the provisions of Rhode Island General Laws Section 45-24-49. It is designed to achieve the purposes set forth in article 1 section 2 and to ensure the following:

- a. New industrial, commercial and large scale residential development having a high quality site design, safe and convenient traffic circulation, and appropriate signage, landscaping and lighting;
- b. Mitigation of potential development impacts of new industrial commercial and large scale residential development, specifically related to stormwater runoff and soil erosion and sedimentation; and
- c. Protection of the historic character of Tiverton Four Corners.

(Ord. of 6-4-01(11))

Section 2. General provisions.

- a. Development plan review projects shall be subject to review and approval by the Tiverton planning board under the guidelines described in this article. Where the project involves an application for a special use permit, a variance, a zoning ordinance amendment and/or a zoning map change, the planning board review shall be advisory to the permitting authority, i.e. the zoning board of review or the town council, as appropriate.
- b. The development plan review procedure shall not be used to deny an applicant a permitted use of a property as provided in article IV.
- c. Administration of development plan review shall be done in a manner that upholds appropriate site and design standards

without unreasonably impeding investment in capital improvements to impacted properties.

- d. For purposes of this article, two review processes are established:
- (1) Site plan review a review of project site plans that affect public safety, health and welfare, e.g. storm water drainage, soil erosion and sediment control, parking, traffic circulation.
 - (2) Design review a review of the design elements of a project, e.g. architecture, signage, landscaping for aesthetic suitability.

(Ord. of 6-4-01(11))

Section 3. Applicability.

The provisions of this article shall apply to the following activities:

- a. *Site plan review.* Industrial or commercial development consisting of buildings of 5,000 square feet or greater of floor area, and/or site alterations of 10,000 square feet or greater of land area, within the Industrial, Waterfront, General Commercial or Highway Commercial Districts, or involving any expansion of a nonconforming use in a Residential District.
- b. *Design review.* New construction, expansion or exterior physical alteration of a commercial or mixed-use building, or any site alteration, within the Village Commercial District (Tiverton Four Corners area) that has a significant visual impact. If there is not a visual impact significant to require design review, a waiver may be granted with the concurrence of the building official and the administrative officer, and a written report made to the planning board.

- c. *Land development projects.* Pursuant to RIGL section 45-24-47, an application to the planning board for a major land development project shall undergo review in accordance with the Tiverton land development and subdivision regulations. New construction or redevelopment of an elderly housing facility, such as a nursing home, retirement residence or assisted living facility, a manufactured home elderly community (see article IV section 16), an age restricted mixed use community development (see article IV section 17), or a multi-family structure or structures shall be considered to be a land development project, and shall be reviewed concurrently under both the subdivision regulations and this article.

(Ord. of 6-4-01(11))

Section 4. Application and review procedure.

- a. Review and approval of proposed developments under the provisions of this article shall be initiated by an application filed with the building official which meets any of the above descriptions of activities subject to development plan review. These applications shall be forwarded to the planning board.
- b. Applications submitted under this article shall be certified complete or incomplete by the administrative officer within 25 days from the date of submission. The planning board shall approve, approve with conditions or deny the plans submitted within 65 days of the certification of completeness.
 - (1) *Site plan review.* Review of site plan review applications and land development projects shall be done by the planning board in the format of a public hearing, in accordance with section 23-14 of the Tiverton land development and subdivision regulations.

- (2) *Design review.* Review of design review applications shall be done by the planning board in the form of a public meeting with all owners of property within 200 feet of the perimeter of the subject property notified by regular mail.
- c. Approval by the planning board of a development plan review application in cases where the board decision is advisory (e.g. special use permit) shall be conditioned upon any approvals required from the permitting authority (e.g. zoning board of review). For developments which require a special use permit, the planning board may, at the request of the applicant, refer the application to the zoning board prior to conducting the development plan review. In such cases, review by the zoning board shall be limited to the use in question until such time as development plan review is completed by the planning board.
- d. No building permit shall be issued by the building official for an activity for which development plan review is required until approval is received from the planning board. The approved plans and other documents shall become part of the building permit application, and shall be binding on any permit issued.
- e. Approval of a development under the provisions of this article shall be effective for one year. The planning board may grant an extension for good cause shown. The issuance of a building permit or commencement of the use of the site will constitute adequate efforts to develop in accordance with the approved plan.
- f. Modifications or revisions to final plans and documents shall be approved in accordance with the review procedures herein. Minor changes may be approved by the administrative officer, with the concurrence of the building official.

(Ord. of 6-4-01(11))

Section 5. Contents of applications.

The specific application requirements for the activities subject to the provisions of this article are described below. The planning board may waive any of these application requirements which are considered to be not applicable to the project.

- a. Applications submitted for site plan review shall include the following:
 - (1) A site plan which indicates the location and dimensions of all buildings and other structures such as walls and fences; all means of ingress and egress; circulation patterns and traffic control; and the locations and dimensions of all parking and loading areas.
 - (2) A drainage and site utilities plan which details existing and proposed site drainage systems and identifies proposed changes in topography.
 - (3) A soil erosion and sediment control plan, if applicable.
 - (4) A landscape plan which designates the final grade of the site, the locations of all trees with a diameter of six inches or greater; the type, size, number and spacing of proposed plantings; and locations and details of landscape features such as walls, fences, walkways, lighting, and site amenities.
- b. Applications for design review shall include the following:
 - (1) Scale elevations of the building(s), as appropriate, showing dimensions of all building elements including height, length, roof pitch, door and window openings, steps, railings and ramps; and details of surface materials, doors and windows, railings, lighting fixtures, architectural details and other exterior features including colors.

- (2) A site plan which indicates the location and dimensions of all buildings and other structures such as walls and fences; all means of ingress and egress; circulation patterns and traffic control; and the locations and dimensions of all parking and loading areas.
- (3) A landscape plan which designates locations of all trees with a diameter of six inches or greater; the type, size, number and spacing of proposed plantings; and locations and details of landscape features such as walls, fences, walkways, lighting, and site amenities.
- (4) Sign details including the size, materials, colors, type of mounting and/or building placement and type of illumination.

(Ord. of 6-4-01(11))

Section 6. Review guidelines.

- a. For site plan review done under the provisions of this article, the planning board shall apply the improvement standards contained in article IX of the land development and subdivision regulations, and specifically those contained in section 23-51, control of stormwater runoff, and section 23-55, soil erosion and sediment control, where applicable.

In addition, the board shall apply the following standards:

General site standards:

- (1) Buildings and site improvements should be done so as to minimize changes to existing topography and the loss of existing mature vegetation.

- (2) Wetlands and significant natural features should be maintained in an undisturbed form, the potential for flooding shall not be increased, and stormwater entry and discharge points should be designed so as to minimize erosion.

Circulation, parking and traffic control standards:

- (1) The layout and design of all means of vehicular and pedestrian circulation, including interior drives, parking areas and walkways, shall provide for safe interior circulation and separation of pedestrian, vehicular and service traffic.
- (2) The number of site entrances should be the minimum necessary for effective traffic control, and sharing of access driveways and parking areas by adjoining properties should be considered where possible.
- (3) Provisions for pedestrian movement, in the form of sidewalks or walkways, shall allow for safe access between parking areas and retail establishments.

Landscaping standards:

- (1) Buffering in the form of a year-round visual screen should shield neighboring properties, particularly residential areas, from adverse effects.
- (2) Parking lots shall conform to all applicable site and landscaping requirements contained in paragraph d of article X, special provisions, section 1, off-street parking regulations.
- (3) Visual screening of refuse areas, service and storage yards and exterior work areas shall be accomplished by use of walls, appropriate fencing, plantings or a combination of these.

- (4) Mechanical equipment and utility hardware on the roof or ground adjacent to the building, shall be screened from public view with materials harmonious to the building, or with landscaping.
 - (5) The design and size of exterior lighting, when used, should be compatible with the building and the adjacent areas, and shall not adversely affect neighboring residential properties.
- b. For design review submitted under the provisions of this article (development within the Tiverton Four Corners area), the planning board shall apply the following building design guidelines:
- (1) The original characteristics and materials of an historic building should be retained.
 - (2) Facade proportions, including window and door placement, and the original roof shape, pitch and detail, should be maintained.
 - (3) Exterior details such as siding, corner boards, cornice, brackets, lintels and window and door styles should be retained, repaired or replaced in kind.
 - (4) Additions or alterations to existing buildings should be complementary in scale to the original structure, and architectural details including materials, colors and textures shall should be treated so as to be compatible with the original architectural style of the building.
 - (5) The style, scale, height, facade and materials of new buildings should be compatible with those of the existing buildings within the Tiverton Four Corners area.

- (6) The setback pattern, building orientation and spacing patterns of new buildings should match those of the existing buildings within the Tiverton Four Corners area.
- (7) Any business sign should be limited to 25 square feet in area, and a freestanding sign of any type shall be limited to five feet in height. There shall be no internally illuminated signs.

(Ord. of 6-4-01(11))

Section 7. Fees.

Application fees for development plan review under this article shall be set by the town council, with a recommendation from the planning board.

(Ord. of 6-4-01(11))

Section 8. Enforcement.

The provisions of this article shall be enforced by the zoning officer.

(Ord. of 6-4-01(11))

ARTICLE XXI. LEGAL STATUS*

***Editor's note--**An Ord. of 6-4-01(11) renumbered article XX, sections 1, 2, as article XXI, sections 1, 2.

Section 1. Severability.

If any section, clause, provision or portion of this ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction,

such decision shall not affect the validity or constitutionality of this ordinance as a whole or any other section, clause, provision or portion thereof, other than the part so decided to be invalid or unconstitutional.

Section 2. Effective date.

This ordinance shall take effect upon its passage and all other ordinances or parts thereof inconsistent herewith are hereby repealed.