

Zoning Ordinance

Town of East Greenwich

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Town of East Greenwich

Zoning Ordinance

This document reflects the ordinance as adopted through September 2026.

§ I. Purpose and Intent

§ 260-1. Purpose

The zoning regulations and districts herein set forth have been made in accordance with the goals and policies articulated in the East Greenwich Comprehensive Community Plan (as amended) for the purpose of promoting the public health, safety and general welfare of the Town. They are designed to lessen congestion in the streets; to secure safety from fire, flood, panic and other dangers; to control nuclear and toxic wastes; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They are made with reasonable consideration, among other things, of the character of each district and its peculiar suitability for particular uses and with a view to conserving the value of property and encouraging the most appropriate use of land throughout the Town.

§ 260-2. Authority; effectiveness; applicability

- A. Authority. This chapter of the Code of the Town of East Greenwich is adopted pursuant to the authority conferred by Rhode Island General Law § 45-24-27 et seq.

- B. Effectiveness. This chapter shall take effect immediately upon passage. All ordinances or parts of ordinances in conflict with this chapter are repealed.
- C. Applicability. No structure or land shall be used, and no structure shall be erected, enlarged or relocated, unless it conforms to the provisions of this chapter. No lot shall be created unless it conforms to the provisions of this chapter. Uses and structures lawfully existing on the effective date of this chapter, however, which are nonconforming to the provisions of this chapter, shall be permitted to continue in existence.

§ 260-3. Interpretation and conflict

- A. Interpretation. When the provisions of this chapter are interpreted or applied they shall be held to be the minimum requirements for the promotion of the public safety, health and general welfare.
- B. Conflict. The provisions of this chapter are not intended to interfere with or abrogate or annul any ordinance, rule, regulation or permit previously adopted or issued and not in conflict with any provision of this chapter, or which shall be adopted or issued pursuant to law relating to the use of land or building or ordinance not in conflict with this chapter; nor is it intended by this chapter to interfere with or abrogate or annul any easement, covenant or other agreement between parties; except when this chapter imposes a greater restriction, this chapter shall control.

§ 260-4. Sovereignty

Notwithstanding any section to the contrary, use of land or buildings constructed by or on behalf of the United States of America, the State of Rhode Island and the Town of East Greenwich shall be exempted from the regulations contained herein.

§ 260-5. Severability

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

§ II. Zoning Definitions

§ 260-6. Terms defined

[Amended 8-13-2002 by Ord. No. 726; 5-10-2004 by Ord. No. 746; 5-22-2006 by Ord. No. 765; 1-10-2011 by Ord. No. 812; 5-9-2011 by Ord. No. 814; 1-11-2016 by Ord. No. 846; 3-14-2016 by Ord. No. 849; 5-9-2016 by Ord. No. 853; 4-22-2019 by Ord. No. 880; 5-28-2019 by Ord. No. 881; 4-12-2021 by Ord. No. 903; 12-11-2023 by Ord. No. 920-A]

Words and phrases used in this chapter shall have their plain and ordinary meaning unless otherwise specifically defined below or in other sections within this chapter. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this chapter.

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

ABANDONMENT — Abandonment of a nonconforming use shall consist of some overt act, or failure to act, which would lead one to believe that the owner of the nonconforming use neither claims nor retains any interest in continuing the nonconforming use unless the owner can demonstrate an intent not to abandon the use. An involuntary interruption of a nonconforming use, such as by fire and natural catastrophe, does not establish the intent to abandon the nonconforming use. However, if any nonconforming use is halted for a period of one year, the owner of the nonconforming use will be presumed to have abandoned the

nonconforming use, unless that presumption is rebutted by the presentation of sufficient evidence of intent not to abandon the use.

ACCESSORY APARTMENT — A second dwelling unit either in or added to an existing single-family detached dwelling for use as a complete, independent living facility. The accessory apartment provides for separate cooking, eating, sanitation and sleeping facilities with a separate means of egress from the primary dwelling unit.

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 need not have a separate means of ingress and egress. (Yearly certification by the Building Official is required.)

ACCESSORY STRUCTURE — A structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use.

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

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

NOTE: R.I.G.L. § 42-64.22-2 defines the term "adaptive reuse." This definition was added to § 45-24-31 as part of the amendments to the enabling legislation.

AGGRIEVED PARTY — An aggrieved party, for purposes of this chapter, shall be:

- A. Any person or persons or entity or entities who can demonstrate that their property will be injured by a decision of any officer or agency responsible for administering this chapter.
- B. Anyone requiring notice pursuant to this chapter.

ALTERATION — Any change, addition or modification in construction or occupancy of an existing structure.

AMUSEMENT GAMES — See "electronic amusement games."

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

APPLICATION — The completed form or forms and all accompanying documents, exhibits and fees required of an applicant by the Town of East Greenwich Planning Director for development review, approval or permitting purposes.

ASSISTED LIVING — A residential facility for four or more elderly persons, within which is provided living and sleeping facilities, meal preparation and laundry and room cleaning services. Such facilities may provide for the transitional residency of elderly persons progressing from independent living to assisted living, including the care of memory-impaired individuals where residents share common meals and may also include the provision of other services such as transportation for routine services.

AUTOMOBILE SALES — The use of any building, land area and other premises for the display and sale of new or used automobiles, panel trucks, vans, trailers or recreation vehicles and including any warranty or repair work and other repair conducted as an accessory use.

AUTOMOBILE GAS/SERVICE STATION — Any building, land area or other premises, or portions thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use the sale and installation of lubricants, tires, batteries and similar accessories; automotive and truck repair, rental, leasing and parking service to the general public. Further accessory and clearly secondary activities may include minor automobile repair and maintenance, car wash service and the sale of food and other convenience items.

AUTOMOBILE REPAIR FACILITY — An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and/or similar equipment, including paint, body and fender, brake and muffler,

engines, batteries, tires and transmission, provided the activities are conducted within a completely enclosed building.

BED-AND-BREAKFAST HOME — An owner-occupied single-family house where short-term lodging rooms (guest rooms), with or without breakfast, are provided for compensation.

BED-AND-BREAKFAST USE — A portion of an owner-occupied single-family house dedicated solely to the bed-and-breakfast home operation, including, but not limited to, short-term lodging rooms (guest rooms), bathrooms and common areas.

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. A buffer may also include opaque fencing, provided the fencing is adequate to prevent noise, glare and similar impacts from affecting surrounding property. Impervious or pervious areas used for parking shall not be considered buffers.

BOARDING — The keeping of animals other than your own for purposes of compensation.

BREWERY — An establishment where beer or other malt beverages are made on the premises. There are three categories of breweries in East Greenwich: large breweries, microbreweries and farm breweries. A manufacturer's license to make alcoholic beverages under R.I.G.L. § 3-6-1 shall be required and such establishments must meet all local dimensional and parking regulations per Article VI and Table 2 of the Town's Zoning Code.

BREW PUB — An establishment where beer and malt beverages are made on the premises in conjunction with a restaurant or bar, and where 40% or more of the product made on site is sold on site. Brewpubs may distribute to off-site accounts or sell beer to take away in accordance with state law.

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

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

BUILDING HEIGHT — For a vacant parcel of land, building height shall be measured from the average, existing-grade elevation where the foundation of the structure is proposed. For an existing structure, building height shall be measured from average grade taken from the outermost four corners of the existing foundation. In all cases, building height shall be measured to the top of the highest point of the existing or proposed roof or structure. This distance shall exclude spires, chimneys, flagpoles, and the like. For any property or structure located in a special flood hazard area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMS), building height shall be measured from base flood elevation, and where freeboard, as defined in this section, is being utilized or proposed, such freeboard area, not to exceed five feet, shall be excluded from the building height calculation; provided, however, that the Rhode Island Coastal Resources Management Council design elevation maps may be used by an owner or applicant to establish a base flood elevation for a property that is higher than the official FEMA FIRMS.

CAPACITY OF LAND — The ability of the land, as defined by geology, soil conditions, topography and water resources, to support proposed development. Land capacity may be modified by provision of facilities and services.

CAPACITY OCCUPANCY — For places of public assembly, the following maximum capacities shall apply based on net floor area designated to the public:

Fixed seats	1 person per 15 net square feet
Without fixed seats	1 person per 7 net square feet
Standing room	1 person per 3 net square feet
Tables and chairs	1 person per 15 square feet
Bars	1 person per 18 linear inches
Booths	1 person per 24 linear inches

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 or other sensitive features and/or structures. The techniques used to concentrate buildings shall be specified in the ordinance and may include, but are not limited to, reduction in lot areas, setback requirements and/or bulk requirements, with the resultant open land being devoted by deed restrictions for one or more uses. Under cluster development there is no increase in the number of lots that would be permitted under conventional development except where ordinance provisions include incentive bonuses for certain types or conditions of development.

COMMERCIAL PARKING LOT — A parking area privately owned and operated.

COMMERCIAL RECREATION — Amusement businesses, including, but not limited to, driving ranges, batting cages, go-carts and miniature golf.

COMMON OPEN SPACE — Land within or related to a cluster which is prohibited from development as identified in § 260-43D of this chapter. This land is designed and intended for the common use or enjoyment of the residents of the cluster subdivision of which it is a part. The common open space may include complementary structures that are necessary and/or appropriate as determined by this chapter.

COMMON OWNERSHIP — Either: 1) ownership by one or more individuals or entities in any form of ownership of two or more contiguous lots; or 2) ownership by any association (such ownership may also include a municipality) of one or more lots under specific development techniques.

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

- A. Wherever six or fewer children or adults with intellectual and/or developmental disabilities reside in any type of residence in the community, as licensed by the state pursuant to Chapter 40.1-24 of Rhode Island General Laws. All requirements pertaining to local zoning are waived for these community residences by Rhode Island General Law.
- 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 Chapter 40.1-24.
- 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 Chapter 42-72.1.
- 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 such residence not less than 60 days nor more than two years. Residents will have access to and use of all common areas, including eating areas and living rooms, and will receive appropriate social services for the purpose of fostering independence, self-sufficiency and eventual transition to a permanent living situation.

COMPASSION CENTER — As defined in R.I.G.L. § 21-28.6-3, a not-for-profit corporation, subject to the provisions of Chapter 6 of Title 7, and registered under § 21-28.6-12, that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies or dispenses marijuana, and/or related supplies and educational materials, to patient cardholders and/or their registered caregiver cardholder, who have designated it as one of their primary caregivers.

COMPREHENSIVE COMMUNITY PLAN — The Comprehensive Community Plan of East Greenwich, as may be amended, adopted and approved pursuant to Chapter 45-22.2 of the Rhode Island General Laws (R.I.G.L.) and to which any zoning adopted pursuant to Chapter 45-24 shall be in compliance.

CONVENIENCE STORE — A retail operation for the sale of prepackaged goods, reading material, nonprescription drugs, and some food items.

CRAFT DISTILLERY — A commercial establishment duly operating with a manufacturer's license issued by the State of Rhode Island per RIGL § 3-6-1 wherein potable alcoholic liquors obtained by the process of

distillation are made and sold. The distillation process shall take place wholly inside a building and shall result in products for sale that may include but not be limited to whiskey, vodka, rum and gin but which shall expressly exclude fermented and malted liquors like beer or wine. Craft distilleries (as distinguished from large distilleries or micro-distilleries) shall produce greater than 20,000 but less than 50,000 gallons of liquor per year. Distilleries producing greater than 50,000 gallons of liquor per year are not permitted. All provisions of § 260-24 of this Zoning Code, Off-street storage and loading, shall apply, and no greater than 30% of total gross floor area associated with the distillery can be devoted to tasting room or direct-to-consumer sales.

DAY CARE; DAY-CARE CENTER — Any other child day-care center which is not a family day-care home and is appropriately licensed by the State of Rhode Island.

DENSITY, RESIDENTIAL — The number of dwelling units per unit of land.

DEVELOPMENT — The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure. This definition shall also include any mining, excavation, landfill or land disturbance activity, any change in use, or alteration or extension of the use of land.

DEVELOPMENT PLAN REVIEW — The process whereby authorized local officials review the site plans, maps and other documentation of a development to determine the compliance with the stated purposes and standards of the ordinance. (See also Chapter A263, Development and Subdivision Review Regulations.)

DISTRICT — See "zoning use district."

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

DRIVE-THROUGH FACILITY — The provision of a service window where the customer remains in vehicle while being served. Typically found in conjunction with banks and restaurants.

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.

DUPLEX — A structure containing two dwelling units, each of which is totally separated from the other by a single unpierced wall.

EASEMENT — That portion of a lot or lots reserved for present or future use by a person or agency other than the legal owners of the property.

ELECTRIC POWER SUBSTATION — A structure designed to reduce the amount of volts of electricity passing through a particular conduit.

ELECTRONIC AMUSEMENT GAMES — Video games, arcade games and the like.

ELEMENTARY AND SECONDARY SCHOOL — Education programs that are defined by and are subject to R.I.G.L. § 16-1-5 et seq.

ENVIRONMENTAL DAMAGE — Damage suffered to any portion of land due to the removal of vegetation, soil, wetlands and/or water bodies or the existence of any hazardous materials underground.

EXTENDED-CARE FACILITY — A long-term care facility or a distinct part of a facility licensed as a nursing home, infirmary unit of a home for the aged or a governmental medical institution. This shall include hospices.

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

FAMILY — See "household."

FAMILY DAY-CARE HOME — Any home other than the child's home in which day care in lieu of parental care and/or supervision is offered at the same time to six or less children who are not relatives of the care giver, but not containing more than a total of eight children receiving such care, and which is licensed by the State Department of Children, Youth and Families subject to the Department's regulations.

FARM BREWERY — An establishment located on a farm-zoned property of no less than two acres that produces beer or other malt beverages manufactured with at least one primary ingredient (hops or grains) grown on premises and whose annual production does not exceed 150,000 gallons of beer. A farm brewery must have all appropriate state licenses and may sell beer at wholesale to retailers consistent with said licenses. Similarly, direct sales to on-site customers for consumption on or off site shall be in accordance with state law.

FARM or FARMLAND — The legal production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to people, including but not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including any hooved animals and any animals not bred as household pets. Such animals may be kept and maintained for commercial production, sale or lease, and/or food, education or recreation. Farm animals identified by these categories include beef cattle, sheep, swine, horses, ponies, mules, chicken, turkeys, chinchilla or goats, or any mutations/hybrids thereof, including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to soil conservation or forestry management program. This definition shall not be construed so as to prohibit the use of land for limited home gardening purposes. Farming does not include the boarding of animals.

FIXED ZONE — A land-use zone, the boundaries of which are clearly denoted on the Zoning Map and which serves as the underlying zone for any overlay zones or floating zones.

FLOATING ZONE — An unmapped zoning district adopted within the ordinance, which is established on the Zoning Map only when an application for development, meeting the zone requirements, is approved by the Town Council.

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 (P.L. 90-448).

FOOD SERVICE FACILITY — A lunch room, luncheonette, restaurant, cafeteria, cafe, coffee house, or other place for the service of food for on-premises consumption and whose principal business is the sale of foods or beverages to the customer in a ready-to-consume state. Such establishments may also sell foods or beverages for carry-out or delivery.

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

GOLF FACILITY — A recreation area/operation including a miniature golf course and/or a driving range but not including a traditional nine-hole or eighteen-hole golf course.

GROUNDWATER — Groundwater and associated terms as defined in § 46-13.1-3 of the Rhode Island General Laws.

HARDSHIP — See administration and procedures of the Zoning Board of Review, § 260-91C.

HALFWAY HOUSES — 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.

HEALTH/FITNESS CENTER — An indoor facility including uses such as game courts, exercise equipment, locker rooms, pool, Jacuzzi®, sauna and/or proshop.

HEIGHT — See "building height."

HISTORIC DISTRICTS — Specific divisions of the Town of East Greenwich as designated by the Historic Zoning Ordinance, Article XI, which shall act as overlay zones. A historic district may include one or more structures. (See also Article XI, § 260-57, for definitions related to historic zoning.)

HOME OCCUPATION — Any activity customarily carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit.

HOSPITAL — An institution providing health services primarily for human inpatient medical or surgical care for the sick or injured, and including related facilities such as laboratories, outpatient departments, training facilities, central services facilities and staff offices that are an integral part of the facilities.

HOTEL — A structure designed, used or offered for residential occupancy for any period less than one month, including motels, but not including hospitals or nursing homes. Such a structure may also include ancillary uses such as a restaurant, meeting rooms and theater/projection room(s).

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 includes one or more persons related by blood, marriage or adoption and which may also include domestic employees living with the family.
- B. A person or group of no more than three unrelated persons living together.

HOUSEHOLD PETS — Animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include domestic dogs and domestic cats and may include other animals such as rabbits and caged birds. Such animals are to be kept for noncommercial family purposes. The keeping of all such pets shall comply with all relevant local laws pertaining to leashes and confinement, licensing, etc., and shall not constitute a public safety hazard or public nuisance.

HOUSE OF WORSHIP — A tax-exempt institution that people attend to participate in or hold religious services, meetings and other activities related to the religion.

IMPROVEMENT — Any man-made, immovable item which becomes part of, is placed upon, or is affixed to real estate.

IN-LAW APARTMENT — One-bedroom apartment located within the principal structure for use by parent(s), in-law parent(s), or grandparent(s) of occupant(s) of the principal residence. (Yearly certification by the Building Official is required.)

INFRASTRUCTURE — Facilities and services needed to sustain residential, commercial, industrial, institutional and other activities, including but not limited to sewer, gas, electric, cable and water lines.

KENNEL — A shelter for or a place where four or more animals are bred, boarded and/or trained, whether for compensation or not.

KINDERGARTEN — Education programs that are defined by and are subject to R.I.G.L. § 16-1-5 et seq.

LAND DEVELOPMENT AND SUBDIVISION ORDINANCE — A code requiring review and approval of subdivisions and site plans prior to construction and/or development.

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 provided for in this chapter.

LARGE BREWERY — An establishment where beer or malt beverages are made on premises at an annual production rate of 10,000 barrels or more. A barrel is equivalent to roughly 31 gallons.

LARGE DISTILLERY — A commercial establishment duly operating with a manufacturer's license issued by the State of Rhode Island per RIGL § 3-6-1 wherein potable alcoholic liquors obtained by the process of distillation are made and sold. The distillation process shall take place wholly inside a building and shall result in products for sale that may include but not be limited to whiskey, vodka, rum and gin but which shall expressly exclude fermented and malted liquors like beer or wine. Craft distilleries (as distinguished from large distilleries or micro-distilleries) shall produce greater than 20,000 but less than 50,000 gallons of liquor per year. Distilleries producing greater than 50,000 gallons of liquor per year are not permitted. All provisions of § 260-24 of this Zoning Code, Off-street storage and loading, shall apply, and no greater than 30% of total gross floor area associated with the distillery can be devoted to tasting room or direct-to-consumer sales.

LAUNDROMAT — A place where patrons wash, dry or dry-clean clothing and other fabrics in machines operated by the patron.

LIGHT INDUSTRY — A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such projects, but excluding basic industrial processing which requires the use of one-hundred-percent raw materials.

LIGHT INDUSTRIAL PARK — A park designed as a coordinated environment for a variety of industrial and related activities. The project is developed or controlled by one proprietary interest. It has an enforceable master plan and/or covenants, conditions and restrictions. The development may be on one parcel, may be subdivided, may have condominium ownerships, or a combination of these types.

LOT — Either: 1) the basic development unit for determination of lot area, depth and other dimensional regulations; or 2) a parcel of land whose boundaries have been established by some legal instrument, such as a recorded deed or recorded map, and which is recognized as a separate legal entity for purposes of transfer of title.

LOT, CORNER — Where a lot is abutted by two intersecting or intercepting streets. Such lots have two front yards, one at each street; two side yards; and no rear yard.

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

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

LOT DEPTH — The distance measured from the front lot line to the opposite lot line (typically the rear lot line). For lots where the front and opposite lot lines are not parallel, the lot depth is an average of the depth. Where the front lot line is a curved line, the distance measured from the midpoint of the curved radial to the opposite lot line shall constitute lot depth.

LOT FRONTAGE — That portion of a lot abutting a street that has been approved and accepted by the Town. Minimum frontage requirements shall be met by contiguous lot frontage.

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. Lots fronting on more than one street right-of-way are considered to have more than one front lot line and no rear lot line.
- B. **REAR**The lot line opposite and most distant from the front lot line or, in the case of triangular or otherwise irregularly shaped lots, an assumed line at least 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. Lots with more than one front lot line are considered to have no rear lot line.
- C. **SIDE**Any lot line other than a front or rear lot line. A lot may have more than two side lot lines.

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

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

MARIJUANA STORE — Any retail establishment at which the sale or use of marijuana, medical or otherwise, takes place. This shall not include a compassion center regulated and licensed by the State of Rhode Island, as defined herein.

MARINA — A facility for storing, servicing, fueling, berthing and securing and launching of private pleasure craft that may include the sale of fuel and incidental supplies for the boat owners, crews and guests.

MEDICAL WALK-IN FACILITY — A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

MERE INCONVENIENCE — See administration and procedures of the Zoning Board of Review, § 260-91C.

MICROBREWERY — An establishment where beer and/or malt beverages are made on premises and then sold or distributed, producing less than 10,000 barrels per year. Microbreweries sell their product in any of the following ways: the traditional three-tier system of brewer to wholesaler to retailer to consumer; a two-tier system of brewer acting as wholesaler and then to retailer to consumer; or directly to the end consumer.

MICRO-DISTILLERY — A commercial establishment duly operating with a manufacturer's license issued by the State of Rhode Island per RIGL § 3-6-1 wherein potable alcoholic liquors obtained by the process of distillation are made and sold. The distillation process shall take place wholly inside a building and shall result in products for sale that may include but not be limited to whiskey, vodka, rum and gin but which shall expressly exclude fermented and malted liquors like beer or wine. Microdistilleries (as distinguished from craft distilleries and large distilleries) shall produce no greater than 20,000 gallons of liquor per year. All provisions of § 260-24 of this Zoning Code, Off-street storage and loading, shall apply, and no greater than 30% of total gross floor area associated with the distillery can be devoted to tasting room or direct-to-consumer sales.

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

MORTUARY/FUNERAL HOME — Establishment in which the dead are prepared for burial or cremation. The facility may include a chapel for conduct of funeral services and space for funeral services, gatherings and/or display of funeral equipment.

MULTIFAMILY DWELLING — A building intended and designed for residential occupancy by three or more families and not meeting the requirements for a multiple single-family dwelling. The families shall live independently in separate dwelling units, and the number of families in occupancy shall not exceed the number of dwelling units provided.

MULTIPLE SINGLE-FAMILY DWELLING — A building or portion thereof containing more than two dwelling units, where each unit has an independent means of egress and is separated by a two-hour fire-separation assembly. Also called "attached single-family dwellings."

NONCONFORMANCE — A building, structure or parcel of land, or use thereof, lawfully existing at the time of the adoption or amendment of this chapter and not in conformity with the provisions of such chapter or amendment.

- A. Nonconformance shall be of only two types:
 - (1) **NONCONFORMING BY USE** A lawfully established use of land, building or structure which is not a permitted use in that zoning district. A building or structure containing more dwelling units than are permitted by the use regulations of this chapter shall be nonconforming by use; or
 - (2) **NONCONFORMING BY DIMENSION** A building, structure, or parcel of land not in compliance with the dimensional regulations of this chapter. Dimensional regulations include all regulations of this chapter, other than those pertaining to the permitted uses. A building or

structure containing more dwelling units than are permitted by the use regulations of this chapter is nonconforming by use; a building or structure containing a permitted number of dwelling units by the use regulations of this chapter, but not meeting the lot area per dwelling unit regulations, is nonconforming by dimension.

- B. A building or structure containing more dwelling units than are permitted by the use regulations of this chapter shall be nonconforming by use; a building or structure containing a permitted number of dwelling units by the use regulations of this chapter, but not meeting the lot area per dwelling unit regulations, shall be nonconforming by dimension.

NONRESIDENTIAL COOPERATIVE CULTIVATION — A use of land located in a nonresidential zone, or of a building, or a portion thereof, located in a nonresidential zone, for the cultivation of marijuana by two or more cardholders, as defined in R.I.G.L. § 21-28.6-3.

NUISANCE — A wrong arising from an unreasonable or unlawful use of property to the discomfort, annoyance, inconvenience or damage of another and usually consists of continuous or recurrent acts.

NURSERY SCHOOL — Private nursery schools and other regular programs of educational services to children between the ages of two years and eight months and six years where the schools operate one or more sessions daily. This does not apply to bona fide kindergarten or nursery classes which are part of a nonpublic elementary school system. See R.I.G.L. § 16-48-1 et seq.

OFFICE — A building or portion of a building wherein services are performed involving predominantly administrative, professional or clerical operations.

OFFICE PARK — A tract of land that has been planned, developed and operated as an integrated facility for a number of separate office buildings and supporting ancillary uses with special attention given to circulation, parking, utility needs, aesthetics and compatibility.

OPEN SPACE — Land area not occupied by buildings, structures, parking areas, streets, alleys or required yards; may be devoted to landscape preservation of natural features or recreation facilities and areas.

OVERLAY DISTRICTS — A district established by this chapter that is superimposed on one or more districts or parts of districts. The standards and requirements associated with an overlay district may be more or less restrictive than those in the underlying districts, consistent with other applicable state and federal laws. These districts include but are not limited to the Historic District, Aquifer/Wellhead District, Floodplain District and Cluster District.

PARKING LOT — Any outdoor space, plot, lot, parcel, yard or enclosure, or any portion thereof, where more than two motor vehicles may be parked, stored, housed or kept. "Parking lot" includes but is not limited to the driving and parking areas of drive-through restaurants, banks, gas stations, grocery stores, etc. "Parking lot" shall also include Town-owned and -operated and/or -leased off-street parking lots. (See also Article VI of this chapter.)

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

PERMITTED USE — A use by right which is specifically authorized in a particular zone.

PERSONAL MARIJUANA CULTIVATION — Marijuana cultivation by a single registered cardholder, as defined in R.I.G.L. § 21-28.6, within his or her residential dwelling for medical use only. This use shall only be permitted as an accessory use to a lawfully permitted residential use. In a mixed-use building that contains residential and nonresidential uses, this use shall be contained within the residential dwelling unit only.

PLANNED DEVELOPMENT — Land development project as defined elsewhere in this chapter and developed according to plan(s) as a single entity and containing one or more structures and/or uses with appurtenant common areas.

PLANT AGRICULTURE — The growing of plants for food or fiber, to sell or consume.

PREAPPLICATION CONFERENCE — A review meeting of a proposed development held between applicants and reviewing agencies, as permitted by law and municipal ordinance, before formal submission of an application for a permit or for development approval.

PREKINDERGARTEN — Education programs that are defined by and are subject to R.I.G.L. § 16-1-5 et seq.

PRIVATE EDUCATION CENTER — A facility owned and operated by a federal and/or state approved not-for-profit organization or one that is operated for profit whose purpose is systematic training and instruction designed to impart knowledge and develop skills, including institutions which are authorized by the State of Rhode Island to award associate, baccalaureate or higher degrees and the facilities associated with them. This term includes academic buildings, administrative facilities, athletic facilities, residential facilities, parking areas, garages, dining halls, food service facilities, agricultural facilities and other physical plants associated with college or university use. This facility may include schools operated by religious organizations.

RECREATION, COMMERCIAL — A place designed and equipped for the conduct of sports leisure-time activities and other customary, usual recreational activities, which is operated as a business and open to the public for a fee.

RESIDENTIAL COOPERATIVE CULTIVATION — The use of land located in a residential zone, or of a building, or a portion thereof, located in a residential zone, for the cultivation of marijuana by two or more cardholders, as defined in R.I.G.L. § 21-28.6-3.

RESTAURANT — A retail establishment where food and beverages are cooked or prepared and offered for sale and where consumption is permitted on the premises.

- **A. DRIVE-IN RESTAURANT** A building or portion thereof where food and/or beverages are sold in a form ready for consumption and where all or a significant portion of the consumption takes place outside the confines of the building, often in a motor vehicle on site.

RETAIL, COMMERCIAL — The sale of a product to the general public, not intended to be resold by others; may involve the sale of general retail goods and accessory services and the storage of products for sale.

RIDING STABLE/HORSE BOARDING FACILITY — A building or land where horses are kept for remuneration, hire or boarding. A minimum of one acre of land per horse boarded on site is required.

RIGHT-OF-WAY — An area or strip of land, either public or private, occupied or intended to be occupied by a street, electric transmission line, gasoline, water main, sanitary or storm sewer main, drainage course, or other special use.

ROOMING HOUSE — Any building which is used in whole or in part as a place where sleeping accommodations are furnished for hire or other consideration, with or without board, for not more than 20 guests or employees of the management, or where 10 or fewer sleeping rooms are maintained for such guests or employees. This term shall include tourist homes, lodging homes, convents, monasteries and other nonprofit and charitable institutions which have accommodations as stated, but shall not include private dwellings that accommodate habitation guests or employees, bed-and-breakfast establishments, apartment houses, hotels, convalescent homes, nursing homes, assisted living facilities, or homes for the aged.

SATELLITE DISH ANTENNA — A device or antenna intended to receive signals from orbiting satellites and other sources. Noncommercial dish antennas are defined as being less than four meters in diameter, while commercial dish antennas are usually those larger than four meters and typically used by broadcasting stations. The Town does not exercise jurisdiction over the "mini dishes" which are less than 39 inches in diameter, except where they are to be installed within the Historic District or on an outlying historic property included in Article XI of this chapter or where dish installation must be restricted based on safety issues.

SELF-STORAGE FACILITIES — Any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to the space for the purpose of storing and removing personal property.

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. (See the Lot Illustration at the end of this chapter and also the definition of "building envelope.")

SIGN — See "sign" and other sign-related terms defined in Article VII, Signs.

SITE PLAN — A plan for one or more lots which shows the existing and/or the proposed conditions of the lot.

SMOKING BAR — An establishment whose business is primarily devoted to the serving of tobacco products for consumption on the premises, in which the annual revenues generated by tobacco sales are greater than 50% of the total revenue for the establishment and the serving of food or alcohol is only incidental to the consumption of the tobacco products that is in full compliance with § 23-20.10-2(20) of the Rhode Island General Laws.

SPECIAL USE — A regulated use which is permitted pursuant to the approval of a special use permit issued by the Zoning Board of Review. Formerly referred to as a "special exception."

STORAGE — Depositing articles (goods, wares, equipment or merchandise) for safekeeping or future use. Articles appurtenant for the residential use of a property are exempted from this definition. Also in order to constitute storage, articles must be left outdoors on a parcel for a period exceeding 30 days. Stored article shall not be permitted between the front lot line and the primary structure nor in any side or rear setback.

STREET — A public way established by or maintained under public authority.

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.

SUBSTANDARD LOT OF RECORD — Any lot lawfully existing at the time of adoption or amendment of this chapter and not in conformance with the dimensional and/or area provisions of this chapter. (See also Article IV, Substandard Lots of Record.)

TEMPORARY SALES OR PROMOTION OFFICE — A use that is allowed until sale or completion of the final unit of an approved development.

TENT — A shelter of canvas or like material supported by poles and fastened to the ground. No tent exceeding 120 square feet shall be erected, operated or used without permission from the Building Official and Fire Department. Permits for such tents shall be issued for a period not to exceed 30 days and shall be revocable for cause.

THEATER — A building or part of a building devoted to showing motion pictures or for dramatic, musical or live performances.

TOWNHOUSE — Single-family dwelling units constructed in a row of attached units separated by property lines and with open space on at least two sides.

TRAILER, STORAGE — Any portable structure or vehicle constructed on a chassis and self-propelled or designed to be drawn by vehicles which, notwithstanding the removal of wheels or any other alteration, shall remain a trailer for purposes expressed here. No person may locate a trailer for storage without first obtaining a permit from the Building Official. Such permit may be issued for a period not to exceed 30 days but may be renewed once, provided that there has been no violation of state law or Town ordinance. No more than one trailer shall be permitted on a lot, and such trailers must meet the accessory structure setback requirements of the relevant zone. Such trailers shall be permitted in industrial zones only. Construction storage trailers used coincidental with ongoing permitted construction may be exempted from these requirements for the duration of the construction project only.

TRANSMISSION TOWERS — A structure designed to aid in the transmission of radio and/or electrical impulses for the purposes of communication (i.e., for mobile phones, radio, TV, etc.).

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.

USABLE OPEN SPACE — Space which is effectively separated from automobile traffic and parking and is an integral part of the cluster development. The term shall not include:

- A. Space devoted to streets, driveways, parking, walkways, sidewalks, accessory uses or structures, wetlands, wetland buffers, or water bodies.
- B. Any land area required to be left unaltered by reason of a preexisting legally enforceable covenant, easement or restriction which runs with the land.

VARIANCE — Permission to depart from the literal requirements of this chapter as granted by the Zoning Board of Review. 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 chapter.

- A. There shall be only two categories of variance: a use variance or a dimensional variance. (See also Article XV, Administration and Procedures of Zoning Board of Review.)
 - (1) **USE VARIANCE** Permission to depart from the use requirements of this chapter where the applicant for the requested variance has shown by evidence upon the record that the subject land or structure cannot yield any beneficial use if it is to conform to the provisions of this chapter.
 - (2) **DIMENSIONAL VARIANCE** Permission to depart from the dimensional requirements of this chapter under the applicable standards set forth in R.I.G.L. § 45-24-41.
- B. However, the fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

WAREHOUSE — A building used primarily for the storage and/or distribution of goods and materials.

WATERS — As defined in § 46-12-1(23), Rhode Island General Laws, as may be amended.

WETLAND — A marsh, swamp, bog, pond, river, river or stream floodplain or bank; an area subject to flooding or storm flowage; an emergent or submergent plant community in any body of fresh water; or an area within 50 feet of the edge of a bog, marsh, swamp, or pond, as defined in R.I.G.L. § 2-1-20; or any salt marsh bordering on the tidal waters of this state, whether or not the tidal waters reach the littoral areas through natural or artificial watercourses, and those uplands directly associated and contiguous thereto which are necessary to preserve the integrity of that marsh, and as further defined by the Rhode Island Coastal Resources Management Program, as may be amended.

WHOLESALE, COMMERCIAL — The sale of a product in large quantities from a manufacturing or warehousing facility to be retailed by others.

YARDS — See definitions for "lot line" and "setback lines."

ZONING CERTIFICATE — A document signed by the Zoning Enforcement Officer which states whether or not a use, structure, building or lot either complies with or is legally nonconforming to the provisions of this chapter or whether or not it is an authorized variance or modification therefrom.

ZONING ENFORCEMENT OFFICER — The individual designated by the Town Manager to interpret and enforce compliance with this chapter.

ZONING MAP — The map or maps which are a part of this chapter and which delineate the boundaries of all mapped zoning districts within the physical boundary of the Town and adopted as part of this chapter.

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.

Editor's Note: For additional definitions applicable to signs, see § 260-27; to Historic Districts, see § 260-57; and to telecommunications towers, see § 260-69.

Editor's Note: See Ch. A263, Development and Subdivision Review Regulations.

Editor's Note: See Lot Illustration attached to this chapter.

§ III. Zoning Districts

§ 260-7. Districts established

For the purpose of this chapter, the Town of East Greenwich is divided into the following fixed zoning districts, as shown on the Zoning Maps filed in the office of the Town Clerk and entitled "East Greenwich Zoning Map" and dated July 25, 2000, and further described below:

- A. Residential District (R-4) 4,000 square feet. This district is designed to provide very high-density residential multifamily and affordable housing development. A minimum of 10% and a maximum of 20% of the units in an R-4 development shall be for low- and moderate-income persons as defined by the state or federal government providing the subsidy for the housing and shall meet the requirements of the Rhode Island Low and Moderate Income Housing Act, R.I.G.L. § 45-53-1 et seq., as amended.
- B. Residential District (R-6) 6,000 square feet. This district is designed to provide for high-density residential development within the Town.
- C. Residential District (R-10) 10,000 square feet. This district is designed to provide for medium/high-density residential development within the Town.
- D. Residential District (R-20) 20,000 square feet. This district is designed to provide for medium-density residential development within the Town.
- E. Residential District (R-30) 30,000 square feet. This district is designed to provide for medium/low-density residential development within the Town.
- F. Farming District (F/F-1) one acre. This district is designed to preserve existing farmland and provide low-density residential development within the Town.
- G. Farming District (F-2) two acres. This district is designed to preserve farmland and open space and provide for very-low-density residential development within the Town.
- H. Commercial Downtown One District (CD/CD-1). This zone is designed to provide multiple uses on Main Street properties between Division Street and First Avenue/Rocky Hollow Road to promote active use of East Greenwich's downtown area by residents, shoppers and service-use clients and to provide vehicle and pedestrian safety. This district emphasizes first-floor (street-level) uses which promote and encourage pedestrian activity and stops at more than one business.
- I. Commercial Downtown Two District (CD-2). This zone is designed to provide multiple uses on Main Street properties between First Avenue/Rocky Hollow Road and Cedar Avenue/Forge Road to provide a transition between the high-density Commercial Downtown (CD-1) District and the CH Districts.
- J. Commercial Highway District (CH). The purpose of this district is to provide for those uses which generate a high amount of vehicular traffic in a manner that is safe and efficient.
- K. Waterfront District (W). The purpose of this district is to provide for water-dependent and water-related uses along Greenwich Cove, and to limit other uses. The Town of East Greenwich has little waterfront land and only by recognizing this can the Town best utilize this limited resource.
- L. Light Industry and Office District (M/LIO). The purpose of this district is to provide low-density, low-impact industrial and office park development primarily along the Route 2/South County Trail corridor and retain that district's farming and scenic qualities.
- M. Planned Development (PD). This is a designation which allows for residential land uses through environmentally sensitive design. It would provide for residential development on a single parcel, for example, a townhouse design.
- N. Mixed Use Planned Development (MUPD). This is a designation which allows for multiple uses on one parcel. It is offered as a development option as an encouragement to construct and develop low-density commercial uses to offset the tax burden of higher density residential units. Low- and moderate-income residential units are particularly encouraged in an MUPD.

- O. Rocky Hill Fairgrounds (RHF). The purpose of this district is to provide for the development of a private education center and open space, including a golf course; development located within 4,000 feet of an interstate highway having frontage on two or more public roads and having ingress and egress to a state highway serviced by public sewer, gas, water and electricity.

[Added 10-26-2004 by Ord. No. 750; amended 5-9-2011 by Ord. No. 814]

§ 260-8. General regulations

[Amended 2-25-2002 by Ord. No. 717; 11-4-2002 by Ord. No. 729; 3-14-2016 by Ord. No. 849; 12-11-2023 by Ord. No. 920-B]

The following regulations shall be applicable to all zones unless otherwise indicated:

- A. Where residential structures are permitted, only one residential structure shall be located on a lot.
- B. For all new residential construction, the maximum bottom of the foundation elevation of the principal structure shall be two feet above the proven wet-season high-water table. A site plan submitted as part of the building permit application shall note this relationship.
- C. Ordinary projections of window sills, cornices and other structural features may not extend more than 12 inches into the space above a required setback.
- D. On a street in a residential zone in which 25% or more of the frontage is improved with buildings, the front setback for a building hereafter erected may extend to the average alignment of such existing buildings on the same side of the street instead of as provided for in Table 2 of this chapter, except that no buildings shall have a front setback of less than 10 feet.

Editor's Note: Table 2 is attached to this chapter.

- E. The Zoning Board of Review may, by dimensional variance, grant relief from the dimensional and intensity regulations of this chapter for any use it authorizes by special use permit.
- F. Accessory structures, swimming pools and/or tennis courts shall only be permitted in rear yards in the building envelope and shall not fall within any required side or front setbacks. Such structures may be no closer than 10 feet from the rear lot line in the R-30, F-1 and F-2 Zones, and no closer than five feet in the R-20, R-10, R-6 and W Zones. On corner lots where no rear yard or rear lot line is present, accessory structures may be permitted to be sited within the side setback, subject to the limitations as noted above.
- G. No wall, fence, structure, vehicle, tree, shrub or other growth on the property shall so obstruct the view as to cause a hazard to traffic in the street nor shall it cause pedestrians to walk in the street where a sidewalk or road shoulder would otherwise be available. At street intersections, no structure shall be erected and no vegetation shall be planted or maintained in the space between the heights of 2 1/2 feet and 10 feet above the triangle formed by the street lines and a third line joining points on the street lines 15 feet from the intersection.
- H. Development of the lot shall provide no increase in stormwater runoff quantity or reduce the quality of the runoff from the lot. Where additional runoff cannot be retained on site, the applicant shall demonstrate to the Department of Public Works that the existing public drainage systems are capable of transporting the increased runoff.
- I. Where permitted, commercial uses shall be buffered from adjacent residential uses through landscaping and/or screening, as further defined in Article VI. When a lot in an LI/O or CH Zone is situated on the opposite side of the street from or is bounded by property zoned for residential use, a buffer strip not less than 100 feet in width shall be provided on each side of such lot which is situated on the opposite side of the street from or which bounds property zoned for residential use. Each such buffer strip shall be maintained in its natural state or shall be planted with evergreen trees or shall be made to contain other opaque screening.

- J. Where permitted, outside storage and dumpsters shall be enclosed and buffered from adjacent properties (including rights-of-way) as may be further defined in Article VI. The owner or operator of any commercial establishment which receives a license or permit from the Town Council and where swill, garbage or refuse accumulates shall provide at such establishment a covered container, which does not leak, for the deposit of all swill, garbage and refuse. The container shall have a cover, which shall be fully closed at all times except when refuse is deposited or removed. No excess refuse may protrude from said container. If deemed necessary and feasible by the Building Official, all containers shall be placed on either a concrete or asphalt pad with an adequate water supply and drainage available for washing the container and the pad. Unless the Building Official determines that it is not feasible, any container which is visible from the street and which holds perishable food waste shall be located within an opaque fenced area, which fence must be at least one foot higher than the highest point of the container on three sides. The fourth side shall have a properly hinged access door, which shall be kept closed at all times except for the depositing or removal of refuse. All containers holding perishable food waste shall be located more than 30 feet from the nearest residence unless the Building Official determines it is not feasible to do so.

Editor's Note: See Ch. 212, Solid Waste Management.

- K. Curb cuts shall require approval by the Director of Public Works. Only one curb cut for vehicle access to a parcel shall be provided from each street frontage. Gas stations shall be permitted two curb cuts along a single frontage and one curb cut along a second frontage, for a maximum of three curb cuts.
- L. Where the rear of a property falls along Greenwich Cove, the rear setback shall be used for a combination of landscaping and boardwalk along waterfront properties. The rear setback shall not be covered with an impervious surface but shall allow for natural infiltration in order to protect the water quality of the Cove.
- M. Fences and walls not exceeding 10 feet in height in the LI/O Zone and seven feet in all remaining zones may be constructed. Fencing for tennis courts may exceed the seven-foot maximum but must be no greater than 12 feet around the playing surface of the court.
- N. It shall be the policy of the Town of East Greenwich that high-voltage transmission lines should be sited so as to reduce the risk of electromagnetic field exposure to the lowest possible level obtainable by existing technology. Since the siting of such lines is within the jurisdiction of the Energy Facility Siting Board (EFSB), the Town shall actively participate in the EFSB review process, and Town agencies rendering advisory opinions to the EFSB shall urge that said transmission lines be regulated in accordance with the Town's policy.
- O. Private streets shall be prohibited in all residential developments.
- P. Subject to compliance with the requirements of all applicable federal and state wetlands regulations, wetlands created by action of the Town of East Greenwich other than stormwater detention and retention measures shall be excluded from the calculation of wetlands with respect to the requirements of the PD and MUPD Zones, cluster development and minimum building envelope.
- Q. The maximum building height of a detached accessory dwelling unit shall not exceed 20 feet.

§ 260-9. Uses and zones

[3-14-2016 by Ord. No. 849; 12-11-2023 by Ord. No. 920-B]

- A. The following uses shall be allowed as outright permitted uses and shall be allowed in all zones unless otherwise indicated:
 - (1) Off-street parking.
 - (2) Signs (as provided for in Article VII).

- (3) Notwithstanding any other provisions of this chapter, the following uses are permitted uses within all residential zoning use districts of a municipality and all industrial and commercial zoning use districts except where residential use is prohibited for public health or safety reasons:
 - * (a) Households.
 - * (b) Community residences.
 - * (c) Family day-care homes.
- (4) Any time a building or other structure used for residential purposes or a portion of a building containing residential unit is rendered uninhabitable by virtue of a casualty such as fire or flood, the owner of the property is allowed to park, temporarily, mobile and manufactured home or homes, as the need may be, elsewhere upon the land for use and occupancy of the former occupants for a period of up to 12 months, or until the building or structure is rehabilitated and otherwise made fit for occupancy. The property owner, or a properly designated agent of the owner, is only allowed to cause the mobile and manufactured home or homes to remain temporarily upon the land by making timely application to the local Building Official for the purposes of obtaining the necessary permits to repair or rebuild the structure.
- (5) Notwithstanding any other provisions of this chapter, appropriate access for people with disabilities to residential structures is allowed as a reasonable accommodation for any person(s) residing, or intending to reside, in the residential structure.
- (6) Notwithstanding any other provisions of this chapter, an accessory family dwelling unit in an owner-occupied, single-family residence shall be permitted as a reasonable accommodation only for family members with disabilities. The appearance of the structure shall remain that of a single-family residence, and there shall be an internal means of egress between the principal unit and the accessory family dwelling unit. If possible, no additional exterior entrances should be added. Where additional entrance is required, placement should generally be in the rear or side of the structure. When the structure is serviced by an individual sewage disposal system, the applicant shall have the existing or any new system approved by the Department of Environmental Management. The Zoning Enforcement Officer shall require that a declaration of the accessory family dwelling unit for the family member or members and its restrictions be recorded in the land evidence records and filed with the Zoning Enforcement Officer and the Building Official. Once the family member or members with disabilities no longer resides in the premises on a permanent basis or the title is transferred, the property owner shall notify the Zoning Official in writing, and the accessory family dwelling unit shall no longer be permitted, unless there is a subsequent valid application.
- (7) When used in this section, the terms "people with disabilities" or "member or members with disabilities" means a person(s) who has a physical or mental impairment which substantially limits one or more major life activities, as defined in R.I.G.L. § 34-37-3.
- (8) Notwithstanding any other provisions of this chapter, plant agriculture is a permitted use within all zoning districts, including all industrial and commercial zoning districts, except where prohibited for public health or safety reasons or the protection of wildlife habitat.
- B. The following uses shall be permitted as accessory uses in all zones and within the provisions of this chapter unless otherwise indicated:
 - (1) The keeping of household pets, as defined in § 260-6, for enjoyment associated with residential uses or animals kept for educational purposes (as with a museum, learning center, environmental facility, etc.).
 - (2) Licensed family day-care in the home.
 - (3) A temporary sales or promotion office in connection with adjacent construction. Such office may be located in a trailer. For these purposes, "temporary" is considered to be one year. Renewal of this allowance shall be made by application to the Building Official and shall be granted in accordance with the original terms upon demonstrated need by the applicant.
 - (4) The storage of building materials and equipment incidental to on-site construction.
 - (5) The storage and/or parking of inspected, registered vehicles, owned or used by a person residing on the premises, which are physically capable of being operated on a public roadway.
 - (6) The storage and/or parking of a maximum of one inspected, commercially registered vehicle

with a maximum capacity of two tons or gross vehicle weight of 10,000 pounds or less and which has no more than two axles, owned or used by a person residing on the premises, and which is physically capable of being operated on a public roadway. Storage of unregistered vehicles is not permitted.

- (7) The parking and storage of major recreation equipment, which includes travel trailers, pickup campers or coaches, motorized dwellings, tent trailers, boats, boat trailers and similar equipment, but does not include mobile homes or storage trailers, in residential districts must comply with the following regulations:
 - * (a) Not more than one travel trailer, pickup camper or coach, motorized dwelling, tent trailer or boat trailer may be parked or stored.
 - * (b) Not more than one boat or other watercraft may be stored.
 - * (c) No major recreation equipment, while parked or stored, shall be used for living, sleeping or housekeeping purposes.
 - * (d) Storage of major recreation equipment must meet all setback requirements for the district therein located.
 - * (e) No major recreation 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.
- C. (Reserved)
- D. Table 1: Table of Permitted Uses by Zone.
Editor's Note: Table 1, Table of Permitted Uses by Zone, is attached to this chapter.
- E. Table 2: Table of Dimensional Requirements by Zone.
Editor's Note: Table 2, Table of Dimensional Requirements by Zone, is attached to this chapter.

§ 260-10. Districts by Assessor's plats

[Amended 5-23-2005 by Ord. No. 754; 2-27-2006 by Ord. No. 761; 5-1-2006 by Ord. No. 763; 5-22-2006 by Ord. No. 766; 6-12-2006 by Ord. No. 768; 7-10-2006 by Ord. No. 770; 12-15-2008 by Ord. No. 796; 6-14-2010 by Ord. No. 805; 5-11-2015 by Ord. No. 842; 1-25-2016 by Ord. No. 848; 5-9-2016 by Ord. No. 854; 10-24-2016 by Ord. No. 859; 12-8-2025 by Ord. No. 930]

See the Table of Districts by Assessor's Plats and Digital Map Numbers.

Editor's Note: Said table is on file in the Town offices.

§ 260-10.1. Adaptive reuse projects

[Added 12-11-2023 by Ord. No. 920-B]

- A. Permitted use. Adaptive reuse for the conversion of any commercial building, including offices, schools, religious facilities, medical buildings, and malls into residential units or mixed-use developments is a permitted use, under the criteria described below under Subsection B, Eligibility.
- B. Eligibility.
 - (1) Adaptive reuse development must include at least 50% of existing gross floor area developed into residential units.
 - (2) There are no environmental land use restrictions recorded on the property preventing the conversion to residential use by RIDEM or the US EPA.
- C. Density calculations.
 - (1) For projects that meet the following criteria, the residential density shall be no less than 15 dwelling units per acre:
 - * (a) Where the project is limited to the existing footprint of where the project is limited to the existing footprint, except that the footprint is allowed to be expanded to accommodate upgrades related to the building fire code, and utility requirements.
 - * (b) The development includes at least 20% low- and moderate-income housing.

- * (c) The development has access to public sewer and water service or has access to adequate private water, such as well and/or wastewater treatment systems approved by the relevant state agency for the entire development as applicable.
- (2) For all other adaptive reuse projects, the residential density permitted in the converted structure shall be the maximum allowed that otherwise meets all standards of minimum housing and has access to public sewer and water services or has access to adequate private water, such as well and wastewater treatment systems approved by the relevant state agency for the entire development, as applicable.
- (3) The density proposed for any adaptive reuse project shall be determined to meet all public health and safety standards.
- D. Dimensional requirements.
 - (1) Notwithstanding any other provisions of this section, existing building setbacks shall remain and are considered legal nonconforming.
 - (2) No additional encroachments shall be permitted into any nonconforming setback unless relief is granted by the permitting authority.
 - (3) Notwithstanding other provisions of this section, the height of the structure shall be considered legal nonconforming if it exceeds the maximum height of the zoning district in which the structure is located.
 - * (a) Any rooftop construction necessary for building or fire code compliance, or utility infrastructure is included in the height exemption.
- E. Parking requirements.
 - (1) Adaptive reuse developments shall provide one parking space per dwelling unit. The applicant may propose additional parking in excess of one space per dwelling unit.
 - (2) The parking requirements and design standards in Article VI shall apply to all uses proposed as part of the project unless otherwise approved by the applicable authority. The number of parking spaces required shall apply for uses other than residential.
- F. Allowed uses within an adaptive reuse project.
 - (1) Residential dwelling units are a permitted use in an adaptive reuse project regardless of the zoning district in which the structure is located, in accordance with the provisions of this section.
 - (2) Any nonresidential uses proposed as part of an adaptive reuse project must comply with the provisions of 260 Attachment 1 - Table 1, Table of Permitted Uses by Zone, for the zoning district in which the structure is located.
- G. Development and design standards. Site design shall be in accordance with § A263-23, General provisions: physical design requirements, of the Development and Subdivision Review Regulations.
- H. Procedural requirements.
 - (1) Adaptive reuse projects shall be subject to the procedural requirements of the Development and Subdivision Review Regulations and undergo either minor or major land development as determined in that section.
 - (2) In addition to the checklist requirements for the applicable review process, the applicant shall provide the following information:
 - * (a) The proposed residential density and the square footage of nonresidential uses.
 - * (b) A floor plan to scale for each building indicating, as applicable, the use of floor space, number of units, number of bedrooms, and the square footage of each unit.

§ IV. Substandard Lots of Record

§ 260-11. Creation of substandard lots

No lot of record shall be reduced in area or subdivided so that yards, other open spaces, total area, and/or frontage shall be less than prescribed for the zone in which the lot is located.

§ 260-12. Existing substandard lots of record

[Amended 12-11-2023 by Ord. No. 920-C]

- A. Minimum lot size.
 - (1) A single substandard lot of record located in any zone may be used for permitted and accessory uses as allowed in the respective zoning district, provided that the parcel has a minimum of 35 feet of frontage on a public road and a minimum lot area equal to at least 3,500 square feet where municipal sewer is available.
 - (2) If a substandard lot does not have municipal sewers, the minimum lot area shall be at least 20,000 square feet and an approved individual sewage disposal system (ISDS) shall be required.
- B. Merger provision. If two or more contiguous substandard lots are under common ownership on or after the effective date of this chapter, such lots shall be considered to be an undivided parcel of land for the purpose of this chapter, and no single lot or portion thereof shall be used in violation of the requirements of this chapter as to lot lines and area.
 - (1) Merger prohibited for certain lots. The merger of lots shall not be required when the substandard lot of record has an area equal to or greater than the area of 50% of the lots within 200 feet of the subject lot, as confirmed by the Zoning Enforcement Officer.
- C. Notwithstanding the failure of a single substandard lot of record or contiguous lots of record to meet the dimensional and/or quantitative requirements of this Zoning Ordinance, and/or road frontage or other access requirements applicable to the district as stated in the Ordinance, a substandard lot of record shall not be required to seek any zoning relief based solely on the failure to meet minimum lot size requirements of the district in which such lot is located. The setback, frontage, and/or lot width requirements for a structure under this section shall be reduced and the maximum building coverage requirements shall be increased by the same proportion as the lot area of the substandard lot is to the minimum lot area requirement of the zoning district in which the lot is located. All proposals exceeding such reduced requirement shall proceed with a modification request under § 260-77.1 of the East Greenwich Zoning Ordinance or a dimensional variance request under Article XV of the East Greenwich Zoning Ordinance, whichever is applicable.

§ V. Nonconforming Development

§ 260-13. Purpose

- A. Nonconforming uses are incompatible with and detrimental to permitted uses in the zoning districts in which they are located, cause disruption of the comprehensive land use pattern of the Town, inhibit present and future development of nearby properties and confer upon their owners and uses a position of unfair advantage.
- B. It is a fundamental principle of this article that nonconformities may be continued until abandoned but shall not be increased and shall be reduced to conformity according to the fair interests of the parties involved.

§ 260-14. Nonconforming by dimension

- A. Any structure, building, sign or other improvement lawfully existing at the time of adoption or amendment of this chapter but which is nonconforming by dimension shall be permitted to continue in the same manner. If said legally nonconforming structure, building, sign or other improvement is intentionally destroyed, relocated or altered, it shall lose its nonconforming status. However, if such destruction, relocation or alteration is the result of fire or a natural catastrophe, the legal nonconforming improvement may be rebuilt in its previous configuration.
- B. Any extension, addition or enlargement of a nonconforming structure shall comply with the dimensional regulations and parking requirements of this chapter. Additionally, the whole structure must comply with the zone's maximum lot coverage requirement.

§ 260-15. Nonconforming by use

- A. Any use or activity lawfully existing at the time of adoption or amendment of this chapter but which is nonconforming by use shall be permitted to continue in the same manner until said use or

activity is abandoned, relocated or changed. Abandoned uses shall not be reestablished.

- B. Abandonment of a nonconforming use shall consist of either an owner's (or legal tenant's, if applicable) overt act or failure to act which demonstrates that there is neither a claim nor any interest in continuing the nonconforming use. If any nonconforming use is discontinued for a period of one year, the nonconforming use will be presumed to have been abandoned unless determined otherwise by the Zoning Enforcement Officer.
- C. A nonconforming use in any zone shall not be enlarged, expanded, intensified or changed from one nonconforming use to another nonconforming use.

§ 260-16. Change of use

[Amended 12-11-2023 by Ord. No. 920-D]

- A. A nonconforming residential use may change only to a use that conforms to the provisions of this chapter.
- B. A nonconforming agricultural, commercial or industrial use may be changed only to a use that conforms to the provisions of this chapter or to an equal or less intense use in the same category.

§ 260-17. Nuisances

The interpretation of this article shall not prohibit the regulation of nuisances.

§ VI. Off-Street Parking Regulations

§ 260-18. Purpose and intent

- A. The purpose of this article is to ensure that all structures and land uses are provided with off-street parking spaces that adequately meet the parking demands that are generated.
- B. Therefore, this article has been set forth with the intent of providing free movement of public and private traffic at all times, reducing congestion in the streets, permitting the efficient and safe passage of emergency vehicles, facilitating the maneuvering of public emergency equipment in the streets and on site, facilitating the removal and/or storage of snow, and for all related purposes.

§ 260-19. Applicability

- A. Existing structures and uses. Off-street parking spaces associated with any existing building or use shall be maintained so long as the existing building or use remains.
- B. Alterations, additions, changes of use. All new vehicular use areas, those altered or improved subsequent to the adoption of these regulations, and structures that are enlarged or whose use is changed such that an increase in required off-street parking results (per § 260-20, Table of Required Off-Street Parking Spaces) shall be subject to the provisions of this article and shall be required to submit a parking plan as described under § 260-21 of this article.
- C. Nonconforming parking.
 - (1) Where parking spaces are provided and maintained in connection with a building or use legally existing at the time this article became effective and are insufficient to meet the requirements for the use as now set forth by this article, such lots will be considered legally nonconforming.
 - (2) Where extensions, additions or enlargements to the building or use are contemplated, no such extension may be made unless the applicant can demonstrate compliance with the provisions of this article through the submission of a parking plan as detailed under § 260-21 of this article.
- D. Exemptions. Any property which provides at least 50% of the required parking for the building or use and is destroyed by fire or natural causes may be restored to its original use, provided that the floor area is not increased without conforming to the parking requirements of this article.

- E. (Reserved)

Editor's Note: Former Subsection E, regarding the suspension of parking requirements for a temporary expansion of a restaurant service, was temporarily added 7-13-2020 by Ord. No. 896 and temporarily renewed 11-23-2020 by Ord. No. 899. The provisions of the latter ordinance expired 5-31-2021.

§ 260-20. Required off-street parking spaces

[Amended 5-28-2019 by Ord. No. 881]

For every building or structure (or part thereof) constructed or converted or altered as defined in § 260-19 of this article, off-street parking shall be provided on the premises as tabulated in this section. All fractions of spaces shall be calculated as an entire parking space required. For the purpose of calculating the required number of spaces, net floor area shall be used.

Table of Required Off-Street Parking Spaces

Type of Use

RESIDENTIAL:

Dwelling units (single-family homes, duplexes, multifamily homes, etc.)

Housing for the elderly

Community residence/rooming house

Upper-story housing over first-floor commercial uses in the CD Zone

Assisted-living complex

Other residential uses not listed

PROFESSIONAL SERVICE AND BUSINESS:

Bank, financial institutions

Barbershops, beauty parlors

Dry cleaner, full-service laundries

Meeting hall, conference center

Funeral homes, mortuaries

Gas stations/automobile service stations (Such facilities must also comply with additional standards for convenience stores,

Hospital

Long-term health-care facility, including nursing homes and hospices

Offices, public and professional, services/administration

Medical offices, including dentist, doctor, chiropractor and veterinary offices and outpatient clinics

Self-serve laundries

Other professional services or business-oriented uses not listed

INSTITUTIONS, PUBLIC ASSEMBLY:

Museums

Day-care centers and private education centers

Houses of worship

Libraries

COMMERCIAL USES:

Auto sales (If service is also provided, additional standards as dictated under "gas/service stations" shall apply.)

Retail use in zone other than CD-1 Zone

Commercial use CD-1 Zone

Nurseries/plant material sales

Lumberyards

Hotels

Restaurants

Furniture stores

Shopping center use in the CH Zone

Wholesale commercial

Other commercial uses not listed outside the CD-1 Zone

INDUSTRIAL USES:

Light industries and research and development facilities

Warehousing and distribution facilities

Self-storage facilities

Breweries, craft distilleries, large distilleries and micro-distilleries

RECREATION AND LEISURE USES:

Billiard rooms (Ancillary uses, i.e., taverns, restaurants, etc., will require additional parking per the standards for each resp

Bowling alleys (Ancillary uses, i.e., taverns, restaurants, etc., will require additional parking per the standards for each resp

Fairgrounds

Golf courses

Golf facility

Health and fitness centers where not integrated into shopping center development

Riding and boarding stables

Gymnasium

Skating and roller rinks

Social and fraternal organizations

Swimming pools and water parks

Theaters/cinema

WATER-RELATED USES:

Boat launches

Boat repair/boat storage

Docking facilities

Marinas

Mooring repair facilities

Other recreation and leisure uses not listed

NOTE: All dimensions given in square feet are to be calculated based on total net floor area unless otherwise specified. Thi

§ 260-21. Parking plan; location, number and ownership of parking spaces

- A. Submission of parking plan.
 - (1) Designs and specifications for the required parking lot shall include, but not be limited to, information about the proposed parking spaces, access drives, circulation patterns, bicycle storage, dedicated areas for pedestrians, areas for snow storage, loading areas, landscaping and maintenance plans. All such plans and specifications shall be submitted at the time of application for a building permit for work described in § 260-19 of this article.
 - (2) Such plans shall be reviewed by the Building Official/Zoning Enforcement Officer and the Director of Planning or his/her designee to determine compliance with the provisions of this article.
- B. Location and ownership of parking spaces. Required off-street parking spaces shall be provided on the same lot or premises as the generating use which they are intended to serve or on a contiguous lot under the same ownership unless otherwise permitted by this article. Where parking spaces are not provided on premises or on a commonly owned contiguous parcel, parking may be provided on another lot located not more than 500 feet radially from the subject lot within the same or a less restrictive zoning district. The exclusive use of such parking must be dedicated to the use via lease or other agreement.
- C. Reduction of existing spaces. If a property owner wishes to reduce the number of existing parking on his/her lot such that the resulting number of parking spaces falls below the number required by this article, such reduction may be done only with approvals as prescribed elsewhere in this chapter.
- D. Parking spaces not counted toward meeting the requirement. No part of a minimum front yard setback or any land physically inaccessible for the actual parking of a car (because of structures or for any other reason) shall be used to satisfy the above off-street parking requirements.

§ 260-22. Parking lots in or near residential areas

Parking lots located in an R or F Zone, on a lot adjacent to an R or F Zone, or across the street from an R or F Zone, shall conform with the following: The area shall be paved and striped and provided with bumper guards where needed and a solid wall or opaque fence, not less than five feet nor more than seven feet in height, or a compact evergreen screen, not less than five feet in height, shall be erected and maintained between the parking area and the adjoining property or between such area and the street.

§ 260-23. Design standards

- A. Dimensional requirements.
 - (1) All commercial parking lots must be paved and striped. All parking spaces (except handicap spaces) shall have a minimum width of nine feet and a minimum length of 18 feet so as to accommodate a vehicle. In an RHF Zone, up to 25% of all parking spaces may have a minimum width of eight feet and a minimum length of 18 feet. Such spaces shall be clearly identified as for "compact, low-emission or fuel-efficient vehicles." Spaces for handicap use shall have a minimum width of 14 feet, which includes a designated transfer zone of at least five feet. Where parallel parking is provided, stall length shall not be less than 20 feet. The following minimum dimensions affecting the width of aisles shall apply in all districts, exclusive of necessary drive and access ways. These dimensions apply to one-way aisles only. For two-way aisles, the minimum width shall be 20 feet or the required width listed, whichever is greater:
[Amended 5-9-2011 by Ord. No. 814]

Parking Angle	Aisle Width (feet)
90°	25
80°	25
70°	20
60°	16
45°	13
30°	12
Parallel (0°)	12

- (2) Access driveways serving required parking lots as a direct access drive from a street shall not be less than 12 feet wide for one-way traffic and not more than 25 feet wide for two-way traffic.
- B. Exits. The parking lot shall be designed so that no vehicle exiting the lot shall be required to back out in reverse from the parking area into any sidewalk or street.
- C. Drainage, surfacing and curbs. All parking areas shall be improved and maintained to the standards of the Department of Public Works with regard to grading and drainage, surfacing, installation of bollards to protect utility or mechanical devices, and curbs, barriers and wheel stops.
- D. Lighting. All artificial lighting shall be arranged to reflect the light away from an adjoining property and adjacent streets so as to prevent glare onto other property. Lighting should be of an intensity to satisfy the minimum requirements of the American Society of Illuminating Engineers standards for parking lot security.

§ 260-24. Off-street storage and loading

- A. Loading areas. Loading areas shall be required to serve commercial, business and/or industrial uses throughout the Town in accordance with the following standards:
 - (1) For commercial and industrial uses of 1,000 square feet or greater of gross floor or ground area in which commodities are sold, displayed, serviced, repaired, altered or fabricated as the principal use of the enterprise, off-street loading spaces shall be provided. For the first 1,000 square feet of floor/area as described, one off-street loading space shall be required. Thereafter, one off-street loading space shall be required for every 5,000 square feet of gross floor area. Each space shall have a minimum length of 60 feet by a width of 14 feet with a clearance of 15 feet.

- (2) No loading space that is provided in an approved parking plan shall be eliminated, reduced, enlarged or converted unless equivalent facilities are provided elsewhere.
[Amended 5-22-2006 by Ord. No. 767]
- (3) All loading areas shall be surfaced and maintained in accordance with the standards of the Department of Public Works.
- (4) No part of a public right-of-way shall be used for loading except as permitted by the Town Council.
- (5) The Building Official shall have the right to require additional off-street loading spaces when deemed necessary to provide adequate area for off-street loading.
- B. Submission of loading facility plan. All commercial and industrial storage and loading structures constructed prior to the adoption of this chapter shall be considered lawfully conforming. For all new construction or changes of use, plans and specifications shall be submitted in conjunction with the overall parking plan as addressed in § 260-21A of this article.
- C. Screening storage and loading area. Where an open storage or outdoor loading area is located on a lot adjacent to an R or F Zone or across the street from an R or F Zone, a solid wall or opaque fence, not less than five feet in height, shall be erected and maintained between such area and the adjoining property or between such area and the street.

§ 260-25. Parking lot landscaping

- A. Applicability and general requirements.
 - (1) Parking lot landscaping required by this section is intended to promote the public health, safety and general welfare by providing minimum requirements for the installation and maintenance of landscaped areas in connection with parking lots and other vehicular use areas; to protect the character and stability of residential, business, institutional and industrial areas; to provide visual relief from expanses of unbroken blacktop and vehicles; and to conserve the value of land and buildings on surrounding properties and neighborhoods.
 - (2) Those parking lots as determined applicable under § 260-19B of this article shall comply with the following provisions set forth below in Subsection B. Single-family residential lots are exempted. For the relevant parking lots, a landscaping plan must be submitted which shows the following: a plant list specifying materials and numbers and sizes of plants; location and spacing of plants and ground covers. Additionally, the plan must show property and setback lines, existing and proposed structures, vehicle and pedestrian use areas and the location of proposed land alterations. The plan must also show the name of the person or agency who prepared the plan, and it must be approved by the Planning Director or his/her designee. Landscape installations must be completed within one year of plan approval.
- B. Amount of landscaping.
 - (1) For parking lots of greater than 10 parking spaces but less than 50, a minimum of 10% of the area designated for parking shall be landscaped per this section.
 - (2) For parking lots of 50 or more parking spaces but not exceeding 100 parking spaces, a minimum of 15% of the area designated for parking shall be landscaped per this section.
 - (3) For parking lots of greater than 100 parking spaces but less than or equal to 500 parking spaces, a minimum of 20% of the area designated for parking shall be landscaped per this section.
 - (4) For parking lots of greater than 500 parking spaces, a minimum of 25% of the area designated for parking shall be landscaped per this section.
 - (5) For parking lots of any size located within an RHF Zone, a minimum of 20% of the area designated for parking shall be landscaped per this section.
[Added 10-26-2004 by Ord. No. 750]
- C. Islands.
 - (1) Rows of parking spaces shall be provided a terminal island to protect parked vehicles, confine moving traffic to aisles and driveways, and provide space for landscaping.
 - (2) There shall be at least one tree planted for each 15 parking stalls. Such islands containing trees shall be at least six feet in width in parking facilities of 100 or fewer parking spaces. In facilities of greater than 100 parking spaces, tree-planted islands shall be at least 12 feet in width

and shall also be planted with a minimum of 10 shrubs that will grown between two and four feet in height.

- D. Required setbacks/buffers.
 - (1) No unenclosed parking area shall be allowed within five feet of a front lot line for lots of less than or equal to 50 parking spaces, within 10 feet of a front lot line for lots greater than 50 but less than 100 parking spaces, and within 25 feet of a front lot line for parking lots with 100 parking spaces or greater; except, however, in the Rocky Hill Fairgrounds (RHF) Zone, no unenclosed parking area shall be allowed within 20 feet of a front lot line that abuts a state or Town roadway. *[Amended 10-26-2004 by Ord. No. 750; 5-9-2011 by Ord. No. 814]*
 - (2) Parking lot side and rear setbacks shall meet the minimum setback requirements of Table 2. Setback areas shall serve as buffers between the parking lot and abutting properties and shall consist entirely of planting materials. Opaque fencing may be required to screen abutting properties from the effects of light and noise.
Editor's Note: Table 2 is attached to this chapter.
- E. Tree standards.
 - (1) Trees shall be provided within or around all parking facilities at the rate of one tree for each 2,000 square feet of gross paved lot area. Such trees may already exist on the site or may be cultivated and counted toward this requirement.
 - (2) At least half of the trees required shall be of a species characterized by moderate growth and expected to reach a mature height of greater than 30 feet.
 - (3) When planted, trees shall be a minimum of six feet in height in parking lots containing fewer than 50 parking spaces. In parking lots containing 50 or greater parking spaces, cultivated trees shall be a minimum of 10 feet in height when planted and shall have a trunk diameter of at least two inches at a height of four feet above grade.
 - (4) No one species may account for greater than half of all the trees planted within a parking lot.
 - (5) The planting standards in Appendix A of Chapter A263, Land Development and Subdivision Review Regulations, including the recommended varieties, shall apply to all projects regulated by this section.
- F. Maintenance. All parking plans as required by this article must include a maintenance plan or provisions that ensure compliance with the following:
 - (1) All plant growth in landscaped areas shall be controlled by pruning, trimming or other suitable methods so that plant materials do not interfere with public utilities, restrict pedestrian or vehicular access or otherwise constitute a traffic or safety hazard.
 - (2) All plantings shall be maintained in a manner so as to promote optimum growth of plant materials.
 - (3) All trees, shrubs, ground covers and other plant materials must be replaced if they die or become unhealthy because of accidents, drainage problems, disease or other causes. All such replacements shall conform to all standards that governed the original installation of plantings. Where no such standards exist, new plantings shall match the replaced materials in type, species and quantity.
 - (4) All plantings, surfacing, lighting, barriers, markings and other materials shall be repaired or replaced with new materials to ensure continued compliance with the provisions of this article. Failure to maintain these features shall be considered a violation of this chapter and shall be handled in conformance with Article XIII, Procedures for General Administration.
 - (5) All planting and maintenance plans as required by this article shall be recorded as a deed restriction on the subject property to ensure the long-term care of plantings.

§ VII. Signs

[Amended 9-24-2001 by Ord. No. 714; 2-27-2006 by Ord. No. 762; 5-22-2006 by Ord. No. 767; 4-9-2007 by Ord. No. 783; 11-8-2010 by Ord. No. 809; 4-14-2014 by Ord. No. 834]

§ 260-26. Authority; purpose; intent

- A. Authority for this article is granted under the Rhode Island Zoning Enabling Act, Title 45, Chapter 24. Additional authority for this article is granted by Rhode Island General Laws Title 24, Chapter 7, § 24-7-1 (Power of towns to establish and regulate sidewalks).
- B. The purpose of this article is to regulate the installation and/or replacement and/or alteration of signs for the purpose of providing information and advertising in an orderly, effective, legible, aesthetic and safe manner. Restrictions on number, type, location, size, material and illumination of signs protect the public from hazardous and distracting displays, protect property values, enhance the traditional qualities and characteristics of the Town, and create an attractive environment which is conducive to business, industry and tourism. The minimum criteria for review for signs regulated by the Historic District Commission shall be as described in the Historic District Commission's Guidelines for Review.

§ 260-27. Definitions; computations

- A. Definitions. Words and phrases used in this chapter shall have their plain and ordinary meaning unless otherwise specifically defined below or in Article XIII of this chapter. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this chapter.

ALTERATION, SIGN — Any change to the sign display.

ANIMATED SIGN — Any sign that uses movement or the visual impression of movement, sound or change of lighting to depict action or create a special effect and/or scene. Such signs include but are not limited to those that give the impression of flashing, running, blinking, oscillating, twinkling, scintillating, expanding or contracting.

AWNING — Any temporary or retractable covering or shelter which is supported entirely by the exterior wall of a building. (See also "canopy sign.")

AWNING SIGN — See "canopy sign."

BACK-LIT SIGN — See "internally illuminated sign."

BALLOON — Any object and/or sign filled with helium or other gas used to expand its shape and/or form.

BANNER — Any sign of fabric or similar material that is mounted to a pole, building or other structural support.

BILLBOARDS — Any off-premises sign exceeding 15 square feet in area.

BRACKET — The device used to attach and support a sign face to a building or freestanding structure.

BUILDING MARKER — Any sign indicating the name of a building and/or date and/or incidental information about its history or construction, which sign is incombustible material and is attached parallel to the surface of the building. Building markers may not exceed four square feet in area.

BULLETIN BOARD — A board or wall area on which bulletins, notices or displays are temporarily posted. Such signs may not exceed five square feet in area for public, charitable or religious institutions when located upon the premises of said institutions.

CANOPY — A roof-like projection or portico over a door, entrance, window or outdoor service area, including but not limited to industry-standard gas station roofs independent of an enclosed structure. Such projections shall provide at least eight-foot clearance to grade from the bottom edge of the canopy.

CANOPY SIGN — Any sign that is part of or attached to an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area. (A marquee is not a canopy sign.) Where canopy signs are permitted, they shall be allowed in lieu of wall signs. The maximum width of the area of sign display shall be 70% of the linear frontage associated with the business. The maximum height of the sign display shall be 36 inches. A canopy sign shall not be lit

from underneath or behind. A canopy sign shall provide at least eight-foot clearance to grade from the bottom edge of the canopy.

COMMERCIAL MESSAGE — Any sign wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

CONSTRUCTION SIGN — Any sign whose purpose is to display the name of the contractor and/or subcontractors employed on a work site and/or the consultants and/or financial institutions participating in the project. Such signs shall be either freestanding or attached to the structure and shall not exceed 12 square feet in residential zones or 30 square feet in all other zones. Such signs shall be temporary in nature and shall be removed upon completion of construction. Such signs shall not be erected until building permits for the relevant project are pulled. This definition does not include signs located on the premises of the general offices of a contractor.

DIRECTIONAL SIGN — Any sign whose purpose is to direct vehicles and/or pedestrians onto, around and off of a premises. Such signs shall be limited to four square feet in area including any attached corporate logos or other symbols. Such signs shall be limited to three feet in height from the top of the sign to grade. These signs may contain the name or logo of an establishment but no advertising copy. Such logos shall not comprise greater than 20% of the total sign area.

DIRECTORY SIGN — A sign which provides dedicated space for listings of two or more professional, service, business and/or commercial activities and is designed and constructed with provision to allow changes of occupancy to be reflected on the sign. One such sign shall be permitted per building, either as a wall directory sign or as a freestanding directory sign. Freestanding directory signs are permitted in lieu of individual freestanding signs and shall not exceed 15 feet in height or 60 square feet in sign area.

EXTERNALLY ILLUMINATED SIGN — Any sign whose light source is located outside of the sign. This includes, but is not limited to, spotlights.

FINANCING SIGN — See "construction sign."

FLAG — Any fabric or bunting containing distinctive colors, patterns, words and/or symbols. One flag shall be permitted for every 150 feet of frontage associated with the property, with a maximum of three flags permitted per business or residence. Flags attached to a building shall be displayed at a height where the lowest portion of flag material is a minimum of seven feet off the ground if hanging over a public right-of-way. Flags containing a commercial message or business name shall not exceed 12 square feet in area. Standing flags shall be allowed in existing flag holes in the sidewalk within the Commercial Downtown (CD) Zone without a minimum clearance restriction.

FLASHING SIGN — See "animated sign."

FREESTANDING SIGN — Any sign supported by a structural device or devices that is placed on or anchored into the ground and that is independent from any building. One freestanding sign shall be permitted per lot with a maximum visible sign area of 40 square feet. (See also Subsection B, Computations, for multifaced signs.) Where more than one business is located on a lot, up to three freestanding signs shall be permitted, provided that the total square footage of visible sign area does not exceed 40 square feet. A minimum sign clearance of eight feet is required between the grade and the base of the lowest part of the sign to ensure adequate site clearance for pedestrians and vehicles. Maximum sign height shall be 15 feet, and all such signs shall be set back a minimum of 10 feet from all lot lines. The area immediately underneath and around the base of the sign shall be landscaped per the landscaping requirements found in § 260-28G of this chapter.

GAS AND SERVICE STATION SIGNS — Signs necessary to the operation of filling and service stations, limited to the following:

- (1) Lettering on buildings displayed over individual entrance doors consisting of the words "washing," "lubrication," "repairing" and/or words of similar relevance, provided that there shall not

be more than one such sign centered over each entrance and that the sign area shall not exceed 12 inches in height.

- (2) Lettering or other insignia which are part of a gasoline pump, consisting only of a brand name, lead warning sign, price and other signs as required by law.
- (3) A credit card sign not exceeding one square foot in area, affixed to the building or window.
- (4) Other signs as permitted by this chapter.

GOVERNMENT SIGNS — Signs erected by or on behalf of the United States of America, the State of Rhode Island and the Town of East Greenwich, traffic controls, legal notices or other signs required by law, including all signs erected under the authority of the Town of East Greenwich. The Town shall have the ability to erect such signs without sign approval.

INTERNALLY ILLUMINATED SIGN — Any sign, exclusive of gas-filled signs, whose light source is located behind and/or within the sign itself or behind and/or within any individual element(s) of a sign.

INCIDENTAL SIGN — A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as "no parking," "loading zone," "open," "telephone" and other similar directives. Such signs shall not exceed six square feet in area and shall not count toward the maximum visible sign area as addressed in § 260-28A below.

LEGAL NONCONFORMING SIGN — (1) A sign which was erected legally prior to the enactment of this article; (2) a sign which does not conform to the sign code requirements, for which zoning relief has been granted through the Zoning Board of Review.

LOT FRONTAGE — Roadway frontage on a local access road. Frontage along limited access highways such as Routes 4 and 1-95 shall not be considered as lot frontage.

MONUMENT SIGN — Any sign whose base is in contact with or within one foot of the ground. Where permitted, only one monument sign shall be allowed per lot in lieu of a freestanding sign and shall have a maximum sign area of 50 square feet and shall be set back a minimum of 10 feet from all property lines. Maximum sign height shall be eight feet. The area immediately underneath and around the base of the sign shall be landscaped per the landscaping requirements found in § 260-28G of this chapter.

MOVING SIGN — Any sign moved by mechanical or natural means, such as wind.

MURALS — A picture or painting applied directly to a wall or roof of a structure, containing no written copy or text.

NAMEPLATE — Material on which a name and/or professional designation is inscribed or painted. Professional nameplates shall indicate a name and/or professional designation and/or affiliation and shall not exceed one square foot per professional occupant. Residential nameplates shall display the name and address of a resident and shall not exceed one square foot in area. All such nameplates shall be affixed either to a door, an adjacent wall of the premises, or a lamppost/mailbox.

NEON SIGN — An electronic sign illuminated by inert gas confined to a glass tube. Such signs may be classified as "window" signs or as "projecting" signs and must meet all definitions and requirements of those sign types as addressed in this article.

NONCONFORMING SIGN — Any sign that does not conform to the requirements of this chapter.

OFF-PREMISES SIGN — Any sign that is either a commercial off-premises sign or a noncommercial off-premises sign.

- (1) **COMMERCIAL OFF-PREMISES SIGN** Any sign advertising or calling attention to a business, product or service not sold, produced, manufactured, furnished or conducted at the property where the sign is located.
- (2) **NONCOMMERCIAL OFF-PREMISES SIGN** Any sign containing a noncommercial message about an event, position or point of view that is not in direct support of the primary use of the property where the sign is located. Noncommercial off-premises signs that also meet the definition

of a temporary sign shall be permitted in all zoning districts and may be of any type and size of sign allowed therein and shall be subject to the same requirements, restrictions and setback limitations applicable to other sign types in those zones. Noncommercial off-premises signs that do not meet the definition of a temporary sign are not allowed. Off-premises signs are prohibited from all public rights-of-way, municipal buildings and Town-owned property, and shall not be affixed to any traffic signs, utility poles nor to any trees located in public rights-of-way or on Town property.

PEDDLER'S SIGNS — Any wall sign or perpendicular sign which is a part of and affixed to a permitted peddler's vehicle.

PENNANT — Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire, string or line, usually in series, designed to move in the wind.

PORTABLE SIGN — Any mobile sign not permanently attached to the ground or permanent structure or a sign which may be transported, including, but not limited to, signs designed to be transported by means of wheels; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business. Sandwich board signs as described and regulated elsewhere in this chapter shall not be considered portable.

PRINCIPAL BUILDING — The building in which the principal use of the lot is conducted. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages and other clearly accessory uses shall not be considered principal buildings.

PROJECTING SIGN — Any sign affixed to a building or wall in such a manner that it extends more than 10 inches beyond the surface of such building or wall. Such signs shall be permitted in lieu of freestanding signs or monument signs. Only one projecting sign shall be permitted per business and shall be perpendicular to the wall to which it is attached, its nearest edge being no less than three inches and its furthest edge projecting no greater than 48 inches from the wall. The projecting sign shall have a maximum sign area of 10 square feet and its lowest edge shall be a minimum of eight feet from the ground.

REAL ESTATE SIGN — Any temporary sign advertising the real estate upon which the sign is located as being for rent, lease or sale. Residential real estate signs shall be permitted for individual residential properties and shall not exceed six square feet in area. Only one residential real estate sign per lot shall be permitted. Commercial and industrial real estate signs shall be permitted for industrial and commercial properties and shall not exceed 32 square feet in area. All residential, commercial and industrial signs shall be removed within two weeks of the sale or lease of the property or unit. Subdivision real estate signs shall be permitted for subdivisions of five or more lots. One common sign with a maximum sign area of 32 square feet per side shall be permitted in lieu of individual real estate signs and shall not be in place for greater than two years.

RESIDENTIAL SIGN — Any single-faced wall sign or freestanding sign in a residential zone, including, but not limited to, preservation plaques and bed-and-breakfast signs. Freestanding signs of this nature shall have an area not exceeding four square feet, shall be no greater than four feet in height overall, and shall be located a minimum of five feet from all property lines.

RESIDENTIAL ZONE USE SIGN — A wall sign or freestanding sign whose sign display is not to exceed 12 square feet and is used on premises for church, hospital, library, museum, art gallery or charitable purposes.

ROOF SIGN — Any sign erected over or on the roof of a building and which is supported by the roof structure.

SANDWICH BOARD SIGN — Any double-sided portable sign designed as an "A" or "T" frame, typically hinged or joined at one or more points. One such sign shall be permitted per business and shall be located so as to provide a public passage of a minimum of three feet on any public right-of-way. Each face of the double-sided sign shall not exceed six square feet in area. No driveways, doorways,

walkways or handicap ramps may be blocked by the sign. Sandwich board signs shall not be attached to any public structure or street furniture.

SEARCHLIGHT — Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

SEASON'S GREETINGS SIGN — Any temporary sign which promotes holiday greetings. Signs promoting businesses, products, services or sales do not constitute season's greetings.

SIGN — Any device, fixture, display, placard or structure that uses any color, form, graphic, illumination, symbol and/or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public. A wall sign shall consist of both a sign face and a bracket. A freestanding sign shall consist of the sign face(s), bracket(s), post(s) and frame. A monument sign shall consist of the sign face(s) and support base.

SUBDIVISION IDENTIFICATION SIGNS — One freestanding permanent sign may be installed at all exclusive entrances to a development. Each sign shall have a maximum sign area of 16 square feet. These signs shall not be located within the public right-of-way or on Town-owned or -controlled land.

TEMPORARY SIGN — Any sign not permanently installed or any sign only intended for use for a limited period of time. Such signs shall be permitted in all zoning districts and may be of any type and size of sign allowed therein and shall be subject to the same requirements, restrictions and setback limitations applicable to other sign types in those zones. Temporary signs are prohibited from all public rights-of-way, municipal buildings and Town-owned property, and shall not be affixed to any traffic signs, utility poles, nor to any trees located in public rights-of-way or on Town property. Such signs shall not remain in place for more than 120 days in any calendar year.

TOWN — Refers to all governmental entities of the Town of East Greenwich, including, but not limited to, Town municipal offices and the School Department.

TRADEMARK — Any trademark that is registered with the United States Patent Office under 15 U.S.C. § 1051.

WALL SIGN — Any sign attached parallel to but within 10 inches of a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure which is supported by such wall or building, and which displays only one sign surface and is supported by such wall or building. One such sign shall be permitted per business per building face with a maximum of three per business. The maximum width of the sign display shall not exceed 70% of the linear frontage associated with the business unit. In the CD-1 and CD-2 (Commercial Downtown 1 and 2) and W (Waterfront) Zones, such signs may be either a total of 30 square feet in area or a maximum of 36 inches in height and no greater than six inches from the wall. In the Route 2 corridor, MUPD (Mixed Use Planned Development), CH (Commercial Highway) and L1/O (Industrial) Zones, wall signs may either total 30 square feet in area or be a maximum of 48 inches in height and no greater than 10 inches from the wall. For businesses located within shopping centers having greater than 100,000 square feet of gross floor area, such signs shall not be limited in height or width but shall not exceed 30% of the building's facade associated with the business. This provision shall only apply to those businesses located within the main structure(s) and shall not apply to any other freestanding structures (i.e., pad sites, kiosks, outbuildings, etc.). All wall signs must directly advertise or promote the business, entity or enterprise located within the building or structure to which they are attached, painted or erected as described above. Any wall signs that do not directly advertise or promote said business, entity or enterprise are strictly prohibited.

WINDOW SIGN — Any sign that is placed inside a window, upon the window panes or glass, or within 12 inches of the window (exclusive of merchandise display). Permanent window signs may be applied to, painted on or attached to the inside of each window associated with a business. The area of such window signs shall be counted toward the maximum visible sign area as addressed by § 260-28A herein. Temporary interior signs advertising business openings, specials, sales, events and greetings shall be

permitted in accordance with the definition above of "temporary sign" for a period not to exceed 14 days.

- B. Computations. The following principles shall control the computation of sign area and sign height.
 - (1) Sign display. The sign display is a portion of the permitted sign area. The area of a sign display shall be computed by means of the smallest square or rectangle that will encompass the extreme limits of the writing, representation, emblem or other display.
 - (2) Sign area, single-faced signs. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed as the area of sign display together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed.
 - (3) Sign height. The height of a freestanding sign shall be computed as the distance from the base of the sign pole at normal grade to the top of the sign area. The height of a monument sign shall be computed as the distance from the base of the sign at normal grade to the top of the sign area. Normal grade shall be construed to be: a) the lower of existing grade prior to the construction; or b) the newly established grade after construction.

§ 260-28. General regulations

- A. Maximum sign area. The maximum visible sign area associated with any business, or any product or service available therein, shall not exceed 100 square feet for properties in the CD-1 or CD-2 and Waterfront Districts and shall not exceed 140 square feet for properties in the Route 2 corridor and the MUPD, RHF, CH and L1/O Zones. This provision applies to all sign types requiring approval, including wall signs, freestanding and projecting signs. Directional and incidental signage is not included. For businesses located within shopping centers having greater than 100,000 square feet of gross floor area, the maximum visible sign area shall not exceed 30% of the building's facade (building face providing primary ingress/egress) associated with the tenant space. No business in such shopping centers shall have greater than 300 square feet of visible sign area, taking into account all sign types excluding directional and incidental ones. This provision shall apply only to those businesses located within the main structure(s) and shall not apply to any other freestanding structures (i.e., pad sites, kiosks, outbuildings, etc.).
- B. Signs other than those affecting historic properties. The installation, enlargement, reduction or relocation of permitted signs in all zones are allowed as indicated in the Sign Table following approval and the issuance of a building permit from the Building Official unless otherwise indicated elsewhere in this article.
- C. Signs affecting historic properties. All new signs proposed on properties included in the Article XI, Historic Districts, either as part of a district or individually or on properties individually listed on the National Register of Historic Places, shall require sign approval from the Historic District Commission in addition to a building permit unless otherwise indicated elsewhere in this article. All requests shall be submitted for review as part of an overall sign proposal for the business and/or property.
- D. Changes to nonconforming signs. Enlargement or relocation of legal nonconforming signs requires additional approval from the Zoning Board of Review as described elsewhere in this chapter.
- E. Rhode Island Building Code. Within all zones and districts, all signs shall comply with applicable provision(s) of the Rhode island State Building Code and the National Electric Code.
- F. Sign maintenance. Within all zones and districts, all signs shall be maintained in good structural condition, in compliance with Subsection D and in conformance with this article (unless otherwise allowed through the Zoning Board of Review) at all times.
- G. Landscaping requirements. For the purposes of this article, "landscaping" shall include any combination of living plants such as grass, ground cover, shrubs, vines or hedges and nonliving landscape materials such as rocks, pebbles, sand mulch or decorative paving material. In the case of freestanding or monument signs, the requirement shall be that the area immediately underneath the sign and the entirety of an area extending two feet radially from the sign base or supports shall be landscaped. Landscape materials may not obstruct the view of the sign message.
- H. Illumination. Within all zones, except as provided elsewhere in this article, all signs may be

illuminated under the following criteria:

- (1) Internal illumination or backlighting of signs is prohibited in the Commercial Downtown (CD) and Waterfront (W) Districts.
- (2) Internal illumination or backlighting of signs is permitted in other zones only where any of the following exist:
 - * (a) The background is darker than the letters placed against it; or
 - * (b) The background is opaqued; or
 - * (c) The background is ivory or a similar shade to give the impression of opaquing.
- (3) Signs may be illuminated by a stationary white or off-white steady light only. These lights shall not provide glare, nor shall they direct light or shine off the premises.
- I. Alterations. Any legally existing sign (including legal nonconforming signs) may be altered either to update the sign content or to reflect new information, provided that the alteration does not result in any change in the sign's size, extent, location or illumination. Such updates do not require review or approval by the Historic District Commission or a sign permit.
- J. Criteria for review.
 - (1) All sign proposals shall be evaluated under the following guidelines:
 - * (a) Compliance with ordinances.
 - * (b) Clarity of design and message.
 - (2) In addition to the criteria listed in Subsection H(1) and (2), all proposals reviewed by the Historic District Commission shall conform with the Historic District Commission's Guidelines for Review.

Sign Table

KEY:

Y	=	Yes; signs permitted
N	=	No; signs prohibited
R	=	Residential and Farm Zones
LI/O-RHF	=	Light Industry/Office and Rocky Hill Fairgrounds Zones
Rte. 2	=	South County Trail
W	=	Waterfront Zone
CH	=	Commercial Highway Zone
CD	=	Commercial Downtown CD 1 and CD 2 Zones
RHF	=	Rocky Hill Fairgrounds Zone
MUPD	=	Mixed Use Planned Development
PD	=	Planned Development

Type	CD	CH	W	RTE. 2	LI/O-RHF-MUPD	R-PD
Addresses ₂	Y	Y	Y	Y	Y	Y
Animated signs	N	N	N	N	N	N
Banners	N	N	N	N	N	N
Billboards	N	N	N	N	N	N
Building markers ₂	Y	Y	Y	Y	Y	N
Canopy signs	Y	Y	Y	Y	N	N
Construction signs ₁	Y	Y	Y	Y	Y	Y
Directional signs ₂	Y	Y	Y	Y	Y	Y
Directory signs	Y	Y	Y	Y	N	N

Flags 2	Y	Y	Y	Y	Y	Y
Freestanding signs	Y	Y	Y	N	N	N
Gas station signs 1	Y	Y	Y	Y	Y	N
Government signs 1	Y	Y	Y	Y	Y	Y
Incidental sign	Y	Y	Y	Y	Y	N
Monument signs	Y	Y	Y	Y	Y	N
Moving signs	N	N	N	N	N	N
Murals 1	Y	Y	Y	Y	Y	Y
Neon signs	Y	Y	Y	Y	N	N
Nameplates 2						
Professional	Y	Y	Y	Y	Y	Y
Residential	Y	Y	Y	Y	Y	Y
Off-Premises Signs:						
Commercial	N	N	N	N	N	N
off-premises						
Noncommercial						
off-premises						
Temporary	Y	Y	Y	Y	Y	Y
Permanent	N	N	N	N	N	N
Peddler signs 2	Y	Y	Y	Y	Y	N
Portable signs	N	N	N	N	N	N
Private parking lot signs 2	Y	Y	Y	Y	Y	N
Projecting signs	Y	Y	Y	N	N	N
Real estate signs:						
Residential 1	Y	Y	Y	Y	Y	Y
Commercial/ industrial 1	Y	Y	Y	Y	Y	Y
Subdivision 1	N	N	N	Y	Y	Y
Residential signs 2	N	N	N	N	N	Y
Residential zone use signs	N	N	N	N	N	Y
Roof signs	N	N	N	N	N	N
Sandwich board signs 2	Y	Y	Y	Y	N	N
Subdivision identification signs 1	N	N	N	Y	Y	Y
Wall signs	Y	Y	Y	Y	Y	N
Window signs:						
Permanent signs 2	Y	Y	Y	N	N	N

NOTES:

¹ Sign approval not required.

² Sign approval and building permit not required.

- K. Town signs. Governmental signs authorized by the Town may be used for the display of private commercial messages with the approval of the Town Council. The commercial message display area may be for a business, product, service or other commercial activity that is not located on the same premises. The display area of the commercial message may be equal to but shall not exceed the display area of the governmental message.

§ 260-29. Prohibitions

For the purposes of regulating unauthorized signage, protecting the health, safety and welfare of residents, promoting the safety of the traveling public, protecting existing property values, preventing the overcrowding of land, encouraging positive economic development and promoting a positive community appearance as part of a concerted effort to protect and enhance the aesthetics of the Town for the enjoyment of all citizens, certain sign types are not allowed.

- A. It is recognized here that, unlike on-premises identification signs which are actually a part of a business being conducted at the property where the sign is located, "off-premises signage" is a separate and distinct use which is unrelated to the business, product or service being conducted at the property where the sign is located. With a view to this distinction, and in furtherance of the above-stated goals, off-premises signs are regulated differently from on-premises signs.
- B. In addition to the signs described as prohibited under the Sign Table in § 260-28J, the following signs and sign materials are also expressly prohibited by this article:
 - (1) Types of signs prohibited.
 - * (a) Signs which advertise an activity, business, product or service no longer produced or conducted on the premises upon which the sign is located. No such sign shall remain in place in or on vacated premises for more than 90 days from the date the vacancy commenced.
 - * (b) Signs which are attached to natural features, stone walls, utility poles, utility boxes, traffic signs, fences or highway structures.
 - * (c) Signs attached to or placed on or against trailers or vehicles, whether registered or unregistered. This does not include signs adhered or painted onto vehicles.
 - * (d) Signs in the public right-of-way, except for those installed by the government.
 - * (e) Signs which imitate and may be confused with an official traffic control sign or signal, or an emergency or road equipment vehicle.
 - * (f) All other signs which have not been expressly permitted within this article.
 - * (g) All existing signs erected without the necessary approvals and/or permits.
 - * (h) Commercial off-premises signs including billboards.
 - (2) Additional signs prohibited. The total number of permitted exterior signs at any business shall not exceed four. This number shall include any combination of wall signs, freestanding signs, monument signs, projecting signs, canopy signs, marquee signs, and sandwich board signs.
 - (3) Prohibited materials:
 - * (a) Pennants, ribbons, streamers, spinners, other moving devices.
 - * (b) Internal illumination or backlighting of signs is prohibited in the Commercial Downtown CD and Waterfront W Zones. Internal illumination or backlighting of signs in all other zones is prohibited, except as permitted § 260-28H of this chapter.

§ 260-30. Nonconforming signs

- A. A sign shall immediately lose its legal nonconforming status when:
 - (1) The sign is enlarged or reduced without approvals. (See also §§ 260-28 and 260-29 of this chapter.)
 - (2) The sign is relocated without approvals. [See § 260-29B(1).]

- (3) The sign advertises or calls attention to any products, businesses or activities which have not been carried on or sold at the premises for the past 90 days.
- (4) The sign shall not have been repaired or properly maintained within 30 days after written notice to that effect has been given by the Building Official and/or Director of Planning, or their designees.
- (5) The sign is removed and replaced with another nonconforming sign, regardless of its size.
- B. A sign shall not lose its legal nonconforming status when:
 - (1) A wall sign is removed for construction, painting and/or restoration of the building, provided that the sign is returned to its location within 30 days of completion of the building work.
 - (2) The sign is removed to facilitate repair, maintenance and/or repainting and replaced immediately upon completion of such work.
- C. No sign that had been erected in violation of any previously existing sign ordinance shall, by virtue of adoption of this article, become legal nonconforming.

§ 260-31. Indemnification of Town

Any permit granted or permission given pursuant to this article shall be upon the express condition that the permittee and/or grantee and every owner, person or entity maintaining any such sign shall be liable for and save the Town harmless from and indemnify said Town against any and all liability, costs and expenses incurred and any damages sustained by persons or property caused by the construction, existence or maintenance of any such sign.

§ 260-32. Administration and enforcement

- A. A permit may be required from the Building Department prior to erecting, (re)placing, (re)building, (re)constructing, or (re)locating any sign. A permit is not necessary for sign repair and maintenance, provided that the work is done in conformity with this article.
 - B. Application(s) for a sign permit(s) shall be accompanied by a sketch plan of the site and elevation drawings of the proposed sign, caption of the proposed sign, and such other data as is pertinent to the application and consistent with this article, as determined by the Building Official.
 - C. Any newly installed sign found to be in violation of these regulations is subject to removal by the Town of East Greenwich and/or other penalties consistent with § 260-79B of this chapter, specifically.
 - (1) Where the ZEO determines a violation to have occurred, the ZEO shall have the authority to issue an injunction and an order to restore the property to its previolation state.
 - (2) The ZEO shall also require the payment of a penalty fee for such violation. Each day any violation of any provision of this chapter (including the failure to perform any act or duty required by this chapter) continues shall constitute a separate offense. Penalties shall be as set forth in § 260-79, Violations and penalties.
- Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. IV).*

§ VIII. Planned Development and Mixed Use Planned Development Overlay

§ 260-33. Purpose and intent

The purpose of this article is to govern the erection, design, use and reuse of buildings and land approved as either Planned Developments (PD) or as Mixed Use Planned Developments (MUPD). These districts are intended to provide the following:

- A. Planned development: a designation which allows for residential land uses through environmentally sensitive design. It would provide for residential development on a single parcel (as in a townhouse design, etc.).
- B. Mixed use planned development: a designation which allows for multiple uses on one parcel. It is offered as a development option as an encouragement to construct and develop low-density commercial

(retail and/or office) uses so as to offset the tax burden of higher density residential units. Low- and moderate-income residential units would be particularly encouraged in an MUPD.

§ 260-34. Applicability

- A. Designation of either of these districts requires an amendment to this chapter and Zoning Map for the Town of East Greenwich. These districts may be allowed where general impacts and environmental constraints are minimal and there is a proper fit with existing uses.
- B. Development of a parcel under either of these use designations additionally requires approval under the tenets of Chapter A263, Development and Subdivision Review Regulations.
- C. The standards of this article shall also be applied to projects that are developed in phases.

§ 260-35. Permitted uses

- A. The following are permitted uses within the PD Zone:
 - (1) Single-family attached dwellings, including, but not limited to, duplexes and quadraplexes.
 - (2) Off-street parking.
 - (3) Signs (as provided for in Article VII).
- B. The following are permitted uses within the MUPD Zone:
 - (1) Single-family attached dwellings.
 - (2) Multifamily dwellings and duplexes.
 - (3) Offices.
 - (4) Health and fitness facilities.
 - (5) Medical walk-in facilities/outpatient care.
 - (6) Day care, day-care centers.
 - (7) Off-street parking.
 - (8) Signs (as provided for in Article VII).
 - (9) Assisted living and long-term health care.

§ 260-36. Accessory uses

- A. The following uses are permitted as accessory uses to legally existing principal uses in both the PD and the MUPD Zones:
 - (1) The keeping of household pets for residential or educational uses.
 - (2) Family day-care in the home.
 - (3) A temporary sales or promotion office in connection with adjacent construction. Such office may be located in a trailer. "Temporary" is considered to be one year, but renewal for good cause may be allowed with application to the Building Official.
 - (4) Storage of building materials and equipment incidental to on-site construction.
 - (5) Storage of inspected, registered vehicles, owned or used by a person residing on the premises, which are physically capable of being operated on a public roadway.
 - (6) Storage of a maximum of one inspected, commercially registered vehicle, owned or used by a person residing on the premises, that has a maximum of one-ton capacity, which is physically capable of being operated on a public roadway. Storage of unregistered vehicles shall not be permitted.
 - (7) In-law apartments.
 - (8) Bed-and-breakfasts by special use permit only.

§ 260-37. General requirements

- A. The following requirements shall apply to both the PD and MUPD Zones:
 - (1) No accessory structure, swimming pool and/or tennis court shall be located in any part of the required front and side setbacks.
 - (2) Proposals for planned developments and mixed use planned developments are required to follow review procedure spelled out in Chapter A263, Development and Subdivision Review Regulations.

- (3) Planned developments and mixed use planned developments are required to participate in any impact program required for such uses.
- (4) All such developments shall be serviced by Town sewer and public water.
- (5) All such developments shall be oriented to the Town's principal arterials.
- (6) All roads within a PD and MUPD shall be constructed to the Town's standards and may be dedicated as public streets.
- (7) The total number of residential dwelling units to be permitted shall be computed by using the following formula:

$$D = (GA - NA) / UZ$$

D	=	Density (maximum number of residential units, this number shall be rounded to the nearest whole number to
GA	=	Gross acreage (gross area of the proposed development in acres and tenths of acres)
NA	=	Not Allowed (the area, in acres and tenths of acres, of all wetlands or other natural areas protected under this
UZ	=	Underlying Zone (gross development density in units per acre permitted in the underlying zoning district)

- (8) A minimum of 30% common open space shall be provided. Common open space shall comply with the following criteria:
 - * (a) Wetland areas, as delineated by the state, shall not be counted toward the 30% required open space. Perimeter wetlands may be included to meet this requirement;
 - * (b) Up to 20% of the common open space may be devoted to paved areas or structures used to provide recreational or cultural facilities for residents of the development, consistent with the intended use of the common open space and approved by the Planning Board;
 - * (c) The location, size and shape of common open space shall be reviewed and approved by the Planning Board. Strips of common open space are not permitted unless they provide access to a larger portion of common open space, serve as natural drainage areas, or serve as buffers;
 - * (d) Access to common open space shall be provided to every owner of the common open space; access points shall be marked by stone bounds to distinguish between the edge of the access and private property;
 - * (e) Land which has suffered environmental damage, either on the surface or below the surface, prior to the final approval of the planned development by the Planning Board, shall not be counted toward common open space requirements; should the land be restored to a condition acceptable to the Planning Board, this condition may be waived;
 - * (f) The developer shall provide for the permanent preservation and maintenance of the common open space by, at the option of the Planning Board, either conveying the same to the Town for use by it for park, open space, agricultural or other specified use or uses, or by conveying the same to a nonprofit organization the principal purpose of which is the conservation of open space, or by conveying the same to a corporation or trust owned or to be owned by the owners of the units within the planned development. If such a corporation or trust is used, ownership shall pass with conveyance of the lots or units. In any case, where the land is not conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that the land shall be kept in the authorized condition and not be built upon or developed for accessory uses such as parking or roadway.
- B. The following requirements shall apply to the Planned Development District:
 - (1) The density within the development shall not exceed that otherwise permitted in the underlying district.
- C. The following requirements shall apply to the Mixed Use Planned Development District:
 - (1) A maximum of six units may be permitted per acre, provided at least 10% of the total residential units within the development are affordable, based on HUD guidelines. Density shall be determined based on the land used for residential purposes.
 - (2) Assisted living facility.
 - * (a) Except for the development of an assisted living facility together with any complementary or accessory use consistent with this section, but excluding any additional commercial development on site, the district shall apply only to parcels where both residential and commercial

development are provided. Total commercial development shall not constitute greater than 50% and less than 25% of the total gross floor area of the development overall.

- * (b) The maximum to number of units to be permitted in an assisted living development shall not exceed one bedroom, or other space designed or allocated for sleeping purposes such as a studio or efficiency apartment, for each 4,000 square feet of land area for the given site.
- * (c) The Town Council may permit the density of an assisted living development to be increased to one bedroom, or other space designed or allocated for sleeping purposes such as a studio or efficiency apartment, for each 2,700 square feet of land area when it is determined that the increase will serve the public welfare by the inclusion of an increase of the following amenities:
 - [1] An increase in internal space for the purposes of recreation, art and education or other enrichment purposes compatible with the intended occupancy;
 - [2] An increase in open space for garden plots or passive recreation for the intended occupants or the dedication of open space for general public use; and
 - [3] Provision of increased landscaping within the setbacks and around the buildings and parking areas.

§ 260-38. Procedure for filing applications

All applications for either PDs or MUPDs made under the provisions of this chapter shall be filed per the requirements of Chapter A263, Development and Subdivision Review Regulations.

§ IX. Cluster Subdivisions

§ 260-39. Purpose and intent

The purpose of this article is to regulate the establishment of single-family detached cluster subdivisions while maintaining the rural, natural and scenic character of the Town of East Greenwich. These regulations have been designed to achieve the following purposes and objectives so as to contribute to the safety, health and welfare of the residents of East Greenwich:

- A. To promote the efficient and economical use of land in harmony with its natural features and surrounding areas.
- B. To encourage the preservation of valuable open space and protection of the water supply, water bodies, wetlands, floodplains, agricultural lands, wildlife and other natural resources.
- C. To promote diverse and efficient housing through creative and environmentally responsible site design.
- D. To preserve the rural, natural and scenic character of the Town through the protection of site amenities, natural and cultural features and historic resources.

§ 260-40. Applicability

- A. This article may be applicable to any single-family housing development located in any residential zone throughout the Town.
- B. Compliance with the requirements as described herein shall not be construed to relieve the applicant of any obligations to obtain additional local, state or federal permits.

§ 260-41. Permitted uses

The following are permitted uses within a cluster development:

- A. Any use permitted in the underlying zone.
- B. Single-family detached dwelling structures.
- C. Accessory uses to residential dwellings as permitted in the underlying zone.
- D. Maintenance, storage and utility buildings accessory to single-family dwellings or to noncommercial recreational uses approved as part of the cluster subdivision.

- E. Parking areas designed specifically to accommodate residents of the cluster subdivision.
- F. Noncommercial recreational uses subject to the provisions set forth in Chapter A263, Development and Subdivision Review Regulations.
- G. Agriculture, horticulture and silviculture, and any accessory uses or structures appurtenant thereto.

§ 260-42. Open space requirements

- A. The cluster development shall have a minimum of 30% common open space, exclusive of utility easements, roads, parcels in individual ownership and wetlands.
- B. Open space shall comply with the criteria for common open space under § 260-43D of this article.

§ 260-43. Minimum requirements

- A. Density requirements.
 - (1) The total number of residential dwelling units to be permitted on any site proposed for a cluster development shall be computed by using the following formula:

$$D = (GA - NA) / UZ$$

D = Density: permissible number of residential lots. This number shall be rounded to the nearest whole number to

GA = Gross acreage: gross area of the proposed subdivision in acres and tenths of acres.

NA = Not Allowed: The area, in acres and tenths of acres, of all wetlands or other natural area protected under this

UZ = Underlying Zone: gross development density in units per acre permitted in the underlying zoning district.

- (2) The total number of lots in a cluster shall not exceed the total otherwise attainable in a conventional development
- B. Dimensional requirements.
 - (1) The following table sets forth the minimum lot requirements under the cluster development regulations:

Dimensional Regulations for Cluster Subdivisions¹

Underlying Zone	Minimum Lot Area (square feet)	Minimum Frontage ² (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)
F-2	43,560	150	50	30	45
F-1	30,000	150	40	30	40
F	30,000	150	40	30	40
R-30	20,000	125	35	25	35
R-20	10,000	100	30	15	30
R-10	6,000	60	10	10	20
R-6	4,000	65	10	10	20

NOTES:

¹ Allowable lot coverage and maximum structure heights are the same as noted in the underlying zoning designation under

² Lots fronting on a cul-de-sac shall have a minimum frontage of 60 feet.

- C. Design guidelines and requirements.
 - (1) Preserve and maintain existing fields, pastures and other land for agricultural use wherever possible.
 - (2) Maintain or create a vegetated buffer between the cluster subdivision and any abutting use.
 - (3) Preserve unblocked or uninterrupted scenic views and vistas, particularly as seen from public roads or scenic roads.
 - (4) Protect habitat areas of endangered or threatened species.

- (5) Preserve historic and/or archaeological sites and their environs insofar as needed in order to protect the historic character of the site.
- (6) Maintain the visual integrity of hilltops and ridgelines by siting development so that building silhouettes will be below the hilltop or ridgeline; if the area is heavily wooded, the buildings' silhouettes shall be lower than the average canopy height of trees on the ridge or hill.
- (7) Retain and preserve field stone walls wherever possible and minimize cuts into the walls. If removal is necessary, a matching length of dry stone wall or hidden mortar wall shall be rebuilt on the site.
- (8) Retain or replace old growth trees per Chapter A263, Development and Subdivision Review Regulations.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. IV).

- D. Common open space criteria.

- (1) Up to 20% of the common open space may be devoted to paved areas or structures used to provide recreational or cultural facilities for the residents of the cluster development consistent with the intended use of the common open space.
- (2) Wetland areas as delineated by the State of Rhode Island shall not be counted toward the 30% required open space for cluster developments. Wetland buffers may be included to meet this requirement.
- (3) The location, size and shape of common open space shall be reviewed and approved by the Planning Board. Strips of common open space are not permitted unless they provide access to a large portion of common open space, serve as natural drainage areas, or serve as buffers.
- (4) Access to common open space shall be provided to every owner of the common open space. Access points shall be marked by stone bounds to distinguish between the edge of the access and private property.
- (5) Land which has suffered environmental damage, either on the surface or below the surface, prior to the final approval of the cluster development by the Board shall not be counted toward common open space requirements. Should the land be restored to a condition acceptable to the Planning Board, this condition may be waived upon approval by the Zoning Board of Review.
- (6) As per the requirements of Chapter A263, Development and Subdivision Review Regulations, a conveyance of land or fee may be accepted by the Town to meet anticipated recreational needs generated by the cluster development proposal. In the event that land is conveyed, such area shall not be counted toward meeting the requirements for common open space under this article.
- (7) The developer shall, by appropriate legal instrument, provide for the permanent preservation and maintenance of the common open space within the development per the requirements of the Subdivision Regulations.

Editor's Note: See Ch. A263, Development and Subdivision Review Regulations.

- E. Streets.

- (1) All streets within a cluster subdivision shall be improved in accordance with the requirements and specifications set forth in Chapter A263, Development and Subdivision Review Regulations.
- (2) All streets within cluster developments shall be dedicated to the Town of East Greenwich as public roads.

§ 260-44. Filing of applications

All applications for cluster developments made under the provisions of this chapter shall be filed and reviewed in accordance with the requirements of Chapter A263, Development and Subdivision Review Regulations.

§ X. Aquifer/Wellhead Regulations

§ 260-45. (Reserved)

§ 260-46. (Reserved)

§ 260-47. (Reserved)

§ 260-48. (Reserved)

§ 260-49. (Reserved)

§ 260-50. (Reserved)

§ 260-51. (Reserved)

§ 260-52. (Reserved)

§ 260-53. (Reserved)

§ 260-54. (Reserved)

§ XI. Historic Districts

[Amended 2-11-2008 by Ord. No. 787]

§ 260-55. Purpose and intent

The purpose of this article is to regulate construction, alteration, repair, removal or demolition of historic properties and stone walls through an overlay zone so as to maintain the historic character of the Town of East Greenwich. These regulations have been designed to achieve the following purposes and objectives:

- A. To preserve historic districts, outlying properties and stone walls which define and reflect elements of the Town's cultural, social, economic, political and architectural history.
- B. To protect and improve property values within designated historic districts of designated outlying properties and of scenic roads.
- C. To enhance the traditional qualities and characteristics of the Town and create an attractive environment which is conducive to residential, commercial and industrial uses and tourism.
- D. To strengthen the local economy by promoting the use of such districts and outlying properties for the pleasure, education and welfare of the residents of East Greenwich.

§ 260-56. Authority

This chapter is adopted in accordance with the provisions of Rhode Island General Laws, Chapter 45-24.1, Historic Enabling Act, as may be amended.

Editor's Note: See R.I.G.L. § 45-24.1-1 et seq., Historical Area Zoning.

§ 260-57. Definitions

Words and phrases used in this article shall have their plain and ordinary meaning unless otherwise specifically defined in this section or in Article XII of this chapter. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this article.

ACCESSORIES — Features other than primary structures which contribute to the exterior appearance of a property, including but not limited to signage, doors, windows, materials, decorative features, fences and trim detail, whether or not a building permit is required for the alteration. Landscape features considered as accessories shall be limited to stone walls.

ALTERATION — Any act that changes one or more of the architectural features or its accessories, including but not limited to the erection, installation, construction, reconstruction, relocation or removal of any structure/accessory.

APPROPRIATE — For the purpose of this article and the certificate of appropriateness, the term "appropriate" shall mean not incompatible with those aspects deemed by the Commission as historically, architecturally or archaeologically significant for the structure, accessories, stone walls, neighborhood or district in which the review is made.

CERTIFICATE OF APPROPRIATENESS — A certificate issued by the East Greenwich Historic District Commission as established under this article indicating approval of an application for an alteration, construction, repair, removal or demolition of a structure or accessories of a structure within a historic district or an outlying property as identified under this article. Also referred to as "certificate."

COMMISSION — The East Greenwich Historic District Commission as established under the provisions of the Charter, Part 4, Administration, and the Code of Ordinances of the Town of East Greenwich.

CONSTRUCTION — The act of adding to an existing structure, erecting a new structure or adding accessories onto a structure, including but not limited to buildings, extensions, outbuildings and fire escapes.

DEMOLITION — An act or process that destroys a structure and/or its accessories in whole or in part.

HISTORIC DISTRICT — Specific divisions of the Town of East Greenwich as designated by this article which shall act as overlay zones. A historic district may include one or more structures.

RELOCATION — The moving of an established structure from one site or area to another.

REMOVAL — The act of elimination as a means of remedying damage or deterioration of a structure and/or its accessories.

REPAIR — The act of altering as a means of remedying damage or deterioration of a structure and/or its accessories.

REPLACEMENT-IN-KIND — Any repair work in which old materials are removed and exactly the same materials are used in its place (i.e., asphalt shingle roofing is removed and re-laid with new asphalt shingles).

STREET OBJECT — Any object erected or placed in a public way or sidewalk on a temporary or permanent basis. Authorized public safety/public welfare street objects include, but are not limited to, such structures as street lights, traffic lights, U.S. Post Office mailboxes, fire hydrants, utility poles, street trees and municipal trash receptacles.

STRUCTURE — That which is constructed or erected and requires a building permit, the use of which requires permanent or temporary location on or in the ground, to be limited to buildings, gazebos, pergolas, outbuildings, porches, decks and fences.

§ 260-58. Designation of historic districts and outlying properties

- A. For the purposes of this article, the boundaries of historic districts are established as shown on a map entitled "East Greenwich Historic District Map," which is filed in the office of the Town Clerk. This map, and any recorded amendments to the map, are hereby incorporated as a part of this article.
 - (1) The East Greenwich Historic District is bounded and described as follows: Beginning at the intersection of the center lines of West Street and Division Street, thence easterly along the center line of Division Street to the high-water mark of Greenwich Cove, so-called; thence turning and running generally southerly and southwesterly along the high-water mark of said Greenwich Cove to a point, said point being located on the high-water mark of said Greenwich Cove and also being the point at the easterly end of the center line of Crompton Avenue; thence turning and running generally northeasterly along the center line of Crompton Avenue to the intersection of the center line of Rocky Hollow Road; thence turning and running generally westerly along the center line of Rocky Hollow Road to the intersection of the center line of Main Street and the extensions of the center lines of Rocky Hollow Road and First Avenue; thence continuing generally westerly

along the center line of First Avenue to the intersection of the center line of First Avenue and the extension of the center line of Reynolds Street; thence turning and running generally northerly along the center lines of Reynolds Street and Spring Street; thence turning and running generally westerly along the center line of Spring Street to the intersection of the center lines of Spring Street and West Street; thence turning and running generally northerly along the center line of West Street to the center line of Division Street, being the point and place of beginning, together with all the lots or parcels of land located as follows:

- * (a) All lots or parcels of land on the south side of and abutting Rocky Hollow Road.
 - * (b) All lots or parcels of land on the south side of and abutting Crompton Avenue.
 - * (c) All lots or parcels of land on the south side of and abutting First Avenue, between Main Street and the south extension of the center line of Reynolds Street. Any parcel bisected by this line is considered outside the boundaries of the Historic District.
 - * (d) All lots or parcels of land on the west side of and abutting Reynolds Street, between First Avenue and Spring Street.
 - * (e) All lots or parcels of land on the south side of and abutting Spring Street between Reynolds Street and West Street.
 - * (f) All lots or parcels of land on the west side of and abutting West Street, between Spring Street and Division Street.
 - * (g) All lots or parcels of land on the south side of and abutting Division Street, between West Street and Kenyon Avenue.
- (2) The Tillinghast Road Historic District is bounded and described as follows: Beginning at the northeast corner of the district the boundary follows the north and east lot lines of Plat 16C Lot 18, runs due south across Frenchtown Road to the north bound of Plat 18B Lot 1; thence east and south on the north and east bounds of said lot to the southeast corner; thence east and southeast across the southern tail of Plat 18B Lot 42 to the southeast corner of said lot; then following the bounds of Lot 42 north and east to the northwest corner of Plat 18B Lot 133; thence south and east along the west and south bounds of Lot 133 to the southwest corner of Plat 18B Lot 132; thence east and north along the south and east bounds of Lot 132 to its northeast corner; thence east along the south bound of Plat 18B Lot 181 to its southeast corner; thence south along the east bound of Plat 18B Lot 13 to its southeast corner. From that point running east along the southern bound of Lot 13 to the eastern edge of Tillinghast Road; thence southerly along the eastern edge of Tillinghast Road along the western bounds of Lots 106, 107, 108 and 109 to the northwest corner of Plat 18E Lot 15; then east along the north bound of Lot 15 to the northeast corner of said lot; thence south along the eastern bound of Lot 15 approximately 1,540 feet to the southeast corner of said lot; thence west along the south bound of Lot 15 a distance of 1,277 feet plus; thence turning south a distance of approximately 470 feet to the north edge of South Road; thence west along the north edge of South Road a distance of approximately 180 feet to the eastern edge of Tillinghast Road; thence north on the east side of the road to a point opposite the southeast corner of Plat 19B Lot 138; thence west on the south bound of Plat 19B Lot 138; thence north to the northwest bound of said lot; thence northeast across Plat 19B Lot 38 to meet the southwest corner of Plat 19B Lot 137; thence north on the west bound of Lot 137 and following north in the same line across Plat 19B Lot 38 to meet the southwest corner of Plat 19B Lot 127; thence north on the west bounds of Lot 127 and 128 to Plat 19B Lot 37; thence west and north on the south and west bounds of Lot 37 to the southwest corner of Plat 19C Lot 72; thence north to the southwest corner of Plat 19C Lot 32; thence east and north following the bounds of Plat 19C Lot 72 to the southwest corner of Plat 19C Lot 71; thence north along the western bounds of Lots 71 and 68 to Frenchtown Road. Thence easterly along the southern edge of Frenchtown Road to a point approximately 300 feet west of Tillinghast Road; thence northerly across Frenchtown Road and straight north across Plat 15J Lot 66 to the southwest corner of Plat 15J Lot 409; thence north along the west bound of Lot 409 and east along its north bound to the southwest corner of Plat 15J Lot 501; thence north along the western bound of Lot 501 to the northwest corner of said lot; thence east along the north bound of Lot 501 approximately 91 feet to a point 80 feet west of Tillinghast Road; thence north across Plat 15J Lot 13 to the south bound of Plat 15J Lot 63; thence east along the south bound of Lot 63 to the western edge of Tillinghast Road. Then south

along the west edge of Tillinghast Road about 480 feet to a point opposite the northwest corner of Plat 16C Lot 18; thence east across Tillinghast Road to that corner, the point of beginning, including all lots or parcels as noted below:

- * (a) Plat 15J, Lots 409 and 501 in total and portions of Lots 13 and 66; Plat 16C, Lot 18 in total; Plat 18B, Lots 1 and 13; Plat 18E, Lot 15; Plat 19B, Lots 37, 127, 128, 137 and 138 in total and a portion of Lot 38; Plat 19C, Lots 37, 72, 66, 68, 71, 76, 79, 163, 169, 181 and 187.
- B. For the purpose of this article, the following shall comprise a list of specified structures whose dwellings and accessories are hereby deemed "outlying properties" of historical, architectural and/or archaeological value and are hereby designated as historic structures:

CARRS POND ROAD

Caleb Carr House

A.P. 15E Lot 56

941 Carrs Pond Road

CEDAR AVENUE

Long-Langord-Kenyon House

A.P. 9B Lots 81 and 186

441 Cedar Avenue

DEERFIELD DRIVE

Gardiner House at High Hawk Farm

A.P. 15 Lot 104

100 Deerfield Drive

DIVISION STREET

Andrew Briggs House

A.P. 12C Lot 86

1727 Division Street

FRENCHTOWN ROAD

Greene-Davis House

A.P. 16E Lot 14

911 Frenchtown Road

Tibbitts Farm

A.P. 19I Lot 20

1786 Frenchtown Road

Tillinghast Factory Ruins

A.P. 16C and D Lot 53

North Side Frenchtown Road

Gifford-Pitcher House

A.P. 15E Lot 67

1000 Carrs Pond Road

Mawney House

A.P. 9A Lot 281

650 Cedar Avenue

Elisha Greene House

A.P. 16D Lot 15

999 Frenchtown Road

Elder James Wightman House

A.P. 15H Lot 122

1995 Frenchtown Road

Frenchtown Baptist Church

NE Wireless & Steam Museum

A.P. 19C Lot 71; Southwest corner Frenchtown Road and Tillinghast Road

HOWLAND ROAD

Clement Weaver House

A.P. 10F Lot 77

125 Howland Road

KENYON AVENUE

Kenyon Estate

A.P. 2 Lot 69

70 Kenyon Avenue

Freeman House

A.P. 4 Lot 22

216 Kenyon Avenue

MIDDLE ROAD

Crossways Farm

A.P. 8 Lot 1

12 Middle Road

Spencer-King House

A.P. 9B Lot 283

235 Kenyon Avenue

The Lilacs

A.P. 7 Lot 162

388 Middle Road

Paul Spencer House	Bowen Spencer House
A.P. 12G Lot 20	A.P. 16A Lot 5
1167 Middle Road	1266 Middle Road
Captain Brown House	The Brown Bread Place
A.P. 12H Lot 30	A.P. 16A Lot 6
1341 Middle Road	1300 Middle Road
SHIPPEE ROAD	
Wightman House	
A.P. 19J Lot 21	
30 Shippee Road	
SOUTH COUNTY TRAIL	
Mary Ellis House	Johnathan Pitcher House
A.P. 12F Lot 36	A.P. 11F Lot 7
1629 South County Trail	2400 South County Trail
Spencer Fry House	Justin Fry Homestead
A.P. 11G Lot 4	A.P. 16F Lot 1
2196 South County Trail	2153 South County Trail
Spencer Bailey House	
A.P. 11H Lot 2	
2068 South County Trail	
SOUTH PIERCE ROAD	
Joshua Coggeshall House	
A.P. 11C Lot 66	
62 South Pierce Road	
SOUTH ROAD	
Richard Briggs Farm	Silas Jones House
A.P. 19A Lot 46	A.P. 19L Lot 50
830 South Road	1570 South Road
SPRING STREET	
Congdon House	
A.P. 2 Lot 64	
194 Spring Street	
TILLINGHAST ROAD	
Card House	
A.P. 15J Lot 40	
459 Tillinghast Road	

§ 260-59. Applicability; certificates required

- A. This article shall be applicable to any property described in § 260-58, including developed and vacant sites.
- B. Structures and accessories. A certificate is necessary for construction, alteration, repair, relocation, removal or demolition of new or proposed structures and accessories for all of the following conditions:
 - (1) A building permit or demolition permit is required for such work or the work proposed will affect the exterior appearance of the structure or its appurtenances. The Building Official may not issue a permit until the Commission has granted a certificate under the provisions of this article.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. IV).

- (2) The proposed project is for exterior work.
- (3) The proposed project is not a replacement-in-kind.

- C. Stone walls. A certificate is necessary for the alteration, relocation and/or demolition of any stone wall located within a historic district or on a listed outlying property per § 260-58B above, whether or not a building permit is required for such work. No work on an applicable stone wall may begin until the Commission has issued a certificate in accordance with the provisions of this article.
- D. Additional regulations. The regulations pertaining to the various zoning districts which may be included within any historic district or which may apply to the outlying property identified in § 260-58B shall apply, together with the additional requirements as set forth in this section and this article.
- E. (Reserved)

Editor's Note: Former Subsection E, which provided that a certificate of appropriateness need not be obtained in connection with a duly authorized temporary expansion of a restaurant service, was temporarily added 7-13-2020 by Ord. No. 896 and temporarily renewed 11-23-2020 by Ord. No. 899. The provisions of the latter ordinance expired 5-31-2021.

§ 260-60. Prohibitions

Street objects, as defined below, shall not be permitted on the public ways or sidewalks within the East Greenwich Historic District, with the exception of objects erected or placed by authorized public or quasi-public agencies for public safety and/or public welfare purposes and with the exception of tables, chairs and planters maintained on sidewalks in conjunction with a duly authorized business establishment. "Street object" is defined as any object erected or placed on a public way or sidewalk on a temporary or permanent basis. Authorized public safety/public welfare street objects include, but are not limited to, such objects as street lights, traffic lights, United States Post Office mailboxes, fire hydrants, utility poles, street trees and municipal trash receptacles.

§ 260-61. Application procedures

- A. Application requirements and procedures.
 - (1) Applications for a certificate shall be submitted to the Commission through the Planning Department, which shall determine if such application is complete in accordance with the Commission's Rules of Procedure. All complete applications shall be forwarded, together with all maps, plans and other data, to the Commission, except where a staff review per § 260-62C of this article applies. Any accepted application shall be filed with the Commission on the last business day of the month in which it was submitted and placed on the following month's agenda.
 - (2) Applications for a certificate of appropriateness shall contain information which is necessary to evaluate the proposed construction, alteration, repair, removal, relocation or demolition, including but not limited to plans, drawings and photographs, as required in the Commission's rules.
 - (3) Incomplete applications shall be returned to the applicant within seven working days of receipt by the Planning Department.
 - (4) In applying for a certificate of appropriateness, a property owner must comply with the application procedures as established by the Commission and the provisions of this article.
- B. No new application for the same or similar work shall be accepted or filed within six months after rejection of the application unless the structure, accessory or stone wall has been changed in some way from casualty.

§ 260-62. Plan review

- A. Structures and accessories. In reviewing applications for the alteration, construction, relocation, repair or demolition of a new or existing structure and/or accessory, the Commission shall give consideration to the following:
 - (1) The historic, architectural or archaeological significance of the structure and/or its accessories.
 - (2) The way in which the structure, stone wall and/or its accessories contribute to the historical, architectural or archaeological significance of the neighborhood and the Town.

- (3) The appropriateness of the general design, arrangement, texture, material and siting proposed in the plans.
- (4) Solar system installations. In addition to those standards provided in § 260-123, in reviewing an application for the installation of a solar energy system (i.e., solar panels), the HDC will consider building-mounted or building-integrated systems; ground-mounted systems are prohibited in the downtown historic district. Solar panels should be placed in areas that are least viewable to the public. Installations that would alter the characteristic features of a historic structure should be avoided. Panels should not be visible above the roofline, and panels installed on flat-roof buildings should be set back from the edge. Where solar panels and other appurtenances will not be visible from any public way, they shall be eligible for administrative staff review and approval (consistent with § 260-62C of the Zoning Code) rather than a review by the full Historic District Commission. *[Added 11-6-2017 by Ord. No. 873]*
- B. Stone walls. In addition to those standards provided in § 260-61A, in reviewing an application for the alteration, construction, relocation, repair or demolition of a stone wall, the Commission shall give consideration to the following:
 - (1) The historical importance of stone walls in delineating the property boundary of land.
 - (2) The scenic importance of stone walls along the designated scenic roadway and the neighborhood.
 - (3) The impact that the proposed plans would have on the historical integrity of the stone wall(s).
 - (4) The ability of a plan to show due regard for stone walls and not disturb any identified unique and significant archaeological sites.
 - (5) The retention of stone walls whenever possible and their proper maintenance.
 - (6) Breaks for roads, utility easements or fire lanes such that they are the minimum necessary and are sufficient to provide emergency vehicles clear access onto and off the site.
- C. Staff reviews. The Town Manager may designate a member of his/her professional staff to render a decision on an application on behalf of the Commission for work categories listed in Subsection C(3) hereof. In order to be eligible for a staff review, two copies of a completed application form for a certificate of appropriateness signed by the applicant and owner of the subject property must be submitted. A detailed description of the work to be performed is also required, along with labeled and dated current photographs of the property. In some cases, manufacturer's specs, product information, elevations or other technical or descriptive information may also be required. Requests for approval of dumpster enclosures and fences require submission of a site plan.
 - (1) Unfavorable staff review. In order to qualify for staff-level review and approval, the work must conform to the guidelines outlined and comply with all other applicable regulations. Should staff determine that the application does not conform to the guidelines, it shall be scheduled before the full Commission for a formal hearing and decision.
 - (2) Favorable staff review. Staff shall issue a stamped certificate of appropriateness just as the full Commission does, and the staff member issuing it shall sign his/her name to the approval.
 - (3) Work categories eligible for staff review.
 - * (a) Dumpster enclosures. Wooden opaque fence styles are appropriate dumpster enclosures. Such fences shall have flat tops, preferably capped, as this not only gives a finished look but also protects the end grain of the wood, lending a longer life for the fence. Most flat-board, closed-space, wooden fences are acceptable. Stockade fences shall not be approved. Metal posts may be used but should be placed inside the enclosure and be completely concealed from view by the fence face.
 - * (b) Fences, gates and arbors. Capped flat-board, closed-space, wooden fences are acceptable. Lattice toppers are also appropriate, provided that they do not increase the fence height beyond seven feet. Such toppers shall be proportioned consistent with the following: For a fence height totaling six feet, 4.5 feet shall be board fence with 18 inches of lattice; this amounts to a 3:1 ratio of board fence to topper. Traditional spaced picket fences shall also be approved at heights not exceeding four feet. The space between pickets shall not exceed the width of one picket; a tighter spacing is preferred. Stockade-style, chain-link and vinyl fence proposals shall not be eligible for staff-level review and approval and are generally not approved by the Commission.

- * (c) Awnings, except as signs. Any awning making use of text or graphics to advertise a business name or location shall be considered a sign and must be reviewed as such by the full HDC. Other awnings, in use as sun shields, for sheltering of merchandise or customers, for conservation of energy, or simply to dress up a storefront, add architectural interest or make a building more inviting, are encouraged. Awning materials should be soft canvas, acrylic or vinyl rather than wood or metal. Awnings should be installed without damaging the building or visually impairing distinctive architectural features. Awnings may be fixed or retractable and must provide at least eight feet of clearance from the bottom edge to grade.
- * (d) Replace/repair in kind where tax credits are requested. Ordinary repairs/replacements in kind require no certificate of appropriateness. However, if state or local tax credits are requested, a certificate is necessary. This provision empowers staff to issue such certificate if the following conditions are met: Deteriorated architectural features should be repaired rather than replaced whenever possible. If replacement is necessary, the new feature should match the existing or original feature in design, composition, texture, material and other visual qualities. Replacement of missing features should be substantiated by documentary, physical or pictorial evidence. Replacement-in-kind of nonconforming materials or features exceeding 25% of the total shall require full Commission review and decision.

§ 260-63. Decisions

- A. The Commission or municipal professional staff, as designated by the Town Manager, shall either approve, approve with conditions or deny an application and issue all of its decisions in writing. Staff denial constitutes referral to the full Commission. Such decisions shall include an explanation of the reasons and basis of each decision within the disposition.
- B. In the case of a decision not to issue a certificate of appropriateness, the Commission shall include the basis for its conclusion that the proposed activity would be incompatible with those aspects of the structure, accessories or stone walls, or with aspects of the district and/or outlying properties generally, that the Commission has determined to be historically, architecturally or archaeologically significant.
- C. All decisions shall reflect the Commission's Rules of Procedure and the Town's Standards and Guidelines for Historic Properties.
- D. The Commission or staff shall forward a copy of the decision to the applicant.
- E. Extensions. Failure of the Commission to act within 45 days from the date of a completed application shall be deemed to constitute approval unless an extension is agreed upon mutually by the applicant and the Commission.
- F. Continuations. A continuation for a period of up to 90 days from the date a completed application was filed may be granted by the Commission in the event that the Commission finds that the circumstances of a particular application require further time for additional study and information that cannot be obtained within the forty-five-day application filing period. Notification of this continuation shall be made to the applicant within seven days of the decision to continue.

§ 260-64. Demolition

- A. Standards for decision.
 - (1) If the Commission is presented with an application for the removal, relocation, alteration or demolition of a structure, its accessories and/or a stone wall and finds that the approval of such an application would pose a significant threat or total loss to the Town, state or nation, it shall endeavor to work out with the owner an economically feasible plan for the preservation of the structure, accessories, and/or stone wall.
 - (2) Applications for demolition shall require proof that the retention of the structure, accessory or stone wall would constitute a public safety hazard (as defined by the Rhode Island Building Code) which cannot be eliminated by any economic means available to the owner. If the Commission remains unconvinced that retention is a hazard, the Commission shall forward its rejection of the application for demolition to the Building Official.

Editor's Note: For the State Building Code, see R.I.G.L. § 23-27.3-100.1 et seq.

- B. External considerations. If any of the following conditions apply, the Commission may approve the application for a certificate:
 - (1) Preservation of such structure, accessory or stone wall is a deterrent to a major improvement program which will significantly benefit the Town.
 - (2) Preservation of such structure, accessory or stone wall would cause undue or unreasonable financial hardship to the owner, taking into account the financial resources available to the owner, including the sale of the structure to any purchaser willing and able to preserve such structure.
 - (3) Preservation of such structure, accessory or stone wall would not be in the best interest of the community as a whole.
- C. Alternatives to demolition and removal.
 - (1) When considering an application to demolish or remove a structure, accessory or stone wall of historic, cultural, architectural or archaeological value, the Commission shall assist the owner in identifying and evaluating alternatives to demolition.
 - (2) In addition to any other criteria, the Commission shall also consider whether there is a likelihood that some person or group of persons other than the current owner is willing to purchase, move and preserve such structure or accessory and whether the owner has made continuing, bona fide and reasonable efforts to sell the structure to any such purchaser.

§ 260-65. Exemptions

- A. Nothing in this article shall be construed to prevent replacement-in-kind, painting, routine maintenance or repair of any structure, accessory or stone wall within a historic district, outlying property or along a scenic road, provided that such maintenance or repair does not result in any change of design, type of material, or appearance of the exterior of the structure, accessory or stone wall. The following work categories are specifically exempt:
 - (1) Replacement- or repair-in-kind, except replacement of nonconforming materials or features exceeding 25% of the total building exterior.
 - (2) Ordinary maintenance and repair.
 - (3) Storm windows/storm doors.
 - (4) Gutters, downspouts and chimney caps.
 - (5) Flat roofs where not visible from the street.
 - (6) Site work and appurtenances, including driveways, walkways, terraces, garden furnishings, play sets, and the like.
 - (7) Painting/new paint colors.
 - (8) Window boxes.
 - (9) Temporary signs. (See the Sign Ordinance for definition.)
Editor's Note: See Art. VII, Signs, § 260-27, Definitions; computations.
 - (10) Mechanical equipment, including chillers, condensers, heating units. Such equipment must comply with the State Building Code.
Editor's Note: See R.I.G.L. § 23-27.3-100.1 et seq.
- B. Nothing in this article shall be construed to prevent the construction, alteration, repair, relocation or demolition of any structure or accessory previously allowed under a permit issued by the Building Inspector prior to the passage of this article.

§ 260-66. Appeals

- A. Any person or persons jointly or severally aggrieved by a decision of the Historic District Commission shall have the right to appeal such decision to the Zoning Board of Review.
- B. When hearing appeals from the Commission's decision(s), the Zoning Board of Review shall not substitute its own judgment for that of the Commission but must consider the issue upon the findings and record of the Commission. The Zoning Board of Review shall not reverse a Commission decision except on a finding of a prejudicial procedural error, clear error, or lack of support by the weight of the evidence in record. All such decisions by the Zoning Board of Review shall be in writing and shall articulate and explain the reasons and basis of its decision. Copies of such a decision shall be sent to

the Commission.

§ 260-67. Enforcement

- A. The Zoning Enforcement Officer and/or the Planning Director shall be responsible for the enforcement of this article.
- B. The Town Solicitor may bring an action against any property owner who fails to comply with the requirements of this article when authorized to do so. Such actions shall be brought in any court of competent jurisdiction.
- C. The Town may seek restraining orders and injunctive relief to restrain and enjoin the violation or threatened violation of this chapter and in addition may seek monetary fines for any violation of the chapter.

§ XII. Telecommunications Towers

[Added 8-25-2003 by Ord. No. 737; amended 6-6-2005 by Ord. No. 755]

§ 260-68. Purpose and intent

- A. The purpose of this article is to establish general guidelines for the siting of wireless communications towers and antennas. It is specifically recognized that this article is subordinate to the Federal Telecommunications Act of 1996. If any provision of this article is found to be in conflict with the Federal Telecommunications Act of 1996, it is the Federal Telecommunications Act of 1996 that will be controlling.
- B. The goals of this article are to:
 - (1) Protect residential areas and land uses from potential adverse impacts of towers and antennas;
 - (2) Encourage the location of towers in nonresidential areas;
 - (3) Minimize the total number of towers throughout the community;
 - (4) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
 - (5) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
 - (6) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
 - (7) Encourage users of antennas to locate them, to the extent possible, inside of existing clock towers, bell steeples, church steeples and similar structures, and on existing light poles, signs and other similar structures, in such a manner as to minimize the adverse visual impact of the antennas;
 - (8) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently; and
 - (9) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
- C. In furtherance of these goals, East Greenwich shall give due consideration to the Town's Comprehensive Community Plan, Zoning Map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

§ 260-69. Definitions

As used in this article, the following terms shall have the meanings set forth below:

ANTENNA — Any exterior transmitting or receiving device mounted in or on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals,

radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

FAA — Federal Aviation Administration.

FCC — Federal Communications Commission.

HEIGHT — When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

PREEXISTING TOWERS AND PREEXISTING ANTENNAS — Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this article, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

TOWER — Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and other communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and the like. The term includes the structure and any support thereto.

§ 260-70. Applicability

- A. New towers and antennas. All new towers and antennas in East Greenwich shall be subject to these regulations.
- B. Amateur radio station operators/receive-only antennas. This article shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.
- C. Preexisting towers or antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this article, other than the requirements of § 260-71G and H.
- D. AM array. For the purposes of implementing this article, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

§ 260-71. General requirements

- A. Permitted zoning districts. Telecommunications towers shall be permitted by special use permit issued after public hearing by the Zoning Board of Review in the districts noted on Table 1, subject to the provisions of this article and the underlying zoning district. Telecommunications towers shall be prohibited in all other zoning districts except by a use variance from the Zoning Board of Review.

Editor's Note: Table 1, Table of Permitted Uses by Zone, is attached to this chapter.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. IV).

- B. Antennas. Telecommunications antennas not attached to a telecommunications tower may be permitted by special use permit issued after public hearing by the Zoning Board of Review as an accessory use to any commercial, industrial, office, institutional or public utility structure, provided that:
 - (1) The antenna is completely contained within the structure.
 - (2) Any communication equipment or accessory building complies with all other applicable zoning requirements and building codes.
 - (3) All requirements for public notice and public hearing as otherwise required by this article and by this chapter are met.

- C. Public notice. For the purposes of this article, any special use request, use or dimensional variance request or appeal of a special use shall require public notice to all abutting property owners in addition to any notice otherwise required by this chapter.
- D. Historic District. Telecommunications towers shall be prohibited in the Historic District and within 500 feet of any outlying historic structure as identified in Article XI, § 260-58, of this chapter except by a use variance from the Zoning Board of Review and a certificate of approval from the Historic District Commission.
- E. Evidence. Applications for a use variance or a special use permit shall be accompanied by evidence that the proposed tower cannot be located in a permitted district. Such evidence shall consist of the following information for a minimum of three sites:
 - (1) Site plans;
 - (2) Photographs of the site and surrounding areas; and
 - (3) Written documentation of the lack of a site in a permitted district.
- F. Removal of abandoned towers. Any telecommunications tower that is not operated for a continuous period of 12 months shall be considered abandoned. The owner of an abandoned tower is required to remove the same within 90 days of receipt of notice from the Town notifying the owner of the abandonment. Failure to remove an abandoned tower shall be grounds to remove the tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
- G. Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the Zoning Enforcement Officer and Planning Director an inventory of its existing towers, antennas and/or sites approved for towers or antennas, that are either within the jurisdiction of East Greenwich or within one mile of the border thereof, including specific information about the location, height and design of each tower. The Zoning Enforcement Officer and Planning Director may share such information with other applicants applying for special use permits or use variances under this article or other organizations seeking to locate antennas within the jurisdiction of East Greenwich; provided, however, that the Zoning Enforcement Officer and Planning Director are not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- H. State or federal requirements. All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards are changed, then the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers or antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- I. Building codes; safety standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If upon inspection the Town concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- J. Municipal use. Towers shall provide space for Town of East Greenwich municipal use at no cost to the Town.
- K. Performance bond. Each applicant shall post a performance bond with the Town of East Greenwich to cover the cost of removal of its abandoned tower(s) and the cost of maintaining its tower(s) in accordance with building codes and safety standards and, if applicable, FAA regulations.

§ 260-72. Development standards

The following standards shall apply to all applications:

- A. A reasonable effort shall be made to utilize existing structures for telecommunications antennas. Should an existing structure not be utilized, evidence as to why an existing structure is not to be utilized shall be submitted.
- B. Town-owned sites that are located in the prospective development area and which could potentially accommodate the proposed antennas and communication towers shall be identified.
- C. Communication towers shall be set back from all property lines a minimum of one foot for each one foot of tower height. When the property abuts a residential district or historic district, the setback distance shall be 1 1/2 feet for each one foot of tower height. All guy wires and guyed towers shall be clearly marked so as to be visible at all times, and all guy wires shall be set back from all property boundaries the minimum of the zoning district in which they are located.
- D. All communication tower supports and peripheral anchors shall be located entirely within the boundaries of the development site and shall be set back from all property boundaries the minimum of the zoning district in which the communication tower is located, but no less than 25 feet. When located in or abutting a residential district or historic district, the minimum setback distance shall be 35 feet. Supports and/or peripheral anchors shall not encroach upon the minimum landscaped screening requirement. All supports and anchors shall have, at a minimum, a ten-foot horizontal setback from any overhead utility line.
- E. Communication equipment buildings and structures shall be considered accessory uses and comply with the following setbacks:
 - (1) One hundred square feet or less, shall be set back from all property boundaries a minimum of 15 feet, unless located within or abutting a residential district or historic district, which shall require a minimum of 25 feet;
 - (2) Greater than 100 square feet, shall be set back from all property boundaries a minimum of 25 feet, unless located within or abutting a residential district or historic district, which shall require a minimum of 35 feet.
- F. Communication towers shall be constructed and situated to fit in with the topography and features of the surrounding environment. Towers shall be completely screened from all adjacent properties and streets, and appropriately camouflaged if required. Plantings shall be of a height and density to ensure complete screening. Screening shall consist of plants and/or trees accepted by the Chapter A263, Development and Subdivision Review Regulations, or as accepted by the Director of Planning. Screening shall comprise 10% of the minimum established setback requirement, but shall not be less than five feet in width unless located in or abutting a residential district or historic district, which will require that it not be less than 10 feet in width. Screenings may be waived by the Zoning Board of Review on those sides or sections that are adjacent to undevelopable land or land not in public view. Existing vegetation shall be preserved to the maximum extent possible and may be used as a substitute for or supplement towards meeting the landscaped screening requirement. The owner of the property shall be responsible for all maintenance and shall replace any dead plantings within 30 days.
- G. Communication towers shall be enclosed by a fence no less than eight feet in height or more than 10 feet in height from finished grade. Access shall be through a locked gate. Communication towers in or abutting a residential district or historic district shall have opaque fencing made of wood or stone. The Town of East Greenwich reserves the right to choose the color of the tower.
- H. Communication towers shall not be artificially lighted except as required for public safety purposes, by the Federal Aviation Administration (FAA), or by the Town.
- I. No signs shall be allowed on any communication tower except as required for public safety purposes, by the Federal Communications Commission (FCC), or by the Town.
- J. Separation distance between towers.
 - (1) Communication towers shall be located so as to comply with the following standards for the minimum separation distance from existing communication towers and/or communication towers that have received a valid special use permit:

Minimum Separation Between Towers (by tower type)					
Proposed Tower Type	Self- Supporting	Guyed	Monopole - 75 Feet in Height or Greater	Monopole - Less than 75 Feet in Height	
Self-supporting	3 miles	3 miles	1.5 miles	2,500 feet	
Guyed	3 miles	3 miles	1.5 miles	2,500 feet	
Monopole - 75 feet in height or greater	1.5 miles	1.5 miles	1.5 miles	2,500 feet	
Monopole - less than 75 feet in height	2,500 feet	2,500 feet	2,500 feet	2,500 feet	

- (2) Separation distances shall be calculated and applied respective of jurisdictional boundaries.

§ 260-73. Nonconforming uses

- A. Not an expansion of nonconforming use. Towers that are constructed and antennas that are installed in accordance with the provisions of this article shall not be deemed to constitute the expansion of a nonconforming use or structure.
- B. Preexisting towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this article.
- C. Rebuilding damaged or destroyed nonconforming towers or antennas. Notwithstanding § 260-70C, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain a special use permit. The type, height and location of the tower on site shall be of the same type and intensity as the original facility approved. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in § 260-71F.

§ 260-74. Effective date

This article shall take effect August 25, 2003.

§ XIIA. Home Occupations

[Added 5-23-2005 by Ord. No. 753]

§ 260-74.1. Purpose and intent

- A. This article is designed to regulate the conduct of business within the home and to achieve the following purposes and objectives:
 - (1) Preserve and protect residential neighborhoods from the adverse impacts of home occupation activities.
 - (2) Permit residents of East Greenwich the ability to use their homes as a place of livelihood or to supplement personal or family income.
 - (3) Establish criteria and standards for home occupations conducted in dwelling units and structures accessory to dwelling units.

- B. These regulations are not intended to restrict the use of a residence by the occupants for the following purposes: occasional yard or garage sales; party-related sales when conducted less than once per month; hobbies not undertaken for financial gain and seasonal sales of flowers and/or vegetables grown on site, provided no additional structure is constructed from which to sell the goods; nor are these regulations intended to restrict farming activities as permitted by this chapter.

§ 260-74.2. Definition

As used in this article, the following terms shall have the meanings indicated:

HOME OCCUPATION — See § 260-6.

§ 260-74.3. Standards

- A. The home occupation shall be conducted indoors and shall be clearly subordinate, incidental and secondary to the use of the dwelling and accessory structures for residential purposes and shall occupy a floor area no greater than 20% of the floor area of the dwelling unit or relevant accessory structure.
- B. Outward appearance. The exterior appearance of the residential and accessory structures shall not be changed as a result of or for the purposes of the home occupation.
- C. Impacts. There shall be no outside storage or window display. Noise, dust, odors, heat, glare, noxious fumes or vibrations shall not result from the home occupation. Mechanical or electronic equipment which is incidental to the home occupation may be used, provided it does not create visible or audible interference in radio, telephone or television receivers or cause fluctuations in line voltage off the premises. The home occupation shall not interfere with the delivery of utilities or other service to the area. The use shall not involve the storage or use of explosive, radioactive or other hazardous materials on site.
- D. Traffic. The home occupation shall not generate greater traffic volume than would normally be expected in the particular residential zone in which the home occupation is conducted.
- E. Parking. The parking of vehicles shall not create safety hazards or congestion. No additional on-site parking shall be permitted. Parking other than in a designated driveway shall not occur within the front yard between the street and the dwelling unit.
- F. Employees. The home occupation is to be conducted only by members of the family residing in the dwelling.
- G. Limits on classes or instruction. If the home occupation is the type in which classes are held or instruction given, there shall be not more than two students or pupils in the dwelling unit or on the premises at any one time, and hours of instruction shall be limited to from 9:00 a.m. to 8:00 p.m.
- H. Limits on clients/customers. If the home occupation is the type in which customers or clients visit the premises, there shall be no more than two clients or customers in the dwelling unit or on the premises during any period of 60 consecutive minutes, and hours of operation shall be limited to from 9:00 a.m. to 8:00 p.m.
- I. Allowable number of home occupations. The total number of home occupations conducted with a dwelling unit is not limited, except that the cumulative impact of all home occupations conducted within the dwelling unit or on the premises thereof shall not be greater than the impact of one home occupation as set forth in these regulations.
- J. Compliance. Home occupations shall comply with all local, state or federal requirements pertinent to the activity pursued, including licensing, and the requirements of or permission granted by this chapter shall not be construed as an exemption from such regulations.
- K. Signs. There shall be no signs advertising, directing or otherwise identifying or indicating the presence of any home occupation.
- L. Deliveries to be made to the home concerning home occupations shall be deliveries ordinarily made in residential neighborhoods.

§ 260-74.4. Permitted uses

[Amended 12-11-2023 by Ord. No. 920-E]

- A. Home occupations shall blend with their neighboring surrounds and shall not impair the use and value of residentially zoned areas for residential purposes. The following uses shall be allowed under this article:
 - (1) Dressmaking, sewing and tailoring.
 - (2) Telephone solicitation.
 - (3) Tutoring.
 - (4) Artist's or craft studio.
 - (5) Professional office for attorneys, real estate agents, insurance agents, accountants, stockbrokers, engineers, architects, landscape architects, musicians, writers, data programmers and sales representatives.
 - (6) Photography, cosmetology, retail sales by mail order or electronic means, catering and light assembly of goods.
 - (7) Information and data processing via facsimile or the Internet.
 - (8) Consulting.

§ 260-74.5. Prohibited uses

The following uses are prohibited and shall not be allowed under this article as home occupations:

- A. Animal hospitals, stables, kennels and dog breeding.
- B. Dry cleaners.
- C. Eating and drinking establishments.
- D. Mortuaries and undertakers.
- E. Sales of, repairs, painting or body work to motor vehicles, recreational vehicles or boats.
- F. Service and repair shops, including but not limited to small engine repairs.
- G. Welding shops.
- H. Private clubs.
- I. Adult businesses and entertainment by the Internet or otherwise.
- J. Rentals of equipment, tools, trailers and vehicles.
- K. Retail sales of goods not otherwise permitted under § 260-74.4A(6).
- L. Food service.

§ 260-74.6. Inspections; enforcement

The Building Official/Zoning Enforcement Officer may inspect the premises to determine compliance. Any violations of this article shall be subject to enforcement action by the Town as provided by this chapter.

§ XIII. Procedures for General Administration

§ 260-75. Appointment of local official and agencies

The following local officials and agencies shall be responsible for the daily administration and enforcement of this chapter and the Zoning Map(s).

- A. The Building Official shall serve as the Zoning Enforcement Officer. The appointing authority may assign other professional Town staff to serve in this capacity as well.
- B. The Director of Planning, or his/her designee, shall work in conjunction with the Zoning Enforcement Officer, assisting in the interpretation of the chapter. The Director of Planning, at the direction of the Town Manager, shall be responsible for the maintenance and update of the text of this chapter and shall review the text and map at reasonable intervals and identify any changes necessary to the chapter following changes to the Comprehensive Community Plan. The Director of Planning shall perform such other duties and take such actions as may be assigned in the chapter.
- C. The Town Clerk shall serve as the custodian of this chapter and the Zoning Map(s) created hereunder and as the official keeper of Zoning Board of Review decisions.

- D. The Director of Public Works, at the direction of the Town Manager, shall be responsible for the maintenance of the Zoning Map and to depict any changes on the Map.

§ 260-76. Maintenance and update

- A. Maintenance and update of the text.
 - (1) The Director of Planning shall inspect this chapter on file with the Town Clerk on an annual basis to ensure that all amendments approved within the past year are reflected therein.
 - (2) On a biannual basis, the Director of Planning shall review this chapter to ensure it is in compliance with the most recent Comprehensive Community Plan, as may be amended. The Director of Planning shall forward findings and proposed amendments, if any, to the Planning Board and the Town Council for review and adoption, as provided in Article XIV, Procedures for Adoption and Amendment.
- B. Maintenance and update of the Zoning Map(s). The Director of Public Works, at the direction of the Town Manager, shall ensure that the official Zoning Map(s) on file in the Town Clerk's office are accurate and that zoning amendments which impact the Zoning Map(s) are depicted on the Map(s) within 90 days of such authorized change.

§ 260-77. General responsibilities of Zoning Enforcement Officer

- A. General enforcement duties. It shall be the duty of the Zoning Enforcement Officer (ZEO) to enforce this chapter. The ZEO shall issue any required permits or certificates, collect required fees relating to the issuance of the permits or certificates, keep records showing the compliance of uses of land, authorize the commencement of uses or development under the provisions of the chapter, inspect suspected violations, issue violation notices with required corrective action, collect fines for violations, and perform such other duties and take such other actions as may be assigned in the chapter. The ZEO shall be responsible to the Town Manager.
- B. Zoning certificates. In order to provide guidance or clarification, the ZEO shall, within 15 days of receipt of a completed zoning certificate application, issue a zoning certificate or provide information to the requesting party as to his determination regarding the legality of a use or structure. In the event that no written response is provided within said time, the requesting party shall have the right to appeal to the Zoning Board of Review for determination.

§ 260-77.1. Modifications to dimensional requirements

[Added 12-11-2023 by Ord. No. 920-F]

The Zoning Officer is authorized to grant modification permits of up to and including 25% of the literal dimensional requirements of this section as follows:

- A. Within 10 days of the receipt of a request for a modification, the Zoning Enforcement Officer shall make a decision as to the suitability of the requested modification based on the following determinations:
 - (1) The modification is reasonably necessary for the full enjoyment of the permitted use;
 - (2) If the modification is granted, neighboring property will neither be substantially injured nor its appropriate use substantially impaired;
 - (3) The modification requested does not require a variance of a flood hazard requirement, unless the building is built in accordance with applicable regulations;
 - (4) The modification requested does not violate any rules or regulations with respect to freshwater or coastal wetlands.
- B. Upon an affirmative determination, in the case of a modification of 5% or less, the zoning enforcement offer shall have the authority to issue a permit approving the modification, without any public notice requirements. In the case of a modification of greater than 5%, the Zoning Enforcement Officer shall notify, by first class mail, all property owners abutting the property which is the subject of the modification request, and shall indicate the street address of the subject property in the notice, and shall publish in a newspaper of local circulation within the city or Town that the modification will

be granted unless written objection is received within 14 days of the public notice. If written objection is received within 14 days, the request for modification shall be scheduled for the next available hearing before the Zoning Board of Review on application for a dimensional variance following the standard procedures for such variances, including notice requirements provided for under this chapter. If no written objections are received within 14 days, the Zoning Enforcement Officer shall grant the modification.

- C. The Zoning Enforcement Officer may apply any special conditions to the permit as may, in the opinion of the officer, be requested to conform to the intent and purposes of the Zoning Ordinance.
- D. The Zoning Enforcement Officer shall keep public records of all requests for modifications, and of findings, determinations, special conditions, and any objections received.
- E. Costs of any notice required under this subsection shall be borne by the applicant requesting the modification.

§ 260-78. Interpretation

- A. Interpretation. Where questions regarding the language in the chapter arise, the ZEO shall consult the Director of Planning, or his/her designee, for assistance in interpretation of the language. The final decision as to interpretation shall rest with the ZEO. All decisions (interpretations) may be appealed to the Zoning Board of Review.
- B. Clarification and ordinance revision. Upon resolution by the ZEO (or the Zoning Board of Review, in the case of an appeal), the Director of Planning shall prepare an amendment to the chapter clarifying the unclear language of this chapter so that the intent is clearly understood by all users of the chapter. This proposed amendment shall then be submitted to the Planning Board and Town Council for review and approval, per Article XIV of this chapter.

§ 260-79. Violations and penalties

- A. Classification of penalty.
 - (1) Any person, firm, corporation, partnership or association who or which violates or refuses to comply with any of the provisions of this chapter or any requirement imposed by the Zoning Board of Review shall be subject to a monetary fine as provided herein.
 - (2) Notwithstanding Subsection A(1) of this section, the Town may cause suit to be brought in any court having jurisdiction over the Town of East Greenwich to restrain the violation of or to compel compliance with the provisions of the chapter. The Town may consolidate an action for injunctive relief with an action for the imposition of monetary fines under this chapter in any court of competent jurisdiction.
- B. Penalties.
 - (1) Where the ZEO determines a violation to have occurred, the ZEO shall have the authority to issue an injunction and an order to restore the property to its previolation state.
 - (2) The ZEO shall also require the payment of a penalty fee for such violation. Each day any violation of any provision of this chapter (including the failure to perform any act or duty required by this chapter) shall constitute a separate offense. Penalties shall be as follows:
 - * (a) installation of a sign not in conformance with the chapter: \$50 per day.
 - * (b) installation of an accessory structure not in conformance with the chapter: \$100 per day.
 - * (c) Use of property not in conformance with this chapter: \$250 per day.
 - * (d) Noncompliance with a decision of the Zoning Board of Review: \$250 per day.
 - * (e) Construction, alteration, enlargement, removal or demolition of a structure prior to issuance of a building permit where one is required: \$100 per day.
 - * (f) Construction of parking lot/parking structure prior to approval of parking plan: \$100 per day.
 - (3) Where the violation is advanced for judicial action, as noted in § 260-79A(2), the court may assess a penalty of up to \$500 for each violation, where each day of the existence of any such violation shall be deemed to be a separate offense. The court may also require restoration of the property to previolation conditions.

- C. Violations not exclusive. Violations of this chapter are in addition to any other violation enumerated within the Town of East Greenwich ordinances and Code and in no way limits the penalties, actions or abatement procedures which may be taken by the Town of East Greenwich for any violation of this chapter which is also a violation of any other ordinance or Code provision of the Town of East Greenwich or statutes of the State of Rhode Island.
- D. Reporting of violations. Enforcement actions shall be reported by the ZEO to the property owner, together with a compliance order. The order shall describe the measures required to correct the violation.
- E. Judicial aid in enforcement. Where compliance orders are not followed within the period set in the order and where no appeal has been filed with the Zoning Board of Review, the Town shall have the authority to request assistance from the Kent County Superior Court, East Greenwich Municipal Court, or any other court of competent jurisdiction to enforce this chapter in accordance with Rhode Island General Law § 45-24-62.

§ 260-80. Right of appeal

[Amended 3-14-2016 by Ord. No. 849]

An appeal from any decision of an administrative officer or agency charged in this chapter with interpretation or enforcement of any of its provisions may be taken to the Zoning Board of Review by an aggrieved party in a manner described in Article XV, Administration and Procedures of Zoning Board of Review. An appeal from a decision of the Zoning Board of Review may be taken by an aggrieved party to the Superior Court for Kent County, notice of which shall be given in accordance with R.I.G.L. § 45-24-69.1.

§ 260-80.1. Unified development review established

[Amended 12-11-2023 by Ord. No. 920-F]

There shall be unified development review for the issuance of variances and special use permits for properties undergoing review by development plan review and/or land development or subdivision review.

- A. Application procedure. Requests for dimensional and use variances and special use permits submitted under the unified development review provisions of this Zoning Ordinance shall be submitted as part of the subdivision or land development application to the administrative officer of the Planning Board, pursuant to R.I.G.L. § 45-24-46.4.
- B. Public hearing. All land development and subdivision applications, and development plan review applications that include requests for variances and/or special use permits submitted pursuant to this section shall require a public hearing that meets the requirements of R.I.G.L. § 45-23-42(b) and § A263-20 of the East Greenwich Code.
- C. Standards of review. In granting requests for dimensional and use variances, the Planning Board shall be bound to the requirements of § 260-91, relative to entering evidence into the record in satisfaction of the applicable standards. In reviewing requests for special use permits, the Planning Board shall be bound to the conditions and procedures under which a special use permit may be issued and the criteria for the issuance of such permits, as found within this Zoning Ordinance in § 260-91, and shall be required to provide for the recording of findings of fact and written decisions as described in R.I.G.L. § 45-23-63.
- D. Appeals. An appeal from any decision made pursuant to this section may be taken pursuant to R.I.G.L. § 45-23-71.

§ XIV. Procedures for Adoption and Amendment

§ 260-81. Powers of Council

For the purpose of promoting the public health, safety and general welfare, the Town Council shall have the power to adopt, amend or repeal, and to provide for the administration, interpretation and enforcement

of a zoning ordinance in accordance with Rhode Island General Laws § 45-24-27 et seq. Provisions of this chapter shall be set forth in text and map(s), and may incorporate tables or other material. This chapter, and all amendments thereto, shall be consistent with the East Greenwich Comprehensive Community Plan as described in Rhode Island General Law § 45-24-27 et seq., as may be amended, and shall provide for the implementation of said plan.

§ 260-82. Procedure

- A. Initiation of application.
 - (1) Requests to amend this chapter may be initiated by the East Greenwich Town Council, Planning Board or any real property owner in the Town. Applications for amendments shall be made in the office of the Town Clerk on a form provided therefor; however, the Planning Department shall review the application for completeness and compliance with this article prior to its acceptance.
 - (2) Immediately upon receipt of a complete application the Town Clerk shall forward such application to the Town Council, Planning Board and Planning Department.
- B. Authorized applicants.
 - (1) In the event an application for amendment is proposed by a property owner, the application shall be signed by the owner of the real property which is the subject of the application or by the agent or attorney for the owner of such property. The authority of an agent or attorney for a real property owner applicant shall be in writing and shall be presented at the time the application is filed.
 - (2) Application initiated by the Town Council or Planning Board to change the district map shall conform to the Comprehensive Community Plan, but none of the requirements of this section shall apply.
- C. Fee schedule. Application for amendment to the ordinance or map(s) shall be accompanied by fees as follows:

[Amended 12-17-2007 by Ord. No. 786.4]

Fee Schedule

Zoning Amendment Applications

Proposal	Nonrefundable Fee
Comprehensive Community Plan amendment	\$500*
Rezoning to Residential District	\$1,000*
Rezoning to Commercial, Light Industrial, or Waterfront District	\$1,000*
Amendment to general requirements or use of any zone	\$500*
Request for Town Council continuance	\$200*
Rezoning to Planned Development (PD) or to Mixed Use Planned Development (MUPD)	\$1,000 plus \$20 per acre exclusive of wetlands*
Amendment to Planned Development (PD) or Mixed Use Planned Development (MUPD)	\$500*
Request for extension of time on an approved PD or MUPD	\$100*

*NOTE: In addition to this fee, the applicant shall bear the expense of the public notice, notification to abutters (if appl

- (1) To protect the public health, safety and welfare, the Town may require peer review of expert witness reports and testimony on behalf of applicants. A list of peers and their fees shall be maintained by the Town for selection by the Town, and the cost of peer review shall be borne by the applicant.

[Added 5-22-2006 by Ord. No. 767]

- (2) The Town reserves the right to place a lien on the subject property for any fees not paid in full.

[Added 5-22-2006 by Ord. No. 767]

- D. Hearings.

- (1) Hearing(s) by Planning Board; report to Town Council. Upon receipt of the zoning application from the Town Clerk, the Planning Board shall study and make recommendations on said application. The Planning Board shall seek the advice of the Planning Department and shall report to the Town Council within 45 days after receipt of the proposal unless an extension has been requested by the applicant or has been mutually agreed upon by the Planning Board and the applicant. The Planning Board's report to the Town Council shall include, but not be limited to:

- * (a) The Planning Board's recommendation;
- * (b) A summary of its findings;
- * (c) A statement as to the general consistency of the proposal with the Comprehensive Community Plan, including the goals and policies statement, the implementation program, and all other applicable elements of the Comprehensive Community Plan; and
- * (d) A demonstration of the Planning Board's recognition and consideration of the applicable purposes of this chapter.

- (2) Hearing(s) by the Town Council. The Town Council shall hold a public hearing within 65 days of receipt of a proposal. For the purposes of this article, "receipt of a proposal" is defined as the date of the first Town Council meeting held following the receipt of the Planning Board's report. The Town Council shall render a decision on any such proposal within 45 days after the date of completion of its public hearing. Extensions of deadlines require the applicant's consent.

- E. Notice and hearing requirements. No zoning ordinance shall be adopted, repealed or amended until after a public hearing has been held upon the question before the Town Council in compliance with this section.

- (1) Notice.

- * (a) When any proposed general amendment to this chapter is proposed, whether requiring a change to the Zoning Map or not, the Town Council shall first give notice of a public hearing by publication of a notice in a newspaper of general circulation within East Greenwich at least once each week for three successive weeks prior to the date of such hearing. This notice may appear during the week in which the hearing is to be held. The notice shall advertise that all persons interested in this matter shall be given the opportunity to be heard on the proposed amendment.
- * (b) Written notice, which may be a copy of said newspaper notice, shall be mailed to the Associate Director of the Division of Planning of the Rhode Island Department of Administration at least two weeks prior to the hearing.
- * (c) Such newspaper notice shall be published as a display advertisement, using a type size at least as large as the normal type size used by the newspaper in its news articles, and shall:
 - [1] Specify the date, time and location of the hearing.
 - [2] Indicate that adoption, amendment or repeal of this chapter is under consideration.

- [3] Contain a statement of the proposed amendments to the ordinance that may either be printed once in its entirety or summarized or otherwise described.
 - [4] Advise where and when a copy of the matter under consideration may be obtained or examined and copied.
 - [5] State that the proposals shown thereon may be altered or amended prior to the close of the public hearing as a result of further study or because of the views expressed at the public hearing without further advertising. Any such alteration or amendment must be presented for comment in the course of said hearing.
 - (2) Where a proposed amendment to an existing ordinance includes a specific change in a zoning district map but does not affect districts generally, public notice shall be given as required by Subsection E(1) of this section, with the additional requirement that:
 - * (a) Newspaper notice shall include a map showing the existing and proposed boundaries, zoning district boundaries, and existing streets and roads and their names, and city and town boundaries where appropriate.
 - * (b) Written notice of the date, time and place of the public hearing and the nature and purpose thereof shall be sent to all owners of real property whose property is located in or within not less than 200 feet of the perimeter of the area proposed for change, whether within the Town or within an adjacent city or town. Notice shall also be sent to any individual or entity holding a recorded conservation or preservation restriction on the property that is the subject of the amendment. (Such notice shall be sent by registered or certified mail to the last known address of such owners as shown on the current real estate tax assessment records of the city or town in which the property is located.)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. IV).
 - (3) Where the proposed change would affect an area within 200 feet of an abutting municipality and/or within 2,000 feet of a public or quasi-public water source (or a private water source suitable for public use), a notice of the public hearing shall be sent by first class mail to the affected municipality or agency.
 - (4) No defect in the form of any notice under this section shall render any ordinance or amendment invalid, unless such defect is found to be intentional or misleading.
 - (5) Costs of any notice required under this section shall be borne by the applicant.
- F. Decision.
 - (1) Upon completion of the public hearing, and within the required time frame, the Town Council may approve, approve with conditions, revise or deny the application for an amendment to this chapter and the Zoning Map(s).
 - (2) Limitations and conditions.
 - * (a) In granting an amendment to this chapter, the Town Council may limit the change to one of the permitted uses in the zone to which the subject land is rezoned and impose such limitations, conditions and restrictions, including without limitation:
 - [1] Requiring the petitioner to obtain a permit or approval from any and all state or local governmental agencies or instrumentalities having jurisdiction over the land and use which are the subject of the zoning change;
 - [2] Relating to the effectiveness or continued effectiveness of the zoning change; and/or
 - [3] Relating to the use of the land as it deems necessary.
 - * (b) The Town Council shall direct the appropriate Town department(s) to cause the limitations and conditions so imposed by their decision to be clearly noted on the Zoning Map and recorded in the land evidence records; provided, however, in the case of a conditional zone change, the limitations, restrictions and conditions shall not be noted on the Zoning Map until the zone change has become effective.
 - (3) 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 public notice and a public hearing as set forth in this section, revert the land to its original zoning use/designation before such petition was filed.

- (4) If any limitation, condition or restriction in an ordinance is held to be invalid by a court in any action, that holding shall not cause the remainder of the ordinance to be invalid.
- (5) Where an application to amend the Ordinance or Map(s) is denied by the Town Council, an identical application shall not be accepted by the Town Clerk's office for a period of one year following said denial.

§ 260-83. Appeals to Superior Court

- A. An appeal of an enactment of, or an amendment to, this chapter may be taken to Superior Court for Kent County by filing a complaint within 30 days after such enactment or amendment has become effective, in accordance with Rhode Island General Law § 45-24-71. Such appeal may be taken by an aggrieved party or by any legal resident or landowner of the Town of East Greenwich or by any association of residents or landowners of the Town.
- B. An appeal shall not stay the enforcement of this chapter as enacted or amended, unless the court grants, at its discretion, a stay.
- C. A complaint shall set forth with specificity the area(s) in which the enactment or amendment does not conform with the East Greenwich Comprehensive Community Plan and/or the manner in which it constitutes a taking of private property without just compensation.

§ XV. Administration and Procedures of Zoning Board of Review

§ 260-84. Organization

- A. Establishment of organization.
 - (1) There is hereby created a Board of Review, which shall be appointed for a term and shall be subject to the conditions set forth in Article XX of the East Greenwich Home Rule Charter. The word "Board" when used in this section shall mean the Zoning Board of Review.
 - (2) The Board shall consist of five members appointed by the Town Council, each to hold office for the term of five years. Each year the term of one member of the Board shall come up for renewal. The Town Council shall also appoint two alternates to the Board, to be designated as the first and second alternate members, each for terms of one year. Where a vacancy occurs in an unexpired term of a Board member, the Town Council shall appoint someone to complete the term of membership.
 - (3) The Board as constituted at the time of the adoption of this chapter shall be continued, and the original appointments specified in Subsection A(1) of this section shall be deemed to have been made.
 - (4) The Town Council, following a public hearing on the matter, may remove a Board member if that member misses three consecutive meetings or 25% of the meetings during the course of one year.
- B. Organization procedures.
 - (1) The Board shall meet once monthly if there are pending applications. Additionally, special meetings or continuances may be convened as necessary. The Chair or, in his absence the Acting Chair may administer oaths and compel the attendance of witnesses by the issuance of subpoenas.
 - (2) The alternate members of the Board shall sit and may actively participate in hearings. The first alternate shall vote if a member of the Board is unable to serve at a hearing, and the second shall vote if two members of the Board are unable to serve at a hearing. 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 such matter.

§ 260-85. Powers and duties

The Board shall have the following powers and duties:

- A. To hear and decide appeals within 65 days of the date of the filing of the appeal where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative officer or agency in the enforcement or interpretation of this chapter, or of any ordinance adopted pursuant hereto.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. IV).

- B. To hear and decide appeals from a party aggrieved by a decision of the Historic District Commission, pursuant to the Historical Zoning Enabling Legislation.

Editor's Note: See R.I.G.L. § 45-24.1-1 et seq.

- C. To authorize, upon application, in specific cases of hardship, variances in the application of the terms of this chapter.
- D. To authorize, upon application, in specific cases, special use permits.
- E. To refer matters to the Planning Board or to other boards or agencies of the Town as the Board may deem appropriate for findings and recommendations.
- F. To authorize, upon application, conditional zoning approvals where a proposed application would otherwise be approved, except that one or more state or federal agency approvals which are necessary are pending. A conditional zoning approval shall be revoked in the instance where any necessary state or federal agency approvals are not received within a specified time period.
- G. To hear and decide such other matters according to the terms of the ordinance or other statutes and upon which such Board may be authorized to pass under such ordinance or other statutes.
- H. To determine whether new evidence/information previously unavailable would warrant the reconsideration of a previous decision of the Board.
- I. To amend and/or reconsider a previous decision of the Board, including reconsiderations of parts of a decision.
- J. To authorize by special use permit relief from the dimensional and intensity regulations of this chapter for any use the Board authorizes by special use permit. See Article III, § 260-8E.

§ 260-86. Attendance and voting requirements

- A. Five active members shall be necessary to conduct a hearing. As soon as a conflict occurs for a member, that member shall recuse him/herself and shall not sit as an active member nor take part in the conduct of the hearing. Only five active members shall be entitled to vote on any issue. Alternates not considered as active members for the purpose of a hearing may participate in the conduct of the hearing but not in the vote.
- B. The concurring vote of three of the five members of the Board sitting at the hearing shall be necessary to reverse any order, requirement, decision or determination of any zoning administrative officer or agency from whom an appeal was taken.
- C. The concurring vote of four of the five members of the Board sitting at a hearing shall be required to decide in favor of an applicant on applications for variances and special use permits.

§ 260-87. Board decisions and records

- A. Following a public hearing on an application for appeal, variance or special use permit, the Board shall render a decision within 15 days. The Board shall include in its decision all findings of fact and conditions, showing the vote of each member participating thereon, and the absence of a member or his/her failure to vote.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. IV).

- B. Written decisions shall be recorded in the office of the Town Clerk and filed in the Planning Department within 30 working days from the date when the decision was rendered and shall be a public

record. The decision shall be posted in a location visible to the public in the Town Hall for a period of 20 days following the recording of the decision.

- C. The Zoning Board of Review shall keep written minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations, findings of fact, and other official actions, all of which shall be recorded and filed in the Planning Department in an expeditious manner upon completion of the proceeding.
- D. 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. The cost of such stenographic services shall be borne by the applicant.
- E. Any decision by the Zoning Board of Review, including any special conditions attached thereto, shall be distributed to the applicant, to the Zoning Enforcement Officer, Tax Assessor, the Planning Department and to the Associate Director of the Division of Planning of the Rhode Island Department of Administration. Any decision evidencing the granting of a variance or special use shall also be recorded in the land evidence records of the Town.
- F. Reconsiderations of previous decisions shall be provided the same time considerations regarding decisions, recording of decisions, minutes and rights of appeal, as other applicable time periods.

§ 260-88. Special conditions

In granting a variance or in making any determination upon which it is required to pass after public hearing under such zoning ordinance, the Board may apply such special conditions that may, in its collective opinion, be required to promote the intent and purposes of the Comprehensive Community Plan and this chapter of the Town Code. Failure to abide by any special conditions attached to a grant of relief shall constitute a zoning violation. Such special conditions shall be based on competent credible evidence on the record, be incorporated into the decision, and may include, but are not limited to, provisions as follows:

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

§ 260-89. Variance and special use permit application procedure and fees

[Amended 5-22-2006 by Ord. No. 767; 12-17-2007 by Ord. No. 786.5; 12-11-2023 by Ord. No. 920-G]

- A. Submission of applications. All applications for variances and special use permits may be made by any person, group, agency or corporation by filing a completed application with the Planning Department. An appeal to the order, requirement, decision or determination made by an administrative officer, agency or the Historic District Commission may be made by any aggrieved party within 20 days of administrative or Historic District Commission action. Completed applications shall be submitted to the Planning Department prior to or on the 15th day of the month in order to be heard on the following month's agenda. Should the 15th fall on a day when the office is closed, the deadline shall be at the end of the next regular business day.
 - (1) Complete applications for variances and special use permits shall include, but not be limited to, the following information:
 - * (a) Completed application form;
 - * (b) Plat plan(s) drawn to scale showing the location of all lot and street lines, existing and proposed structures, utilities, access/egress, parking, on-site traffic flow, landscaping,

- drainage systems, provisions for off-street (un)loading facilities, dumpsters, assessment of noise/glare/odor effects on adjacent parcels, signs, lighting facilities and other site features;
 - * (c) Plat map showing lot and street lines and approximate location of structures on parcels immediately adjacent to the subject site;
 - * (d) Elevation drawings, where relevant;
 - * (e) Application fees; and
 - * (f) A map displaying the uses of all properties within a five-hundred-foot radius of the subject property is also required for use variances and special use permit applications.
 - (2) Applications for an appeal from an administrator or agency shall include, but not be limited to, the following information:
 - * (a) A written description of the issue in question;
 - * (b) A scaled graphic representation of the issue, where applicable;
 - * (c) Copies of any and all relevant correspondence and paperwork, including copies of completed application forms;
 - * (d) A written discussion of the grounds on which the appeal is being sought; and
 - * (e) The required application fees.
 - (3) Applications shall be accompanied by fees as follows:
 - * (a) Single-family and duplex residential, including in-law apartments and residential accessory uses: \$150.
 - * (b) Multifamily residential, commercial and industrial uses: \$350.
 - * (c) Signs: \$250.
 - * (d) Appeals of single-family and duplex residential: \$200.
 - * (e) Appeals of multifamily, major and minor development, and commercial and industrial: \$500.
 - * (f) Telecommunications: \$500.
 - * (g) Historic District: \$50.
 - (4) Applicants are responsible for the costs of advertising and abutter notification. A nonrefundable deposit of \$50 shall be required to cover the expense of stenographic services.
 - (5) To protect the public health, safety and welfare, the Zoning Board of Review may require peer review of expert witness reports and testimony on behalf of applicants. A list of peers and their fees shall be maintained by the Town for selection by the Town, and the cost of peer review shall be borne by the applicant. All costs associated with peer review shall be paid in full before Zoning Board of Review approvals are recorded in the Land Evidence Records. The Town reserves the right to place a lien on the subject property for any fees not paid in full.
- B. Accepting and processing applications.
 - (1) Variances and special use permits.
 - * (a) An application for a special use permit or for relief from the literal requirements of this Zoning Ordinance because of hardship may be made by any person, group, agency, or corporation by filing with the Zoning Enforcement Officer or agency an application describing the request and supported by any data and evidence as may be required by the Zoning Board of Review or by the terms of this Section. The Zoning Enforcement Officer or agency shall immediately transmit each application received to the Zoning Board of Review and a copy of each application to the Planning Board.
 - * (b) The Zoning Board of Review, immediately upon receipt of an application for a special use permit or a variance in the application of the literal terms of the Zoning Ordinance, may request that the Planning Board and/or staff report its findings and recommendations, including a statement on the general consistency of the application with the goals and purposes of the Comprehensive Plan, in writing, to the Zoning Board of Review within 30 days of receipt of the application from that Board.
 - (2) Appeals:
 - * (a) The Planning Department shall schedule the completed appeal application for the next available Zoning Board public hearing. Notice of the appeal shall be placed in the newspaper as provided for in Subsection C of this section. Additionally, notice shall likewise be provided to the individual or agency from which the appeal is sought.

- * (b) The filing of an appeal shall stay all proceedings in furtherance of the action appealed from unless the Building Official certifies to the Board (after an appeal has been duly filed) that, by reason of facts stated in the decision that is being appealed, a stay would cause imminent peril to life or property based on the Rhode Island State Building Code. In such a case, the proceedings shall only be stayed by a restraining order which may be granted through a court of competent jurisdiction.
 - (3) Unified development review.
 - * (a) Requests for variances and special use permits submitted as part of unified development review shall be processed in accordance with § 260-80.1.
- C. Notification of public hearing.
 - (1) The zoning board shall hold a public hearing on any application for a special use permit or variance in an expeditious manner, after receipt, in proper form, of an application, and shall give public notice at least 14 days prior to the date of the hearing in a newspaper of general circulation in the city or town. Notice of hearing shall be sent by first-class mail to the applicant, and to at least all those who would require notice under R.I.G.L. § 45-24-53. The notice shall also include the street address of the subject property. The cost of notification shall be borne by the applicant.

§ 260-90. Review of appeals

[Amended 9-22-2014 by Ord. No. 838]

- A. Appeals to Zoning Board of Review. An appeal to the Zoning Board of Review from a decision, order, requirement or determination made by an administrative officer or agency such as the Historic District Commission or Planning Board may be taken by an aggrieved party. The appeal shall be taken within 30 days of the recording of the decision by the officer or agency by filing with the officer or agency from whom the appeal is taken and with the Zoning Board of Review a notice of appeal specifying the grounds of the appeal. Said appeal shall be accompanied by a radius map showing all real property within 200 feet of the subject property and a list of all real property owners therein for purposes of notification consistent with § 260-89C of this chapter. The officer or agency from whom the appeal is taken shall promptly 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 officer, agency or board from whom the appeal is taken.
- B. Stay of proceedings. An appeal shall stay all proceedings in furtherance of the action being appealed.
- C. Public hearing by Zoning Board of Review. The Zoning Board of Review shall hear the appeal within 45 days of the receipt of the appeal. Public notice is to be provided, at least 14 days prior to the date of the hearing in a newspaper of general circulation. Notice of the hearing, which shall include the street address of the subject property, shall be sent by first-class mail, postage prepaid, to the appellant and to those requiring notice under § 260-89C of this chapter. The cost of any notice required for the hearing shall be borne by the appellant.
- D. Procedure for zoning hearing. The hearing of any appeal shall be at a separate meeting, distinct from the hearing of any variance or special use permit, although such hearings may be held on the same day or night. At the hearing, any party may appear in person or by agent or attorney. The officer or a designated individual of the agency, commission or board from whom the appeal is taken shall appear before the Zoning Board at the hearing to represent such agency, commission or board. The Board shall render a decision within 10 days of the close of the public hearing.
- E. Decisions; standards of review.
 - (1) Review of Planning Board or Historic District Commission decisions.
 - * (a) In instances of the Board of Appeal's review of a Planning Board or Historic District Commission decision, the Board of Appeal shall not substitute its own judgment for that of the Planning Board or Historic District Commission but must consider the issue upon the findings and record of the Planning Board or Historic District Commission. The Board of Appeal shall not reverse a decision except on a finding of prejudicial procedural error, clear error, or lack of support by the weight of the evidence in the record.
 - * (b) The concurring vote of three of the five members of the Board of Appeal sitting at a hearing is necessary to reverse any decision of the Planning Board or Historic District Commission.

- * (c) In the instance where the Board of Appeal overturns a decision of the Planning Board or Historic District Commission, the proposed project application is remanded to the Planning Board or Historic District Commission, at the stage of processing from which the appeal was taken, for further proceedings and/or for the final disposition, which shall be consistent with the Board of Appeal's decision.
- * (d) The Board of Appeal shall keep complete records of all proceedings, including a record of all votes taken, and shall put all decisions on appeals in writing. The Board of Appeal shall include in the written record and the reasons for each decision.
- (2) In exercising its powers with respect to all other appeals, the Zoning Board of Appeal may reverse or affirm wholly or partly and may modify the order, requirement, decision or determination appealed from and may make any orders, requirements, decisions or determinations that ought to be made, and to that end has the powers of the officer from whom the appeal was taken.

§ 260-91. Standards of review

[Amended 5-22-2006 by Ord. No. 767; 1-11-2016 by Ord. No. 846; 3-14-2016 by Ord. No. 849; 12-11-2023 by Ord. No. 920-G]

- A. In granting a variance, the Zoning Board of Review, or the Planning Board under unified development review as appropriate, shall require that evidence to the satisfaction of the following standards is entered into the record of the proceedings:
 - (1) That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in R.I.G.L. § 45-24-30(a)(16);
 - (2) That the hardship is not the result of any prior action of the applicant; and
 - (3) That the granting of the requested variance will not alter the general 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;
- B. The Zoning Board of Review, or, where unified development review is enabled, the Planning Board shall, in addition to the above standards, require that evidence is entered into the record of the proceedings 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. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance; and
 - (2) In granting a dimensional variance, that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted is not grounds for relief. The Zoning Board of Review, or Planning Board in unified development review, has the power to grant dimensional variances where the use is permitted by special-use permit.
- C. Bed-and-breakfast homes.
 - (1) In reviewing an application for a special use permit for a bed-and-breakfast home, the Board shall require that evidence satisfying standards in this section be entered into the record of the proceedings. For bed-and-breakfast homes, the applicant must, in addition to those standards outlined in Subsection C of this section, demonstrate the following:
 - * (a) That the bed-and-breakfast home and use shall be an accessory use to a single-family house and that it shall be subordinate to the residential use of the premises. The bed-and-breakfast home shall be operated by the homeowner.
 - * (b) That each guest room of the bed-and-breakfast home is in compliance with the Rhode Island State Housing Maintenance and Occupancy Code.
Editor's Note: See R.I.G.L. § 45-24.3-1 et seq.
 - * (c) That there will be no change in the outside appearance of the building and/or premises

nor any visible or audible evidence detectable from outside the lot as to the presence of a bed-and-breakfast home except for signage as permitted under Article VII.

- * (d) That there shall be no meals served to the general public. Breakfast may be served to guests of the bed-and-breakfast home.
- * (e) That minimum off-street parking requirements shall be provided such that one parking space is provided per guest unit or guest room. Stacked parking (where one car parks behind another, essentially blocking it in) is acceptable. All parking areas shall be paved or graveled. Parking areas for bed-and-breakfast homes with only two guest rooms or less may be grassed. Where parking spaces are not provided on site, the owner shall produce a lease, for a minimum of one year, for use of a private parking lot. During review of annual licensing renewal, the owner shall be required to submit proof of the continuing availability of minimum parking requirements prior to the license being renewed.
- * (f) That where deemed necessary to preserve and protect the residential nature of the neighborhood, the Board may require a landscape buffer, fence or other screening between the bed-and-breakfast home's parking area and the neighbors' properties or street.
- * (g) That the bed-and-breakfast home shall be in compliance with all applicable provisions of the Rhode Island State Fire Safety Code, the Rhode Island State Building Code, regulations of the Department of Environmental Management, Department of Health and any other relative code or agency.

Editor's Note: See R.I.G.L. §§ 23-28.1-1 et seq. (Fire Safety Code) and 23-27.3-100.1 et seq. (Building Code).

- (2) Additionally, licensing shall be required for all bed-and-breakfasts per the requirements of § 93-1, Schedule of fees and charges, in the East Greenwich Code.
- D. Residential cooperative cultivations shall be permitted by as an accessory use in residential zones, subject to all applicable provisions of the Zoning Ordinance, and subject also to the additional requirements of R.I.G.L. § 21-28.6-14, as set forth below:
 - (1) A cardholder can only cooperatively cultivate on one location.
 - (2) No single locations may have more than one cooperative cultivation. For the purposes of this section, "location" means one structural building, not units within a structural building.
 - (3) The cooperative cultivation shall not be visible from the street or other public areas.
 - (4) A written acknowledgement of the limitation of the right to use and possess marijuana for medical purposes in Rhode Island that is signed by each cardholder and is displayed prominently on the premises.
 - (5) A residential cooperative cultivation may have no more than 10 ounces of usable marijuana, 24 mature marijuana plants, and 12 seedlings.
 - (6) A residential cooperative cultivation must have displayed prominently on the premises an affidavit by a licensed electrician that the cultivation has been inspected and is in compliance with any applicable state or municipal housing and zoning codes. This affidavit must also be filed with the Town Building Official.
 - (7) The location of the cooperative cultivation must be reported to the division of state police by the applicant.
- E. In reviewing an application for a special use permit for a kennel, the Board shall require that evidence satisfying standards in this section be entered into the record of the proceedings. For kennel, the applicant must, in addition to those standards outlined in Subsection C of this section, demonstrate the following:
 - (1) Exterior exercise areas shall be located in the rear yard and shall be completely enclosed along all lot lines by a fence a minimum of six feet in height and a maximum of seven feet in height, including ingress and egress.
 - (2) Where the use abuts a residential use or zoning district, there shall be a 50 ft. setback from each such lot line abutting a residential use or zoning district.
 - (3) All overnight boarding operations shall be located indoors.
 - (4) All animal care and/or kennel facilities shall have a valid municipal license issued by the Town Council.

§ XVI. (Reserved)

§ 260-92. (Reserved)

§ 260-93. (Reserved)

§ 260-94. (Reserved)

§ 260-95. (Reserved)

§ 260-96. (Reserved)

§ 260-97. (Reserved)

§ XVII. Affordable Housing

[Added 11-6-2006 by Ord. No. 779; amended 10-26-2015 by Ord. No. 845; 3-14-2016 by Ord. No. 849; 6-12-2017 by Ord. No. 870]

§ 260-98. Purpose, authority and applicability

- A. The purpose of this article is to:
 - (1) Implement the Town's Affordable Housing Plan contained in the state-approved Comprehensive Community Plan, as adopted by the Town Council and amended from time to time.
 - (2) Promote the public health, safety and welfare by promoting the development of affordable housing within the Town of East Greenwich in accordance with the state mandate and to promote a full range of housing choices throughout the Town for households of all incomes, ages and sizes.
 - (3) Promote housing that qualifies as "low- or moderate-income housing" under R.I.G.L. § 45-53-3(9).
- B. The authority for adoption and implementation of the Affordable Housing Plan is conferred by R.I.G.L. §§ 42-128-8.1(d)(2) and (3), and 45-22.2-6(b)(6).
- C. This article shall apply to all subdivisions and land development projects of five or more residential units, as classified under East Greenwich's Zoning Ordinance and Land Development and Subdivision Regulations, within zones where residential units are permitted.

Editor's Note: See Ch. A263, Development and Subdivision Review Regulations.

- D. All developers of the aforementioned projects shall be required to submit a "yield plan," defined as: a plan demonstrating a subdivision's or land development project's maximum density (maximum number of lots or units), taking into account all environmental, natural and man-made physical constraints to development, including but not limited to wetlands, topography, groundwater characteristics, and existing improvements. A yield plan shall meet all conventional zoning and subdivision requirements, including minimum buildable area requirements, and shall not assume that any waivers, variances or special use permits will be granted. On parcels located in areas not serviced by public sewers and not proposed for extension of public sewers, the yield plan shall include the location of an appropriate on-site wastewater treatment system on each lot.
- E. For all applicable projects under the preceding, at least 20% of the proposed base developable yield must qualify as affordable housing as defined per Subsection A(3) above. Affordable units must be deed restricted to remain affordable to households with gross incomes at or below 120% of the area median income, adjusted for family size, per R.I.G.L. § 42-128-8.1(d)(1).
- F. When a subdivision or land development project that creates fewer than five new dwelling units is approved on a portion of a parcel of land, leaving another portion of the same parcel undeveloped, the portion left undeveloped shall not be subdivided or developed for residential or mixed use unless the undeveloped portion is subject to the inclusionary requirements of this chapter. The number of

inclusionary units required in the later development shall be calculated as if the earlier development were part of it. This provision does not apply when an entire parcel receives Master Plan approval and is developed in phases.

§ 260-99. Incentives & building requirements for production of affordable housing

[Amended 12-11-2023 by Ord. No. 920-H]

- A. Consistent with Chapter 93 of the Town Code, Fees, Article II, Development Impact Fees, affordable housing units [those referenced in § 260-98A(3) above] are exempt from the Town's development impact fee and this fee waiver shall constitute a municipal government subsidy as defined in R.I.G.L. § 45-53-3, the Rhode Island Low and Moderate Income Housing Act, Definitions.
- B. All projects subject to the provisions of this article wherein low- and moderate-income housing units are being provided on site as part of an approved development shall be entitled to a density bonus of up to 20% more units than otherwise allowed consistent with Subsection C below. Development of projects that include a density bonus shall require a dimensional variance from the Planning Board under the unified development review process that incorporates deviations from the ordinary dimensional standards. Such review process can also be used to allow multiple residential structures on one lot.
- C. Additional units/lots allowed under this zoning incentive provision shall constitute a municipal government subsidy as defined in the Rhode Island Low and Moderate Income Housing Act. In addition to the yield plan required of each developer to show the maximum base number of units/lots, developers shall also be required to submit a second yield plan that includes the additional units as permitted with the zoning incentive. The Planning Board may require the modification via dimensional variance of the building height cap and/or minimum dimensional standards, including overall lot size, lot coverage, setbacks, and frontage requirements to accommodate affordable units. Lot size, coverage, setback, and frontage requirements can be reduced by up to 20% but only following an affirmative finding by the Planning Board that:
 - (1) Using a flexible zoning standard is in the best interest of good planning practice as evidenced by consistency with the Comprehensive Community Plan, including the Housing Plan; and
 - (2) Using a flexible zoning standard would not impair the purpose or intent of the Zoning Ordinance and meet the standards of review spelled out in Chapter 260 of the Town Code, § 260-91D.
- D. A "yield plan" indicates the basic maximum number of units or lots a parcel can support. A minimum of 20% of all proposed lots or units shall be affordable to low- or moderate-income households as defined in R.I.G.L. § 45-53. Where such calculation yields a fraction of a unit and such fraction is 0.5 or higher, the requirement shall be rounded to the next higher, whole number. Where such calculation yields a fraction of a unit and that fraction is less than 0.5, the requirement shall be rounded to the lower whole number.
- E. All affordable units provided within a development shall comply with all of the following requirements:
 - (1) All affordable units shall be dispersed throughout the development so as to ensure a true mix of market-rate and affordable housing.
 - (2) All affordable units shall be visually compatible with market-rate units in the same development. Affordable units shall be comparable to market-rate units in terms of location, type, quality, character, architectural style, and primary exterior building finishes and materials.
 - (3) Except as otherwise authorized by the Town, all affordable units shall contain one or more bedrooms. The mix of unit sizes and number of bedrooms per unit among the affordable units shall be in the same proportion as the mix among the market-rate units. If only one affordable unit is required and the other units in the development are of various sizes with varying numbers of bedrooms, the affordable unit shall contain an average of the number of bedrooms located in the market-rate units rounded to the nearest whole number.
 - (4) In assessing the compatibility of character between the affordable units and the market-rate units within a development, the Planning Board may consider building elevations, renderings, models and any other materials it deems necessary to assess and compare building features, including

- but not limited to overall height, roof pitch, building shape and footprint, exterior materials, structural massing and window pattern, style, and sizes.
- (5) The owners or renters of affordable units shall have all rights, privileges and responsibilities accorded to market-rate owners or renters, including access to all non-fee amenities within the development.
- (6) Certificates of occupancy (C/Os) for affordable units shall be issued prior to, or simultaneously with, the certificates of occupancy for market-rate units. In phased developments, the affordable units shall be phased, built, and occupied at least at the same proportionate rate as the market-rate units. If the off-site exaction is exercised (see § 260-101.1) and affordable units are rehabilitated or constructed at some other location, certificates of occupancy for the off-site units shall be issued at the same rate as certificates of occupancy for the market-rate units in the development.
- F. Any dwelling units proposed to be deed-restricted and counted as affordable units must be in full compliance with all applicable construction and occupancy codes, and shall be sufficiently maintained or rehabilitated so that all major systems meet standards comparable to new construction.

§ 260-100. Substandard lots of record

- A. Complete applications for construction of affordable housing on substandard lots of record (nonconforming by dimension) will be reviewed as land development projects.
- B. Applications for development of two or more substandard lots of record shall include the complete Master Plan checklist in the Land Development and Subdivision Review Regulations.

Editor's Note: See Ch. A263, Development and Subdivision Review Regulations.

- C. Applications for development of one substandard lot of record not abutting any other lot or parcel in the same ownership shall include the completed Master Plan Checklist in the Land Development and Subdivision Review Regulations, § A263-17, Subsection (a), Items 1 through 12, 14, 17, 18, and 23 and Subsection (b), Items (3) and (9).
- D. The Planning Board, with advice from the Technical Review Committee, shall recommend the dimensional requirements for these applications. The Zoning Board of Review retains purview over projects requiring variances and special use permits, and any necessary relief shall be subject to its review and approval.

§ 260-101. Affordability requirements

All affordable housing units constructed pursuant to this article must qualify as low- and/or moderate-income housing units as defined in Title 45, Chapter 53 of the Rhode Island General Laws. To accomplish this, an applicant shall, at a minimum, make the following submission in conjunction with the final plan:

- A. A Town-Solicitor-approved monitoring service agreement with a qualified organization; and
- B. Town-Solicitor-approved land lease and/or deed restriction to be in place not less than 30 years that includes the Town as a signatory, and grants to the Town enforcement authority and the right to notice.

§ 260-101.1. Off-site exactions

[Amended 12-11-2023 by Ord. No. 920-H]

- A. Purpose. It is acknowledged that not every subdivision proposal or project site will be compatible with the goals and requirements of this Affordable Housing Ordinance. Therefore, the Planning Board, with input from the Town professional staff and Technical Review Committee, may exempt a subdivision or land development project from the requirement to provide affordable units on-site, and instead require an off-site exaction. The Planning Board may allow off-site exactions when, in its determination, either of the following conditions is met:

- (1) It would not be feasible to provide affordable units on-site due to existing physical conditions that present unusual development challenges. These challenges may be environmental or regulatory and could impact the public safety or welfare. Examples include high water tables, presence of sensitive wildlife habitat, lot geometry, and surrounding traffic circulation patterns.
- (2) The off-site alternative would be beneficial to the Town or to future residents of the units because it is more likely to produce housing that accomplishes the goals of the Town's Affordable Housing Plan, which calls for, among other things, housing locations to be closely related to the presence of existing public services and facilities, jobs, transit and other amenities.
- B. Options. On-site affordable unit provision within a new development is strongly preferred. In special circumstances consistent with the above, the following off-site exactions may be allowed by the Planning Board in priority order:
 - (1) Purchase, deed-restrict and rehabilitate existing buildings to create affordable units;
 - (2) New construction of off-site affordable units.
- C. Compatibility. Off-site units rehabilitated or constructed in other neighborhoods remote from the proposed development site shall be compatible in siting, style, character, quality, and scale with existing dwelling units in the surrounding area.
- D. Concurrent development. Any required off-site affordable units shall be developed concurrently with the market-rate units in the subject subdivision or land development project, and certificates of occupancy (C/Os) for market-rate units shall be issued at the same proportionate rate as C/Os for newly constructed or rehabilitated affordable units. Where only one affordable unit is required to be provided, the Planning Board shall impose a condition of final plan approval that stipulates the timing of the availability of the affordable unit. In no case shall the final C/O for a market-rate unit in a development be granted before rehabilitation/construction of all required affordable units is complete.
- E. Rehabilitation. Existing housing units provided to satisfy the affordable housing requirement as described herein shall be rehabilitated consistent with the definition of "low or moderate income housing" found in the R.I.G.L. § 45-53-3(9). Affordable off-site units provided without any rehabilitation shall not be accepted.
- F. Incentive. Pursuant to R.I.G.L. § 45-24-46.1, which requires a subsidy or financial incentive for all residential projects with an inclusionary component, the twenty-percent density bonus over the base developable yield shall also be applied to projects pursuing an off-site exaction. As an example, if a parcel's yield plan shows development potential for six units, the developer, taking advantage of the density bonus, could propose construction of seven units on the project site but would also need to construct and deed-restrict, or purchase, rehabilitate and deed-restrict, an off-site unit as well. Consistent with § 260-99B above, projects including density bonus units shall require a dimensional variance from the permitting authority that incorporates any necessary deviations from the ordinary dimensional standards.

§ 260-101.2. Reports

- A. The local review board shall submit a report on affordable housing activities in each fiscal year to the Town Council not later than August 14 of the following fiscal year.
- B. The report shall include the following:
 - (1) The number of applications to construct or rehabilitate affordable housing units submitted, accepted as complete, and rejected as incomplete.
 - (2) The total number of dwelling units proposed to be constructed or rehabilitated in applications that are accepted and the number of dwelling units that are proposed to be affordable in such applications.

§ XVIII. Private Education Centers

[Added 5-9-2011 by Ord. No. 814]

§ 260-102. Master plan

All private education centers shall file a private education center master plan (hereafter called "master plan") with the Planning Board, which shall be in compliance with the use and dimensional requirements of this chapter and the Town's Comprehensive Community Plan and which shall be considered by the Planning Board as a major land development project and be subject to the normal procedure for a review set forth in the Development and Subdivision Review Regulations of the Town of East Greenwich for a major land development. The master plan must include all of the minimum requirements which are to be included in the five-year update plan set forth in § 260-109 of this article.

§ 260-103. Purpose

A master plan is required to promote the orderly growth and development of private education centers while preserving neighborhood character and historic resources and to ensure that the design is consistent with the Town's Comprehensive Community Plan. The master plan shall be a statement, in text, maps, illustrations or other media of communication that is designed to provide a basis for rational decisionmaking regarding the long-term physical development of the education center. The master plan shall include an implementation element that defines and schedules, for a period of five years or more, the specific public actions to be undertaken in order to achieve the goals and objectives of the plan.

§ 260-104. Filing requirements

Private education centers shall file the master plan as outlined in Chapter A263, Development and Subdivision Review Regulations. Said private education center shall review the master plan five years following master plan approval and every five years thereafter to determine if any changes are being considered or proposed and submit a five-year update plan as described below to the administrative officer. If changes are not proposed, the institution shall notify the administrative officer in writing that the master plan is valid and accurate for another five years.

§ 260-105. Review and approval

The plan shall be subject to the procedure for review and approval set forth in Chapter A263, Development and Subdivision Review Regulations, for a major land development. A private education center master plan includes the entire process of a major land development, including the preapplication stage, the master plan stage, the preliminary plan stage (which may be combined, in the sole discretion of the Planning Board, with the master plan stage), and the final plan stage.

§ 260-106. Vesting

The master plan shall be submitted and approved as a phased development consistent with R.I.G.L. § 45-23-48. The submission of a five-year update plan (or written notification noting that the current master plan is valid and accurate) shall constitute the vesting requirements of R.I.G.L. § 45-23-48(c).

§ 260-107. Phasing

The permitting, design and construction of a private education center may be phased in accordance with R.I.G.L. § 45-23-48 after the submission and approval of an overall master plan.

§ 260-108. Amendments

The master plan may be amended at any time by the private education center upon application to and approval by the Planning Board, subject to any other corresponding approvals deemed necessary by the Planning Board.

§ 260-109. Five-year update plan

The five-year update plan shall contain the following minimum requirements:

- A. Mission statement of the institution, including its relationship with the neighborhoods, communities and environment in which it is physically situated.
- B. Description of existing conditions that shall include a list of all properties owned or leased by the institution within the Town. The list shall be arranged by Assessor's plat and lot and include street address, present uses and condition of building, structures, parking lot, open space and the like, and other relevant existing conditions of the campus. "Use" shall include the general academic function of the building or structure and not the specific program (e.g., "classroom" and not "English Department classroom").
- C. Statement of ten-year goals and five-year objectives and means and approaches through which such goals and objectives may be reached.
- D. Proposed phasing of new development and pacing of proposed improvements.
- E. Proposed changes in land holdings of the institution, including property to be acquired or sold.
- F. Proposed changes in land use within the institution's campus and grounds.
- G. Proposed capital improvements, including new structures, additions to existing structures, parking garages, parking lots, parks and grounds. Major renovations that affect the building and/or campus grounds shall be included. The plan shall, at a minimum, identify the location of such improvements, the footprint and exterior dimensions of any new structure, height in stories and feet, proposed uses, including primary and accessory uses, parking and loading to support such uses, and landscaped buffers.
- H. For any new building or additions to an existing building, include scaled plans and elevations in the five-year update plan.
- I. Proposed demolition of any building, structure, parking garage, parking lot, park or any other campus facility.
- J. A circulation plan indicating existing and proposed vehicular access, pedestrian sidewalks and general circulation layout of the campus. The circulation plan shall address on-site and off-site impacts on adjacent streets. In addition, the plan shall address the adequacy of on-site traffic circulation, parking and loading, sidewalk/pedestrian circulation, delivery and emergency access and related circulation issues.

§ 260-110. Preliminary plan and final plan review and approval

The Planning Board shall review and consider a master plan for the entire private education center development in the manner set forth in the Development and Subdivision Review Regulations of the Town of East Greenwich. Subsequent land development review and approval (preliminary plan and final plan) may be submitted, reviewed and considered for approval in phases as outlined in the master plan or the five-year update plan. The final plan approval may be completed by the Administrative Office as long as there are no major changes as outlined below.

§ 260-111. Minor changes

In addition to amendment of the master plan or five-year update plan, minor changes may be made by the institution upon prior written notice and approval by the Administrative Office. Minor changes include but are not limited to the following:

- A. The addition or cumulative addition to an existing building of less than 10% in the size of a building or structure.
- B. Any change in parking which does not result in a net decrease in the number of spaces available on the campus or decrease in buffers to abutting parcels.
- C. Notwithstanding the foregoing, a mere change from one department or discipline to another shall NOT be deemed to be any change to the master plan or five-year update plan. Examples of such non-change events include a change from architecture and design department classrooms to medical classrooms, or a change from admission office to development office.

§ 260-112. Major changes

In addition to amendment of the master plan or five-year update plan, major changes may be made by the institution, subject to review and approval by the Planning Board. Major changes include but are not limited to the following:

- A. The addition or cumulative addition to an existing building of greater than 10% in the size of the building or structure.
- B. Any change in parking which results in a net decrease in the number of spaces available on the campus or decreases buffer width to abutting parcels.
- C. Any changes in building location, roadway circulation, or parking location which increases the amount of impervious area and/or requires a variance.
- D. Any change which would necessitate a review and approval by RIDEM, RIDOT or KCWA.

§ XIX. Wind Energy Systems

[Added 10-6-2014 by Ord. No. 839]

§ 260-113. Legislative findings; purpose

- A. The Town Council of the Town of East Greenwich finds, determines, and declares that, in accordance with R.I.G.L. § 45-24-27 et seq., the Town is empowered to regulate and control land use in order to protect the health, safety, and welfare of its residents. The Town has made a thorough study of wind energy systems as a land use and has identified several issues, especially pertaining to potential negative impacts on the environment and on the health of residents in the vicinity of turbines, that are cause for concern in siting such facilities.
- B. The Town has determined that, in much of the community, given the density and proximity of properties and the existing mix of uses within the Town limits, and given the sheer size and scale of most effective wind energy systems, such construction would be inconsistent with protection of the general health, safety and welfare. Such systems have an inherent impact on community character and aesthetics and would not be consistent with preserving the cultural and historical fabric of downtown or other historically zoned areas or the visual character of our scenic corridors.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. IV).

- C. The purpose of this article is to accommodate wind energy systems in appropriate geographic locations and at appropriate scales while simultaneously protecting the public health, safety and welfare. This article will provide for a review and approval process for limited wind energy projects that will ensure compliance with the standards and regulations established herein. A special use permit process will be created for the construction and operation of wind systems, providing clear standards for the placement, design, construction, monitoring, modification and removal of wind facilities to address public safety and minimize impacts on the scenic, natural and historic resources of the Town and to provide adequate financial assurances regarding the viability of such projects from construction, through operation and maintenance, to ultimate decommissioning and removal.

§ 260-114. Definitions

As used in this article, the following terms shall have the meanings indicated:

OWNER — The individual or entity that intends to own and operate a wind facility in accordance with this article.

RATED NAMEPLATE CAPACITY — The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a nameplate on the equipment.

TOWER — The monopole, freestanding or guyed structure that supports a wind generator.

TURBINE HEIGHT — The vertical distance from ground level at the base of the turbine to the tip of a rotor blade at its highest point.

WIND ENERGY FACILITY — A facility consisting of any and all equipment, machinery and structures utilized in connection with the conversion, storage or transfer of wind into electrical energy. It includes all transmission, storage, collection and supply equipment as well as substations, transformers, turbines and accessways (examples include but are not limited to all blades, base, foundations, rotors, towers, vanes, wires, inverters, batteries, generators and/or other components of the system).

- A. **UTILITY-SCALE WIND FACILITY** A commercial wind facility where the primary use is intended to be electrical generation that will be sold to wholesale electricity markets.
- B. **SMALL WIND ENERGY FACILITY** A wind facility located at a commercial, industrial, agricultural, residential, institutional or public facility that is designed and intended to generate electrical output primarily for the use or benefit of structures on the same lot or on contiguous commonly owned lots. Small wind facilities have a rated nameplate capacity of 80 kilowatts or less and a total height not exceeding 35 feet.

WIND TURBINE — A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.

§ 260-115. Restrictions; permit requirements

- A. Utility-scale wind facilities are not permitted.
- B. Wind energy facilities are prohibited in all local historic districts and on any outlying property covered by historic zoning.
- C. On-site small wind energy facilities may be installed, erected or constructed in the F-2, M/LIO, RHF and MUPD Zones on lot sizes not less than two acres, subject to the issuance of a special use permit by the Zoning Board of Review, provided that the use complies with all requirements set forth herein. Such systems are not permitted in any other zones. All permitted wind facilities shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts. No special use permit shall be granted unless the ZBR finds specifically in writing that the specific site is an appropriate location for such use; and the use is not expected to adversely affect the surrounding neighborhood; and there is not expected to be any serious hazard to pedestrians or vehicles from the use; and no nuisance is expected to be created by the use; and adequate and appropriate facilities will be provided for the proper operation, maintenance and protection of the use. In order to affirm the above-required findings of fact, the Zoning Board must assess the compliance of all proposed wind facilities with the design, installation, safety, aesthetic and environmental standards outlined below in §§ 260-116 and 260-117.
- D. All special use permit applications for small wind energy systems shall be accompanied by a fee equal to the fee charged for telecommunications towers per Subsection A(3) of § 260-89, Variance and special use permit application procedure and fees, of this chapter.
- E. Where permitted, only one small wind energy system shall be allowed on a property.
- F. All approved small wind energy systems shall be required to undergo an annual safety review, and a certified inspection report shall be filed with the Zoning Officer.
- G. All approved turbines shall be set back a distance either 1) equal to or exceeding the maximum projectile distance (or thrown hazard) as determined by the manufacturer; or 2) equal to two times or greater the overall blade tip height of the turbine from the nearest existing residential or commercial structure, whichever is greater, and a distance at least equal to the overall blade tip height of the turbine from the nearest property line or public right-of-way. All other components of the wind facility (equipment, storage/generator sheds, transformers, substations, guy wires or support footings) shall meet the standard setbacks for the zone and all other relevant dimensional regulations, including those pertaining to lot coverage, buffers and accessory structure heights.
- H. All wind energy facility owners shall provide a copy of their site plans and construction plans, and, ultimately, the as-built plan sets, to local emergency service providers and cooperate with same in developing an emergency response plan.

§ 260-116. Design and installation standards

- A. Controls. Wind turbines shall have automatic braking, governing, feathering, deicing and/or shut-down systems as needed to prevent uncontrolled rotation, overspeeding, rotor breakage, or excessive pressure on the tower structure, blades and other turbine components.
- B. Lighting. Wind turbines shall only be lighted if required by the FAA. Lighting of nontower parts of a wind turbine, such as appurtenant structures, shall be limited to that required for safety, security and operational purposes and shall be shielded from abutting properties consistent with the "dark skies" principle outlined in the land development and subdivision regulations. Lighting glare on abutting properties shall be minimized except as required by the FAA.

Editor's Note: See Ch. A263, Development and Subdivision Review Regulations.

- C. Outside experts. The Zoning Board of Review may hire outside consultants and experts as needed at the applicant's expense to peer review studies done by a wind energy facility applicant or to otherwise evaluate the design and installation impacts of a proposed wind turbine. Such review may cover any of the impacts addressed by this section and may also include a structural analysis of the proposed turbine, assessments of the expected power generation output of the facility, and any other topics deemed relevant by the ZBR.
- D. Visual impacts. To assess the visual impacts on a neighborhood, area or viewshed of a proposed wind system, the Zoning Board may require color photos of a site and its surrounding areas along with color photo simulations, by a qualified graphics professional, of said site and surroundings with the proposed wind facility superimposed thereon.
- E. Warnings. Clearly visible warning signage concerning voltage shall be placed at the base of all wind turbines, and turbines shall be designed to prevent unauthorized access. The Zoning Board may require protective fencing as reasonably necessary given the location of the wind turbine on the site or in relation to the neighboring area.
- F. Shadow flicker. Wind turbines shall be sited to minimize the shadow flicker effect on neighboring property. The applicant bears the burden of proving that significant adverse impacts will not occur, and failure to show same shall result in denial of the wind system petition. Required documentation may include simulations showing the angle of the sun at various times of the day and of the year and at any/all angles wherein surrounding property may be affected depending on projected turbine height.
- G. Utility connections. No special use permit for a wind energy facility will be issued until an applicant submits documentation from the relevant electrical utility, as applicable, approving the proposed connection.
- H. Environmental analysis. Depending on proposed size, scale and siting, wind energy facility applicants may be required to submit to the Zoning Board of Review a report, from a professional environmental consulting firm, that addresses the following factors:
 - (1) Constraints imposed by environmental and/or archaeological regulations.
 - (2) The presence of plant communities or animal species of concern or critical habitat for these species.
 - (3) Presence of critical areas of species congregation such as maternity roosts, hibernation sites, staging areas, winter ranges, nesting sites and migration stopovers.
 - (4) The potential for habitat fragmentation.
 - (5) Known avian species that are either present at the site, that migrate through it, or that may be attracted by site alteration and current studies addressing potential impacts on them by the specific turbine type proposed.
 - (6) An assessment of the general suitability of the site for wind development in light of potential environmental impacts.
 - (7) Design and operational recommendations to avoid or minimize significant adverse environmental effects.
 - (8) Recommended mitigation measures if significant impacts cannot be avoided.

- (9) Recommendation regarding post-construction studies that might evaluate animal mortality and other impacts so that operational adjustments can be made to mitigate as necessary.
- (10) A structural analysis from a registered professional engineer to show that the proposed setback is adequate assuming the event of a turbine blade break or throw.

§ 260-117. Aesthetic, safety and environmental standards

- A. All wind energy system operators shall maintain a current liability insurance policy, subject to annual certification, which will cover all liabilities associated with installation and ongoing operation of the facility through decommissioning. The special use permit approval for such system shall be conditioned upon continuation of said policy.
- B. All approved wind turbines, and other wind-facility-related equipment, shall, to the extent possible, be constructed of neutral, nonreflective exterior colors designed to blend with the surrounding environment.
- C. Wind turbines shall not be sited in areas that will result in the turbine dominating the view of a scenic, natural, or historic resource of the Town from any prominent public vantage point. The Zoning Board may require perspective drawings, digital renderings, photographic simulations, constructed models and/or any other graphic depictions it deems useful in determining viewshed impacts.
- D. Signage at approved wind facilities shall be limited to those necessary to identify the owner, provide emergency contact information, and warn of any possible dangers.
- E. Utility connections from the wind facility shall be located underground unless soil conditions or site topography prevent it. The requirement for underground utilities can only be waived by the Zoning Board of Review if sufficient expert testimony is presented to its satisfaction that such connection is not viable.
- F. Noise levels resulting from operation of a wind turbine shall not raise area noise levels more than five dB(a) above ambient existing conditions and in no case shall noise levels from wind turbines exceed the maximums established by the Town Code at Chapter 152, Noise. Noise levels are measured at the lot lines of the turbine site, consistent with the provisions for assessing noise effects as found in aforementioned Chapter 152, Noise. The applicant may be required to produce documentation from a qualified acoustics professional demonstrating to the satisfaction of the Zoning Board of Review that the proposed installation complies with the purpose and intent of this requirement.
- G. The Zoning Board in issuing a special use permit may also consider potential impacts on communications, including local emergency responder telecommunications, other military or civilian radio use or telecommunications and/or interference with other transmissions, including television. The Zoning Board may require local expert testimony to this effect or other written testimony from qualified personnel.
- H. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the wind facility and as otherwise prescribed by applicable state and local laws, regulations and ordinances.
- I. Wind facilities shall comply with all applicable requirements of the Federal Aviation Administration (FAA).

§ 260-118. Maintenance of facilities; decommissioning; abandonment

- A. All permitted wind turbines shall be maintained in good working condition. Maintenance shall include painting, structural repairs, and the integrity of security and life safety measures. A report demonstrating compliance with an acceptable maintenance schedule shall be submitted annually to the Building Official on the anniversary of the issuance of the building permit as part of an annual safety certification process.
- B. An applicant for a wind energy facility project shall be required to post a bond of a type, of a duration, and in an amount to be determined by the Town.
- C. When a wind energy system is scheduled for decommissioning, the applicant shall notify the Town by certified mail of the proposed date of discontinued operation and plans for removal. The owner/operator shall remove the entire wind system no more than 150 days after the discontinuation.

- D. At the time of removal, the wind energy facility site shall be restored to its state from before the facility was constructed. Removal shall include all associated equipment, with appropriate disposal of any hazardous materials. Stabilization and revegetation of the site shall occur as necessary to minimize erosion. The Zoning Officer may allow the owner to leave established vegetation and possibly below-grade foundations where they would minimize erosion and limit site disturbance.
- E. The owner/operator of a facility shall implement current industry practices during removal to ensure minimal adverse impacts on the public health, safety and welfare. Environmental impacts shall also be minimized, with appropriate notice to state regulatory agencies as required.
- F. After 12 months or one year of inoperability of any wind energy system, the Zoning Officer may reasonably determine the system to be abandoned and shall issue a notice of abandonment to the property owner. The owner shall have the right to respond to the notice within 30 days of receipt. Abandonment constitutes the voiding of any special use permit granted for a wind energy project on site.
- G. Should the property owner fail to respond to the notice of abandonment, the Zoning Officer shall allow 90 days from original receipt of the notice to accommodate complete physical removal of the offending wind energy system. If the system is not removed within 90 days, the Zoning Officer may impose the penalties outlined in § 260-79, Violations and penalties, of this chapter or will seek all available legal remedies through a court of competent jurisdiction.
- H. The owner of an abandoned or decommissioned wind energy facility shall remove the turbines, towers, bases and associated structures and components. If the owner fails to do so, the Town, through the Zoning Officer, shall pursue all legal remedies available to it and/or seek satisfaction through the posted bond and/or place a lien against the property. The Town reserves the right to salvage the wind facility demolition debris to defray the cost of demolition and site stabilization.

§ XX. Solar Energy Systems and Facilities

[Added 11-6-2017 by Ord. No. 873; amended 2-27-2023 by Ord. No. 913]

§ 260-119. Purpose and intent

- A. The purpose of the article is to establish protocols for the construction and operation of solar energy systems (SES) in the Town of East Greenwich, subject to reasonable conditions that will protect the public health, safety, and welfare.
- B. This article divides SES into two general categories: 1) SES affixed to buildings or structures, known as "building-integrated systems (BIS)" or "building-mounted systems (BMS);" and 2) "ground-mounted systems (GMS)," which are not affixed to buildings, but are instead affixed to the ground. BIS and BMS are permitted with less regulation and a less extensive review process than GMS. GMS is further divided into three subcategories: a) accessory system installations; b) minor system installations; and c) major system installations, based on the extent of the proposed GMS. The review process and regulation for the GMS vary depending on the applicable subcategory. Each of these terms are defined in further detail below.

§ 260-120. Definitions

As used in this article, the following terms shall have the meanings indicated:

ACCESSORY SOLAR SYSTEM INSTALLATION — Any ground-mounted solar energy system installation that does not qualify as either a major system installation or minor system installation, is designed to primarily service the property on which the solar installation is located, and the output does not exceed 25kW.

BUILDING-INTEGRATED SYSTEM — A solar energy system that is constructed as an integral part of a principal or accessory building or structure and where the building-integrated system features maintain a uniform profile or surface of vertical walls, window openings and roofing. Such a system is used in lieu of a separate mechanical device replacing or substituting for an architectural or structural component of

the building or structure that appends or interrupts the uniform surfaces of walls, window openings and roofing. A building-integrated system may occur within vertical facades replacing view glass, spandrel glass or other facade material into semitransparent skylight systems, into roofing systems replacing traditional roofing materials or other building or structure envelope systems.

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

GROUND-MOUNTED SYSTEM — A solar energy system that has its electricity-generating solar panels mounted on a structure, pole or series of poles constructed specifically to support the system and not attached to any other structure. Ground-mounted systems (GMS) fall into three categories: a) major solar system installations, b) minor solar system installations, and c) accessory solar system installations, as defined below.

MAJOR SOLAR SYSTEM INSTALLATION — Any ground-mounted solar energy system installation that meets one of the following criteria: a) a solar installation with an output exceeding 25kW; or b) a solar energy system with lot coverage that exceeds 40% of the net buildable area (i.e., the total area of the applicable lot, minus setbacks, vegetated buffers, and wetlands).

MINOR SOLAR SYSTEM INSTALLATION — Any ground-mounted solar energy system installation that does not qualify as a major solar system installation and meets one of the following criteria: a) the solar energy system installation is designed primarily to sell electricity to a utility supplier; or b) a solar energy system with a footprint that exceeds 5,000 square feet; or c) a solar energy system with lot coverage that exceeds 20% of the net buildable area (i.e., the total area of the applicable lot, minus setbacks, vegetated buffers, and wetlands), but does not exceed 40% of the net buildable area.

SOLAR ENERGY SYSTEM — All equipment, machinery and structural features designed and intended for converting solar energy (sunlight) into electricity; includes all facilities involved in the collection, storage, and distribution of solar energy.

§ 260-121. Applicability

- A. This article applies to all solar energy systems (SES) installed and constructed after the effective date of this article.
- B. SES constructed prior to the effective date of this article are not required to meet the requirements of this article.
- C. Any upgrade modification or structural change that materially alters the size or placement of an SES shall comply with the provisions of this article.

§ 260-122. General requirements

- A. Location.
 - (1) All ground-mounted system installations are prohibited in the Downtown East Greenwich Historic District Overlay Zone but may be permitted on properties located in the Tillinghast Road Historic District Overlay Zone and on properties covered by historic zoning as outlying properties (see Article XI of the Zoning Code).
 - (2) Building-mounted or building-integrated systems may be allowed at the discretion of the Historic District Commission in all Historic District Overlay Zones building-mounted or building-integrated systems shall be allowed by right in all other zones.
- B. Exemptions. Nothing herein shall preclude the Town of East Greenwich from installing ground-mounted or other solar energy systems on any Town-owned or controlled property regardless of zoning district.
- C. Compliance with laws, ordinances and regulations. The construction and operation of all solar energy system installations shall be consistent with all applicable local, state and federal laws, ordinances, regulations and requirements, including, but not limited to, all applicable safety, construction, electrical

and communications requirements. All buildings and fixtures forming part of a solar energy system installation shall be constructed and maintained in accordance with the Rhode Island Building Code and Electrical Code.

- D. Building permit and building inspection. No solar energy system installation shall be constructed, installed or modified without first obtaining a building permit and shall be subject to periodic inspections as deemed necessary by the building official.
- E. Fees. All applicable fees, including, but not limited to, a building permit fee, planning and zoning board review fees, as provided for herein or in the Code of Ordinances for the Town of East Greenwich, shall be paid prior to the issuance of any building permits.
- F. Plans and surveys. All plans related to design, construction, installation or modification of a solar energy system installation shall be prepared, signed and stamped by either a professional engineer, surveyor (for property line information), or landscape architect (for landscape information) licensed to practice in the State of Rhode Island.

§ 260-123. Development standards

[Amended 12-11-2023 by Ord. No. 920-I]

The following standards shall apply to all applications:

- A. Accessory solar energy system installation. Except as prohibited pursuant to § 260-122A(1), an accessory system installation is permitted in all other zones, provided such solar installation:
 - (1) Shall meet all applicable zone requirements, including, but not limited to, lighting, setbacks, signage, and height; and
 - (2) Shall require a building permit after submission and approval of layout and design. Any memorandum of lease, easement, or utility agreements must also be submitted for review, and shall be recorded in land evidence in the Town of East Greenwich upon approval; and
 - (3) Shall be in compliance with RI State Building Code and the RI State Electrical Code; and
 - (4) Where applicable, shall have gained approval by the Historic District Commission.
- B. Major and minor solar energy system installations. Major and minor system installations shall be allowed in the CH, M/LI-O, PD, and MUPD Zones. Such installations shall not be permitted in any other zones and shall be subject to the following:
 - (1) Minor solar system installations shall require Minor Land Development approval.
 - (2) Major solar system installations shall require Major Land Development approval from the Planning Board.
 - (3) All major and minor system installations shall adhere to the following:
 - * (a) Design standards. Major and minor system installation applications shall include the proposed site layout and any landscape changes, a diagram of electrical components, a description of the system components to be used, an operation and maintenance plan, a decommission plan, proof of liability insurance, the contact information for the project contractors, and utility approval where applicable (following completion of the utility company's review and approval of an impact study). Additional documents may be required by the Planning Board or by the Zoning Board of Review during the course of the applicable Board's review.
 - * (b) Land evidence. Any memorandum of lease, easement, or utility/distribution agreements shall be submitted with the major or minor system installation application and shall be recorded in land evidence in the Town of East Greenwich after all Planning Board and Zoning Board of Review approvals are received.
 - * (c) Setbacks and height. Any major and minor solar system installations must meet all height, lot coverage, and minimum front, side, and rear yard requirements in the applicable zone, and must additionally maintain a twenty-foot vegetated buffer from all adjacent properties and roadways.
 - * (d) Code requirements. All installations shall be in compliance with the Rhode Island State Building Code and the Rhode Island State Electrical Code and shall be subject to periodic inspections by the East Greenwich Building Official. All relevant installation components must have a UL listing or equivalent.

- * (e) Electrical. All electrical connection and distribution lines within the installation shall be underground or located entirely within a structure. Electrical equipment between the installation and the utility connection may be aboveground if required by the utility.
- * (f) Security. A fence shall surround the perimeter of any installation unless adequate property perimeter fencing already exists to the satisfaction of the Planning Board. Said fencing shall be no less than seven feet in height nor greater than 10 feet in height.
- * (g) Emergency access. Reasonable accessibility for emergency service vehicles shall be required.
- * (h) Signage. No signs are allowed on the security perimeter fencing except for a sign displaying the installation name, address and emergency contact information, and trespassing/warning/danger signs to ensure the safety of individuals who may come in contact with the installation. No sign shall exceed four square feet in area.
- * (i) Lighting. Lighting of solar energy systems and appurtenant structures shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties. Such lighting shall be directed downward and incorporate cutoff fixtures to reduce light pollution.
- * (j) Abandonment or decommissioning. It is the responsibility of the parcel owner to remove all obsolete or unused systems within six months of cessation of operations. Reusable components are to be recycled whenever feasible. Physical removal of solar energy systems, structures and equipment shall include stabilization or revegetation of the site as necessary to minimize erosion.
- * (k) Operations and maintenance. When an applicant makes submission to the Planning Board, he or she shall include an operations and maintenance plan for the solar energy system. It shall include provisions for emergency shutdown and shall provide for maintaining contact information for a responsible party for the public and agents of the Town to contact with inquiries or concerns throughout the useful life of the system. Such plan shall also provide detailed information regarding any chemicals, solvents or other compounds used to clean or otherwise maintain the solar panels and provide information on their storage, disposal and handling.
- * (l) Financial security. The Planning Board may require a financial security instrument covering the entire solar energy system from commencement of operations through decommissioning. Such instrument may be cash held in escrow or a surety bond or other form acceptable to the Town. The security must be sufficient to cover the complete cost of removal and disposal of the system. The applicant shall submit a fully inclusive estimate of the costs associated with removal, at the end of the useful life of the facility, prepared by a qualified engineer licensed in the State of Rhode Island.
- C. Building-mounted and building-integrated solar energy system installations. Building-mounted or building-integrated system installations shall be allowed by right in all zones, provided that the system is otherwise compliant with all generally applicable requirements of the building code and zoning ordinance, and provided, further, that Historic District Commission review and approval is required for all such systems to be located within any Historic District.

§ XXI. Development Plan Review

[Added 12-11-2023 by Ord. No. 920-J]

§ 260-124. Organization

- A. Development plan review established. There shall be development plan review for uses that are permitted by right under the Zoning Ordinance. Applicable uses for review by development plan review are as authorized in the Development and Subdivision Review Regulations.

Editor's Note: See Ch. A263.

- B. Permitting authority. The permitting authority shall be as designated in the Development and Subdivision Review Regulations.
- C. Specific and objective guidelines. Design of all projects shall be consistent with the provisions of the Development and Subdivision Review Regulations for site design.
- D. Waivers. The authorized permitting authority may grant waivers of design standards as set forth in the Development and Subdivision Review Regulations.
- E. Appeal. A rejection of the decision shall be an appealable decision pursuant to R.I.G.L. § 45-23-71.