

TOWN OF EXETER, RHODE ISLAND
CODE OF ORDINANCES
APPENDIX A, ZONING
ARTICLE I - ADMINISTRATION PROCEDURES

Sec. 1.2. Definitions.

Where words or terms used in this ordinance are defined in the definitions section of the "Rhode Island Comprehensive Planning and Land Uses Act," G.L. 1956, § 45-22.2-4, they shall have the meanings stated therein. In addition, the following words shall have the following meanings:

1. *Abutter*. One whose property abuts, that is, adjoins at a border, boundary or point with no intervening land.
 - 1.5 *Accessory building—Mounted solar array*. A solar energy system that is incidental and subordinate to the principal use(s) of the parcel, where the power produced can be used onsite, virtual net metered or sold back to the electric distribution company. An accessory building-mounted system shall be installed only on the roof of a structure.
 2. *Accessory dwelling unit*. A dwelling unit: (i) Rented to and occupied either by one or more members of the family of the occupant or occupants of the principal residence; or (ii) Reserved for rental occupancy by a person or a family where the principal residence is owner occupied and that meets the following provisions:
 - (A) In zoning districts that allow residential uses, no more than one accessory dwelling unit may be an accessory to a single-family dwelling.
 - (B) An accessory dwelling unit shall include separate cooking and sanitary facilities, with its own legal means of ingress and egress, and is a complete, separate dwelling unit. The accessory dwelling unit shall be within, or attached to, the principal dwelling-unit structure or within an existing structure, such as a garage or barn, and designed so that the appearance of the principal structure remains that of a one-family residence.
 3. *Accessory use*. A use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building. Such accessory use may be 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.
 4. *Affordable housing*. Year-round housing that has a sales price or rental amount that is within means of a household that is moderate income or less, as defined by R.I. Gen. Laws § 42-128-8.1(d), as amended
 5. *Age restricted housing*: Housing expressly for, and limited to, use and residency by (or at least co-use and co-residency by, as more particularly described below) persons 55 years of age or older, or as otherwise expressly required by state and federal law and regulation, and as defined by the Rhode Island Fair House Act, as amended.
 6. *Agency*. An agent of the local government, a person or board appointed to act for the public in some matter pertaining to the administration of municipal government.
 7. *Aggrieved party*. An aggrieved party, for purposes of this act shall be:
 - A. Any person or persons or entity or entities who can demonstrate that their property will be injured by a decision of any officer or agency responsible for administering the zoning ordinance of the Town of Exeter; or
 - B. Anyone requiring notice pursuant to G.L. 1956, title 45, chapter 24.
 8. *Agricultural land*. Agricultural land as defined in G.L. 1956, § 45-22.2-4.
 9. *Airport hazard area*. Airport hazard area as defined in G.L. 1956 § 45-24-31.
 10. *Appeal*. A course of action an individual may take before the zoning board of review when he/she feels there has been an error in any order, requirement, decision, or determination made by the zoning inspector in the enforcement of the zoning ordinance.
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11. *Applicant.* An owner (i.e., person, group, agency, or corporation) or an attorney for the owner submitting an application or appealing an action of any official, board or agency of the Town of Exeter.
 12. *Application.* The completed form or forms and all accompanying documents, exhibits and fees required of an applicant by an approving authority for development review, approval, or permitting purposes.
 13. *Area median income (AMI).* The median household income as determined annually by the federal Department of Housing and Urban Development (HUD) and adjusted for household size by HUD and by Rhode Island Housing for the designated statistical area that includes the town as of the date of marketing of the housing unit to which it is being applied.
 14. *Articulation:* The degree or manner in which a building wall or roofline is made up of distinct parts or elements. A highly articulated wall will appear to be composed of a number of different vertical and horizontal planes, usually made distinct by their change in direction (projections and recesses) and/or changes in materials, colors or textures.
 15. *Arterial roads:* For the purposes of the zoning ordinance, arterial roads in Exeter include Route 2, Route 3, Route 102, and Route 165.
 16. *Awning:* An overhead cover of canvas or other material extending over building openings to provide protection from the sun and rain.
 17. *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.
 18. *Building.* Any structure used or intended for supporting or sheltering any use or occupancy.
 19. *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.
 20. *Building height.* The vertical distance from the highest point of finished grade, to the top of the highest point of the roof or structure. The distance may exclude spires, chimneys, flagpoles and the like.
 21. *Building inspector.* An appointed official responsible for issuing building permits and examining all structures during the course of their erection, alteration, repair, moving or demolition.
 - 21.5 *Building-mounted solar energy facility.* A solar energy system that is structurally appended to the roof of a building or structure.
 22. *Building types:* The various general forms and functions of structures as depicted on development applications to the town through the use of massing blocks and/or architectural elevations.
 23. *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.
 24. *Community residence.* A home or residential facility where children and/or adults reside in a family setting and may or may not receive supervised care. This shall not include halfway houses or substance abuse treatment facilities. This shall include, but not be limited to, the following:
 - A. Whenever six or fewer retarded children or adults reside in any type of residence in the community, as licensed by the state pursuant to G.L. 1956, § 40.1-24-1. All requirements pertaining to local zoning are waived for these community residences.
 - B. A group home providing care or supervision, or both, to not more than eight mentally disabled or mentally handicapped or physically handicapped persons, and licensed by the state pursuant to G.L. 1956, § 40.1-24-1.
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- C. A residence for children providing care or supervision, or both, to be not more than eight children, including those of the caregiver and licensed by the state pursuant to G.L. 1956, § 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.
25. *Comprehensive plan.* The comprehensive plan adopted and approved pursuant to G.L. 1956, § 45-22.2 and to which any zoning adopted pursuant to this act shall be in compliance.
26. *Conservation development.* A type of land development project, which allows a community to guide growth to the most appropriate areas within a parcel of land to avoid impacts to the environment and to protect the character-defining features of the property. See the town land development and subdivision regulations.
27. *Cornice:* A continuous molded projection that crowns a wall or other construction or divides it horizontally for compositional purposes; usually consists of bed molding, soffit, fascia, and crown molding.
28. *Day care, day care center.* Any other day care center which is not a family day care home.
29. *Day care, family day care home.* Any home other than the individual's home in which day care in lieu of parental care or supervision is offered at the same time to six or less individuals who are not relatives of the care giver, but may contain more than a total of eight individuals receiving such care.
30. *Density, residential.* The number of dwelling units per unit of land.
31. *Development.* The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure, any mining, excavation, landfill or land disturbance, any change in use, or alteration or extension of the use of land.
32. *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.
33. *Development project.* See *Land development project.*
34. *Development rights:* Those rights to develop, expressed as the maximum number of dwelling units for residential parcels that could be permitted on a designated sending area parcel under the applicable zoning and subdivision rules and regulations in effect on the date of the transfer of development rights.
35. *District.* See *Zoning use district.*
36. *Dormer:* A window set upright in a sloping roof. The term is also used to refer to the roofed projection in which this window is set.
37. *Drainage system.* A system for the removal of water from land by drains, grading or other appropriate means. Such techniques may include runoff control to minimize erosion and sedimentation during and after construction or development, the means for preserving surface [waters] and groundwaters and the prevention and/or alleviation of flooding and pollution.
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38. *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.
 39. *Extractive industry.* The extraction of minerals including: solids, such as coal, ores and gravel and soil material; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes quarrying; well operation; milling, such as crushing, screening, washing and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity.
 40. *Façade:* The front of a building or any of its sides facing public spaces, frequently distinguished by distinctive architectural treatment.
 41. *Family.* A person or persons related by blood, marriage or other legal means. See also *Household*.
 42. *Farm:* Five acres or more of land which is, together with principal and accessory buildings, actively devoted to agricultural or horticultural production and operated by an individual, partnership, or corporation that has filled a U.S. Internal Revenue Form 1040 (Schedule F) with the Internal Revenue Service and has a State of Rhode Island farm tax number, and has earned at least \$2,500.00 gross income on farm products in either of the proceeding two years.
 43. *Farm brewery.* A brewery that is located on a farm of no less than five acres and that produces beer which is manufactured with at least one primary ingredient (hops or grain) grown on the farm and whose annual production does not exceed 150,000 gallons of beer, and where customers would have the opportunity to tour the farm and try small samples (3 ounces or less), and purchase bottles (of up to 64 ounces each) to take home and consume off site.

A farm brewery may also sell beer at wholesale to retailers with the appropriate State license. A farm brewery must have the appropriate State license to operate a brewery.
 44. *Fast food restaurant.* Any business, the major operation of which is over the counter service, generating a high turnover of customers and a large volume of traffic.
 45. *Filing fee.* A sum of money which accompanies an application for an appeal, variance, special use permit, or amendment. This is to cover any legal advertising and/or stenographic record.
 46. *Floodplains or flood hazard area.* As defined in G.L. 1956, § 45-22.2-4.
 47. *Gross floor area:* The sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. Gross floor area does not include basements when at least one-half the floor-to-ceiling height is below grade, accessory parking (i.e., parking that is available on or off-site that is not part of the use's minimum parking standard), attic space having a floor-to-ceiling height less than seven feet, exterior balconies, uncovered steps, or inner courts.
 - 47.5 *Ground-mounted solar energy facility.* A solar energy system that is structurally appended to the ground and is not supported by a structure or building.
 48. *Groundwater.* Groundwater and associated terms as defined in G.L. 1956, § 46-13-1-3.
 49. *Habitat.* That fixed place of residence to which a person intends to reside permanently.
 50. *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.
 51. *Hardship.* See article 1, section 3.E [of this appendix].
 52. *Historic district or historic site.* As defined in G.L. 1956, § 45-22.2-4.
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53. *Home occupation.* Any activity customarily carried out for gain by resident, conducted as an accessory use in the resident's dwelling unit.
54. *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 for determining the number of such units allowed within any structure on any lot in a zoning district. An individual household shall consist of any one of the following:
- A. A family, which may also include servants and employees living with the family.
 - B. A person or group of unrelated persons living together. The maximum number may be set by local ordinance, but this maximum shall not be less than three.
- ~~55. *Inclusionary (housing) unit.* A low or moderate income housing unit (as defined herein) which meets the affordability level, unit type, and other requirements of article IX, enabling it to be counted towards satisfying the requirements of that section.~~
56. *Infrastructure.* Facilities and services needed to sustain residential, commercial, industrial, institutional, and other activities.
57. *Junk.* The term "junk" shall include, but shall not be limited to, old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, construction debris, waste; or junked, dismantled or wrecked automobiles, or parts thereof; [and] iron, steel and other old or scrap ferrous or nonferrous material.
58. *Junkyard.* The use of any lot, whether inside or outside a building, where an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk.
59. *Kennel Class 1.* A fully enclosed/indoor structure or establishment other than a pound or animal shelter where over ten dogs are kept, owned, trained and/or boarded.
60. *Kennel Class 2.* A structure or establishment other than a pound or animal shelter where four to ten dogs are kept, owned, trained and/or boarded.
61. *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 or conservation development for residential, commercial, institutional, recreational, open space, and/or mixed uses as may be provided for in the zoning ordinance.
62. *Land unsuitable for development.* Land having natural or man-made limitations, which make it unsuitable for development. Land unsuitable for development shall be excluded from density calculations in conservation developments, rural residential compounds, and planned districts, and may not be considered as part of the minimum lot area required. These lands include:
- A. Fresh water wetlands, including that area of wetland within 50 feet of the edge of any bog, marsh, swamp, pond or river; as defined by G.L., § 2-1-20, as amended.
 - B. Any area of the tract proposed to be developed equal to the area of any street, common private way, and/or utility rights-of-way, including drainage, gas or electrical power line easements.
63. *Landscaping business.* Any business whose purpose is to change or improve the natural scenery of a business or residence by placing or arranging trees, bushes, shrubs, ornamental grasses or other vegetation and also maintaining existing vegetation by pruning, mowing or other normal vegetative maintenance and also includes installation and maintenance of landscape features such as decorative ponds, waterfalls or other water elements as part of an overall landscape design.
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- 63.5 *Large-scale solar energy facility.* A solar energy system that occupies 40,000 square feet up to 220,000 square feet, inclusive of inter-row and panel/collector spacing.
64. *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.
65. *Lot area.* The total area within the boundaries of a lot, including at a minimum, one acre of contiguous land that is suitable for development, usually reported in acres or square feet.
66. *Lot building coverage.* That portion of the lot that is or may be covered by buildings and accessory building(s).
67. *Lot depth.* The distance measured from the lot line to the rear lot line. For lots where the front and rear lot lines are not parallel, the lot depth is an average of the depth.
68. *Lot frontage.* That portion of a lot abutting a public or accepted town street. Lot frontage must be contiguous frontage to be considered to meet minimum frontage requirements.
69. *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. A zoning ordinance shall specify the method to be used to determine the front lot line on lots fronting on more than one street, for example, corner and through lots.
 - B. *Rear:* The lot line opposite and more distant from the front lot line, or in the case of triangular or otherwise irregularly shaped lots, an assumed line at least ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line; and
 - C. *Side:* Any lot line other than a front or rear lot line. On a corner lot, a side lot line may be a street lot line, depending on requirements of the local zoning ordinance.
70. *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.
71. *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.
72. *Low income household.* A household with an adjusted gross income that is eighty (80) percent or less of the area median income as defined in this ordinance.
73. *Low or moderate-income housing.* Affordable housing (as defined in this ordinance and in G.L. § 42-128-8.1(d), as amended) that satisfies the criteria for "low or moderate income housing" under G.L. § 45-53-3(5), as follows:
- A. subsidized by a federal, state, or municipal government subsidy under any program to assist the construction or rehabilitation of housing; and
 - B. affordable to low or moderate income households, as defined in the applicable federal or state statute, or local ordinance; and
 - C. subject to a land lease and/or deed restriction that assures such affordability for ninety-nine (99) years or such other period that is either agreed to by the applicant and town or prescribed by the federal, state, or municipal government subsidy program but that is not less than thirty (30) years from initial occupancy.
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74. *Manufactured home.* A structure, transportable in one or more sections, that, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length or, when erected on-site, is 320 square feet or more, that is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities, and that includes the plumbing, heating, air conditioning, and electrical systems contained therein.
 75. *Massing:* The three dimensional bulk of a structure consisting of its height, width, and depth.
 76. *Maximum gross building footprint per retail structure.* The maximum gross building footprint per retail structure shall be calculated by including the total footprint in square feet of all indoor space devoted to storage, display, and/or sale of goods to be sold at retail, and sales areas for retail goods located on the same or on contiguous lots or parcels of land for a single or commonly controlled retail business operation. Thus, even if more than one structure is utilized for a single or commonly controlled retail business operation, the combined gross footprint may not exceed 40,000 square feet. Nothing herein is intended to prohibit multiple retail structures on a single lot from exceeding a total of 40,000 square feet, as long as they are not for a single or commonly controlled retail business operation.
 - 76.5 *Medium-scale solar energy facility.* A solar energy system that occupies more than 1,600 square feet but less than 40,000 square feet of area, inclusive of inter-row and panel/collector spacing.
 77. *Mere inconvenience.* See G.L. 1956, § 45-24-41.
 78. *Mixed use.* A mixture of land uses within a single development, building, or tract.
 79. *Mixed use commercial development.* Commercial development in a business zone that contains a mix of commercial and residential uses as provided for in sec. 4.6 of these regulations. A mixed use commercial development is considered a land development project, pursuant to G.L. § 45-24-47, and shall be subject to development plan review, pursuant to section 2.5 of this ordinance.
 80. *Mobile home (including doublewide trailer).* A structure designed or used for residential occupancy built upon or having a frame or chassis to which wheels may be attached by which it may be moved upon a highway, whether or not such structure actually has, at any given time, such wheels attached, or is jacked up or skirted, or attached to a permanent foundation.
 81. *Moderate income household.* A household with an adjusted gross income that is more than eighty (80) percent but less than one hundred twenty (120) percent (120%) of the area median income as defined in this ordinance.
 82. *Modification.* Permission granted and administered by the zoning inspector, and pursuant to the provisions of G.L. 1956, title 45, chapter 24 contained herein to grant a dimensional variance other than lot area requirements from the Exeter zoning ordinance to a limited degree as determined by the Exeter zoning ordinance, but not to exceed the specified percentage of each of the applicable dimensional requirements.
 83. *Mullion:* A structural element which serves to frame a multi-pane window unit.
 84. *Municipal government subsidy.* Assistance that is made available through a town program sufficient to make housing affordable, as affordable housing is defined in this ordinance and in G.L. § 42-128-8.1(d)(1). Such assistance may include, but is not limited to, direct financial support, waiver of fees and charges, and approval of density bonuses and/or internal subsidies, and any combination of forms of assistance.
 85. *Natural vegetation.* Trees, shrubs, grass, or other plants which grow naturally or have been planted.
 86. *Nonconformance.* A building, structure, or parcel of land, or use thereof, lawfully existing at the time of the adoption or amendment of the Exeter zoning ordinance and not in conformity with the provisions of such ordinance or amendment. Nonconformance shall be of only two types:
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- A. *Nonconforming by use:* A lawfully established use of land, building or structure which is not a permitted use in that zoning district. A building or structure containing more dwelling units than are permitted by the use regulations of a zoning ordinance shall be nonconforming by use.
 - B. *Nonconforming by dimension:* A building, structure or parcel of land not in compliance with the dimensional regulations of the Exeter zoning ordinance. Dimensional regulations include all regulations of the zoning ordinance, other than those pertaining to the permitted uses. A building or structure containing more dwelling units than are permitted by the use regulations of the Exeter zoning ordinance shall be nonconforming by use, a building or structure containing a permitted number of dwelling units by use regulations of the zoning ordinance, but not meeting the lot are per dwelling unit regulations, shall be nonconforming by dimension.
87. *Overlay district.* A district established in the Exeter zoning [ordinance] that is superimposed on one or more districts or parts of districts and that imposes specified requirements in addition to but not less than those otherwise applicable for the underlying zone.
88. *Owner.* Shall be held to mean any person who alone, or jointly, or severally with others:
- A. Has a legal title to any premises; or
 - B. Has control of any premises as agent, executor, executrix, administrator, administrator trustee, guardian of the estate of the holder of a legal title, or the holder of equitable title; or
 - C. A partnership, corporation, or company.
89. *Performance standards.* A set of criteria or limits relating to elements which a particular use or process either must meet or may not exceed.
90. *Permitted use.* A use by right which is specifically authorized in a particular zoning district.
91. *Planned development.* Land development project as defined herein and developed according to plan as a single entity and containing one or more structures with appurtenant common areas.
92. *Planned districts.* The basic unit in zoning, either mapped or unmapped, to which a uniform set of regulations applies, or a uniform set of regulations for a specified use. The districts include, but are not limited to, residential, rural, conservation, business, light industrial, groundwater protection overlay, and open space and public lands. Each district may include subdistricts. Districts may be combined.
93. *Planned village development (PVD):* A major land development project within a planned village overlay district that incorporates a mix of residential and/or nonresidential uses in a compact, walkable environment, and complying with the standards set forth in article X of this ordinance.
94. *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.
95. *Rear depth.* The distance between a rear lot line and a structure.
96. *Recreational vehicle.* Major recreational equipment including, but not limited to, camp or travel trailers, tent trailers, boats and boat trailers.
97. *Residential compound.* A residential compound is a parcel of land containing lots for single-family dwellings having an average overall density of no greater than one dwelling unit per ten acres of land.
98. *Rhode Island Housing.* The Rhode Island Housing and Mortgage Finance Corporation, an agency of the State of Rhode Island.
99. *Roofline:* The top covering of a building which may consist of a variety of styles including, but not limited to: gable roof, hip roof, shed roof, and gambrel roof.
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100. *Scale*: The general feeling of mass and size of a building as it relates to that of other buildings along a street or block front.
 101. *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.
 102. *Site plan*. The development plan for one or more lots on which is shown the existing and/or proposed conditions of the lot.
 - 102.2 *Small-scale solar-energy facility*. A solar energy system that occupies 1,600 square feet of area or less, inclusive of inter-row and panel/collector spacing.
 - 102.4 *Solar canopy*. A solar energy facility that is located on a new elevated structure that hosts solar panels and provides shelter to a parking area, driveway or walkway underneath.
 - 102.6 *Solar energy facility*. The equipment and requisite hardware that provide and are used for collecting, transferring, converting, storing, or using incident solar energy for applications that would otherwise require the use of a conventional source of energy such as petroleum products, natural gas, manufactured gas or electricity produced from a non-renewable source. This shall include photovoltaic arrays and installations that utilize building-mounted and/or ground-mounted systems.
 - 102.8 *Solar land coverage*. The total footprint of land occupied by all components of a solar energy system including but not limited to solar panels, mounting equipment, ancillary components of the system, inter-row and panel/collector spacing, access, and all other areas within the required perimeter fencing.
 103. *Special use*. A regulated use which is permitted pursuant to a special use permit issued by the authorized governmental entity, pursuant to G.L. 1956, § 45-24-42.
 104. *Street*. A street accepted by the Town of Exeter and maintained by the state or town for vehicular traffic.
 105. *Street line*. A lot line that separates a lot from a street.
 106. *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.
 107. *Substandard lot of record*. Any lot lawfully existing at the time of adoption or amendment of the Exeter zoning ordinance and not in conformance with the dimensional and/or area provisions of such ordinance.
 108. *Stepback*: A condition in which the upper story or stories of a building are set back inward from the lower story.
 109. *Transfer of development rights*: The ability to separate development rights from a particular parcel and use them to increase the development potential on another.
 110. *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.
 - 110.5 *Utility-scale solar energy facility*. A solar energy system that occupies more than 220,000 square feet of area, inclusive of inter-row and panel/collector spacing.
 111. *Variance*. Permission to depart from the literal requirements of the Exeter zoning ordinance. An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land, which is prohibited by the Exeter zoning ordinance. There shall be only two categories of variance, a use variance or a dimensional variance.
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- A. *Use variance.* Permission to depart from the use requirements of the Exeter zoning ordinance where the applicant for the requested variance has shown by evidence upon the record that the subject land or structure cannot yield any beneficial use if it is to conform to the provisions of the zoning ordinance.
- B. *Dimensional variance.* Permission to depart from the dimensional requirements of the Exeter zoning ordinance where the applicant for the requested relief has shown, by evidence upon the record, that the hardship that will be suffered will amount to more than a mere inconvenience unless granted the requested relief from the dimensional regulations. However the fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.
112. *Waters.* As defined in G.L. 1956, § 46-12-1(b).
113. *Wetland, coastal.* As defined in G.L. 1956, § 2-1-14.
114. *Wetland, freshwater.* As defined in G.L. 1956, § 2-1-20.
115. *Yield plan.* A plan of a conventional (as opposed to a conservation) subdivision or land development project that depicts the maximum number of building lots or dwelling units that could reasonably be built on a parcel of land under current zoning, taking into account physical constraints to development, such as wetlands, etc. No lot shall be considered buildable unless it can be shown to have a minimum of one acre (43,560 sq. ft.) of contiguous, accessible land that is free of biological wetlands, water bodies, street rights-of way, or electrical power line easements.
116. *Zoning board of review.* A group consisting of five regular and two alternate members, appointed by the town council, charged with the responsibility of interpreting and making certain decision[s] as specified in the Exeter zoning ordinance and Exeter zoning map.
117. *Zoning certificate.* A document signed by the zoning inspector, as required in the Exeter zoning ordinance, which acknowledges that a use, structure, building or lot either complies with or is legally nonconforming to the provisions of the Exeter zoning ordinance, or is an authorized variance or modification therefrom.
118. *Zoning inspector.* A person elected by the people of the Town of Exeter and charged with the responsibility of enforcing the provisions of the Exeter zoning ordinance and recording all amendments of the ordinance on the record copy of the Exeter zoning ordinance.
119. *Zoning map.* The map or maps which are a part of the Exeter zoning ordinance and which delineate the boundaries of all mapped zoning districts within the physical boundaries of the Town of Exeter.
120. *Zoning ordinance.* The Exeter zoning ordinance enacted by the town council of the Town of Exeter pursuant to Title 45, Chapter 24, and, in the manner providing for the adoption of 14 ordinances in the town's legislative or home rule charter, if any, which sets forth regulations and standards relating to the nature and extent of uses of land and structures, which is consistent with the Exeter comprehensive plan, as defined in G.L. 1956, § 45-22.2, which includes the Exeter zoning map, and which complies with the provisions of G.L. 1956, title 45, chapter 24.

(Ord. of 5-25-00, § 1; Ord. of 1-6-03(2), § 4; Amd. of 3-3-03; Amd. of 10-5-04; Amd. of 3-6-06, § 1; Ord. of 8-7-06, § 1; Amd. of 5-7-07; Amd. of 6-4-07; Ord. of 9-4-07, § 1; Amd. of 4-7-08; Amd. of 4-6-09; Ord. of 9-27-12, Exh. 1; Amd. of 10-6-14, § 1; Amd. of 9-4-18 ; Amd. of 2-4-19, § 3 ; Amd. of 4-5-21)

ARTICLE IX

Sec. 9.2. Assurance of affordability.

- A. *Basic requirement.* All ~~inclusionary units provided under section 9.4, and other~~ affordable units provided under section 4.6 (mixed-use commercial development) shall meet the definition of "low or moderate income housing" as contained in this ordinance. The required minimum term of affordability shall be not less than 30 years or such longer period as specified elsewhere in this ordinance, as applicable.
- B. *Eligible occupants.* Ownership units shall be occupied by their purchasers as their primary residence and not rented for seasonal occupancy nor rented for any other occupancy except during temporary absences totaling not more than eight weeks in any 12-month period. Rental units may be sub-leased only to a household meeting the applicable income restrictions on affordability.
- C. *Qualification and monitoring.* In order to assure that the occupancy and level of affordability of low or moderate-income housing units are maintained over time in accordance with this ordinance and with Rhode Island Housing regulations, the developer shall contract with a monitoring agency approved by the Rhode Island Housing and Mortgage Finance Corporation for the following purposes:
1. To determine pricing for initial sale, resale, lease or sublease of ~~inclusionary or~~ affordable dwelling units;
 2. To qualify purchasers or renters for occupancy based upon household size and income;
 3. To assist in the development of a marketing and resident selection plan that meets state and federal fair housing requirements, to be approved by the Planning Board; and
 4. To monitor occupancy of the affordable dwelling units to ensure compliance with these requirements.
- D. *Long-term affordability.* Long-term affordability shall be assured through a land lease or deed restriction, recorded in the town land evidence records prior to the sale or lease of the affordable unit, addressing the following items:
1. The basis for calculation of the maximum allowable sales or rental price for the housing unit both initially and on future buyers or renters;
 2. A marketing plan that meets local preferences and state and federal fair housing requirements;
 3. Provisions for monitoring and assurance of compliance over time; and
 4. Provisions under which the town may exercise a right of first refusal to purchase an affordable unit being offered for sale.

(Ord. of 9-4-07, § 2)

Sec. 9.3. Marketing and resident selection.

- A. *Plan required.* The developer of low or moderate income units under ~~sections 9.4 (inclusionary zoning) or 4.6~~ (mixed use commercial development) shall submit an affordable unit marketing and resident selection plan for approval by the planning board prior to its initiation. The plan shall describe how the low or moderate income units will be marketed and potential homebuyers or tenants selected, including a description of the lottery or other process to be used for their selection.
- B. *Local preference.* Income-blind priority shall be given in resident selection for 80 percent of ~~the inclusionary or other~~ affordable units (rounded down to the nearest unit) to households containing persons currently residing or employed in the town, or persons having children, parents, or siblings who are resident in the town. If the applicant pool of such persons contains a smaller percentage of minority applicants (Native American or Alaskan Native, Asian or Pacific Islander, Black, Hispanic, Cape Verdean) than the statewide
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percentage then additional minority applicants not qualifying for local preference shall be added to the pool until it reaches the statewide percentage.

(Ord. of 9-4-07, § 2)

Sec. 9.4. Inclusionary zoning.

A. *Purpose.* The purpose of inclusionary zoning is to ensure that new residential development projects support the town's goal of housing diversity consistent with the town comprehensive plan and with statewide planning and housing guidance. To achieve this purpose, new subdivisions and land development projects that are subject to this section 9.4 shall include a share of housing units that are affordably priced, subject to a price limitation to assure initial affordability, with deed rider or land lease assuring that purchasers or tenants' incomes meet prescribed limits at the time of purchase or occupancy and that such affordability and income eligibility will again be observed at the time of each future resale, release, or other transfer.

B. *Applicability.* The provisions of this section 9.4 shall apply to all residential subdivisions and land development projects that result in the creation of four or more lots or housing units from a lot in existence on the effective date of this ordinance.

C. *Inclusionary unit requirements.*

1. *Basic requirement.* A development that is subject to this section 9.4 shall include low or moderate income housing units at least equal to 20 percent of the added lots or housing units that are not low or moderate income units (with fractions below 0.5 rounded down and fractions of 0.5 or greater rounded up to the next higher number), as illustrated by the following table:

Number of lots or units that are not low or moderate income (LMI) units	Required number of LMI units	Total number of lots or units including LMI units	Actual percentage of LMI units (for reference only)
4-7	1	5-8	13% - 20%
8-12	2	10-14	14% - 20%
13-17	3	16-20	15% - 19%
18-22	4	22-26	15% - 18%
23-27	5	28-32	16% - 18%
28-32	6	34-38	16% - 18%
etc.	etc.	etc.	

2. *Incremental development.* These requirements are intended to apply to incremental development of a lot over time as well as to a one-time development of a lot. Therefore, a low or moderate income unit shall be provided whenever the cumulative number of new lots or units created from the original lot reaches a threshold number in the table in section 9.4.C.1: that is, the first low or moderate income unit shall be provided when the fourth new lot or unit is to be created; the second low or moderate income unit shall be provided when the eighth new lot or unit is to be created; etc.

3. *Low income affordability.* In a development in which all of the units are for sale, at least 50 percent of the inclusionary units shall be affordable to low income households and the remaining inclusionary units shall be affordable to households with incomes at or below 100 percent of area median income. In any development in which not all of the units are for sale, all of the inclusionary units shall be affordable to low income households.

D. *Off site location.*

1. ~~The inclusionary unit requirements may be met in part or whole by locating some or all of the required inclusionary housing units on an alternative site or sites within the town only if the Planning Board finds that an increase in the existing zoned density of the proposed development is unfeasible or inappropriate due to sensitive environmental features of the site or other factors.~~
 2. ~~Off-site inclusionary housing units may be located in an existing structure being rehabilitated, but the units must not be ones which are already eligible to be counted as low or moderate income housing under G.L. ch. 45-53.~~
 3. ~~Except where inclusionary units will be provided in an existing structure as provided in section 9.4.D.2, the planning board shall not permit off-site location of required inclusionary units unless the town council first approves the off-site location.~~
- ~~E. *Term of affordability.* The required minimum term of affordability for inclusionary units, whether on-site or off-site, shall be 30 years. When a unit is resold prior to the expiration of the restriction, the term of affordability shall be renewed for 30 years.~~
- ~~F. *Fee in lieu.*~~
1. ~~*Eligibility.* The inclusionary unit requirements may be met in part or whole through payment of a fee in lieu of providing one or more inclusionary units only if the planning board finds that an increase in the existing zoned density of the proposed development is unfeasible or inappropriate due to sensitive environmental features of the site, and provision of the required off-site is not feasible. The fee in lieu option is intended to be a last resort where the developer is not able to provide the required inclusionary unit(s) either on-site or off-site.~~
 2. ~~*Fee amount.* The required fee in lieu of providing inclusionary units shall be equal to the number of inclusionary units required but not provided times a fee per unit as set forth in 3. below.~~
 3. ~~*Fee per unit.* The fee in lieu of providing one inclusionary dwelling unit shall be equal to the difference between:
 - a. ~~The median sales price per dwelling unit for all units sold in the town in the most recent three-year period for which sales price data is available (as determined by the assessors) and~~
 - b. ~~The current maximum purchase price for a housing unit affordable at 80 percent of applicable area median income (as estimated by Rhode Island Housing).~~The fee in lieu shall be updated annually by the planning board, and the town council shall approve the fees by resolution.~~
 4. ~~*Fee recipient.* The fee shall be paid to the town and directed either:
 - a. ~~To a restricted account established by the town to support the creation of affordable housing in the town, from which funds shall be expended pursuant to vote of a financial town meeting for the acquisition of land for affordable housing or for the acquisition, rehabilitation, or construction of affordable housing units; or~~
 - b. ~~To an affordable housing trust fund established by municipal ordinance, to be expended in the manner specified in said ordinance.~~~~
 5. ~~*Land conveyance.* The inclusionary unit requirement may be met in part or whole through the conveyance to the town of land either on-site or off-site, subject to acceptance by the town council, provided that the planning board finds that:
 - a. ~~The fair market value of the land is at least equal to the fee in lieu that would otherwise be required under section 9.4.F.2; and~~
 - b. ~~The land is suitable for residential development and use.~~~~

6. **Cost mitigating provision:** The following cost mitigation measures are provided as a subsidy to contribute to offsetting the net cost impact of providing housing units at affordable prices:

1. **Density bonus:** The number of housing units allowable on the site shall be increased above that otherwise allowable by a number equal to the number of low or moderate income housing units provided. The total number of dwelling units on the parcel shall not be increased by more than 50 percent above the number that otherwise would be allowed.

2. **Limitation adjusted:** Where the residential density is increased pursuant to section 9.4.4.1, the dimensional regulations of section 9.4.2 shall be adjusted as follows:

a. **Lot size, frontage and yard requirements:** (except for front yards and for side and rear yards at the perimeter boundary lines of the development) shall be reduced by multiplying the requirements in section 9.4.2 by the number of housing units allowable without a density bonus divided by the number of units allowable with a density bonus.

b. The planning board shall have the authority to adjust other applicable dimensional regulations if the board finds the adjustment to be necessary and consistent with good planning practice.

c. The adjusted dimensional regulations applicable to the development shall be shown on the final plat or site plan for the development.

3. **Exemption from growth management ordinance:** The building permit quotas established by the Town Code of Ordinances, chapter 14, article III (growth management), shall not apply to inclusionary units (but shall apply to market rate units in the same development).

4. **Exemption from impact fees:** The impact fees established by the Town Code of Ordinances, chapter 14, article IV ("impact fees") shall not apply to inclusionary units (but shall apply to market rate units in the same development).

H. **Integrating inclusionary units:**

1. **Inclusionary unit location and appearance:** Inclusionary units shall be integrated within the development to the degree feasible and not separately segregated. The exterior appearance of the inclusionary units shall be compatible with and, except for unit size, essentially indistinguishable from the other.

2. **Inclusionary unit size:**

a. If the average number of bedrooms in the market rate units is greater than 2.0, the average number of bedrooms in the inclusionary units shall not be less than 2.0.

b. If the average number of bedrooms in the market rate units is 2.0 or less, the average number of bedrooms in the inclusionary units shall not be less than the average number of bedrooms in the market rate units.

3. **Timing of occupancy:** The percentage of proposed market rate units granted a certificate of occupancy shall at no time exceed the percentage of proposed inclusionary units granted certificates of occupancy by more than 50 percent. The certificate of occupancy for the last market rate unit shall not be granted until all inclusionary units have been granted such certificates.

(Ord. of 9-4-07, § 2)

ARTICLE X

Sec. 10.2. Special requirements.

10.2.1 *Housing affordability.* Development under this section (10.0) [article X] shall be subject to all applicable provisions of article IX, ~~including section 9.4, inclusionary zoning.~~

10.2.2 *Residential density.* Residential development within a PVD is intended to provide a diversity of attractive housing types that will serve a range of individuals and families in accordance with the requirements of this subsection. Residential density that is proposed over and above the residential density allowed by right within the underlying district shall also require the transfer of development rights pursuant to section 6.0 of the land development and subdivision regulations.

- A. The maximum density of residential development for an individual lot within a PVD shall not exceed [15 units per acre]. The average density of residential development in the PVOD shall not exceed [eight units per acre]. Any dedicated open space within the PVOD or on an individual lot shall not be included in these calculations.
- B. This permitted increase in density is provided as a municipal government subsidy as defined in this ordinance and in R.I. Gen. Laws § 45-53-3.

10.2.3 *Maximum floor area.* The gross floor area of an individual commercial establishment in the PVD shall not exceed 15,000 square feet, except that a grocery store may be permitted a gross floor area up to 25,000 square feet. Architectural techniques shall be used on larger structures to reduce the impact of massing including varied rooflines and articulation pursuant to the design regulations in section 6.0 of the land development and subdivision regulations.

10.2.4 *Public space.*

- A. At least ten percent of the land in a PVD shall be designated as public space as part of the site design, but can remain in private ownership.
- B. Wetlands may be devoted to public space but shall not be counted towards the minimum public space requirement.

10.2.5. *Parking.*

- A. Any application for a PVD shall demonstrate that the development complies with the requirements of the applicable provisions of the article V of the zoning ordinance with the following additions, exemptions or alterations:
 - 1. Any use requiring in excess of 125 parking spaces shall not require a special use permit from the zoning board of review.
 - 2. As part of a PVD application review, the planning board may allow parking within the front yard setback where the placement of said parking is part of a larger design scheme to enhance the walkability within a village setting.
 - 3. As part of a PVD application review, the planning board may reduce setbacks for parking spaces or aisles where the placement of said parking or aisle is part of a larger design scheme to enhance the walkability within a village setting. Parking spaces less than ten feet from any building shall be separated from such building by raised curb, bumper or wheel guards. The requirements of this subsection shall not be applied to detached single-family dwellings.
 - 4. As part of a PVD application review, the planning board may allow for different buffer configurations and design where connections with the adjacent residential district are designed as part of the PVD.
 - 5. Off-street loading space shall not be part of any area used to fulfill the off-street parking requirement associated with the intended use of the land unless approved by the planning board as part of a PVD application and where the use of said parking area is consistent with the goals of creating a walkable village setting.
- B. An applicant for a PVD may propose that all or a portion of parking associated with residential or commercial use will be located off-site. The planning board may allow off-site parking on a lot of

different ownership to be counted for a given operation provided that a covenant or easement between property owners is presented in advance of final plan review. Off-site parking shall be within 500 feet of the front entrance of the use it is proposed to serve as measured along an easily accessible and well-lit pedestrian pathway.

- C. The planning board may require, within the PVD review process, that an applicant provide justification for the number of proposed parking spaces. Analyses provided by the applicant may include, but shall not be limited to, shared parking or off-site parking analyses, case study data of similar uses, or the use of parking space management measures such as enforceable time limitations, fees, or parking limitations for employees.

(Ord. of 9-27-12, Exh. 1)
