

Approved DRAFT AMENDMENTS

EXETER ZONING ORDINANCE

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,~~ R.I. Gen. Laws § 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.~~

2. *Accessory dwelling unit*. A dwelling unit that provides complete independent living facilities and is located on a lot where the principal use is a legally-established detached dwelling unit or residential multi-unit building.

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, and located on the same lot as the principal use. Such An~~ accessory use ~~shall not be~~ is not permitted without the principal use to which it is related.

4. *Adaptive reuse.* The conversion of an existing structure from the use for which it was constructed to a new use by maintaining elements of the structure and adapting those elements to the new use.

4. ~~5.~~ *Affordable housing.* Year-round housing built with a federal, state, or municipal subsidy that has a deed-restricted 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.
Synonymous with "low or moderate income housing."

5. ~~6.~~ *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 Housing Act, as amended.~~ as defined by R.I. Gen. Laws § 34-37-4.1(a)(5), the Rhode Island Fair Housing Practices 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.

7. *Aggrieved party.* A person who can demonstrate that his or her property will be injured by a decision of any town official, board or commission responsible for administering the zoning ordinance, or a person requiring notice pursuant to title 45, chapter 24 of the general laws.

8. *Agricultural land.* Agricultural land as defined in G.L. 1956 § 45-22.2-4. Land suitable for agricultural use by reason of suitability of soil or other natural characteristics or past use for agricultural purposes.

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.~~

~~11. 9. 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. An owner or authorized agent of the owner who submits an application.~~

~~12. 10. Application. The completed form or forms and all accompanying documents, exhibits and fees required of an applicant by an approving authority for development for review, approval, or permitting purposes.~~

~~13. 11. 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. 12. 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. 13. Arterial roads: street. A public street on which traffic circulates into, out of, or across the town or provides service for trips of moderate length. For the purposes of the zoning ordinance, arterial roads streets in Exeter include Route 2, Route 3, Route 102, and Route 165.~~

~~16. 14. Awning. An overhead cover of canvas or other material extending over building openings to provide protection from the sun and rain.~~

~~17. 15. Buffer. Land which that is maintained in either a its natural state or landscaped-state, and is used to screen and/or mitigate the impacts of development on surrounding areas, properties or rights-of-way.~~

~~18. 16. 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. 17. 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. On all structures, building height is measured to the top of the highest~~

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point of the existing or proposed structure, excluding spires, chimneys, flag poles, and similar projections. On an undeveloped lot, building height is measured from the average existing-grade elevation where the foundation of the structure will be located. On an existing structure, building height is measured from the average grade of the outermost corners of the foundation. On a structure in a special flood hazard area, as shown on the official FEMA Flood Insurance Rate Maps, the base flood elevation on the FEMA map, plus up to five feet of any existing or proposed freeboard, less the average existing grade elevation, is excluded from the building height calculation. Freeboard is the number of feet the lowest floor of a structure must be elevated above the base flood elevation to provide safety.

~~21.~~ 18. 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. Also called a building official.

~~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.

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

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~~23.~~ 20. 19. 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.

i. Ownership of two or more contiguous lots by the same individual, individuals, entity, or entities.

ii. Ownership by an association of property owners such as a homeowners' association.

~~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:

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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.

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.

2120. Community residence. A residence defined in R.I. Gen. Laws § 45-24-31(15), as amended.

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.

2221. Comprehensive community plan. The document adopted and approved pursuant to Title 45, Chapter 22.2 of the General Laws.

26. 2322. 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. A type of land development that provides flexibility in the siting of structures and infrastructure in order to protect sensitive and important site features, conserve open space, and reduce the environmental impact of the development. The site planning and design process used to implement cluster subdivisions and land developments, as defined in R.I. Gen. Laws § 45-24-31 (13) Conservation development guides growth to the most appropriate areas within a parcel of land to avoid and minimize impacts to natural, cultural or recreational resources and other special features of the property, and requires the set-aside of a permanent area of open space.

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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. ~~24.23.~~ Day care, Day care center. ~~Any other day care center which is not a family day care home.~~ A facility that provides daytime care and supervision.

29. ~~2524.~~ 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. A home where daytime care and supervision is provided for no more than eight individuals, including up to six individuals who are not related to the caregiver.~~

30. ~~2625.~~ Density, residential. The number of dwelling units per unit of land.

31. ~~2726.~~ 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. ~~2827.~~ 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. ~~2928.~~ 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.

38. ~~3029.~~ Dwelling unit. A structure or portion thereof ~~providing complete independent living that provides permanent facilities for one or more persons, including permanent provisions for~~

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living, sleeping, eating, cooking and sanitation, and ~~containing~~ has a separate means of ingress and egress.

~~39. 3130.~~ *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. 3231.~~ *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.~~

~~3332.~~ *Family member.* A person related by blood, marriage, or other legal means, including but not limited to a child, parent, spouse, mother-in-law, father-in-law, grandparent, grandchild, domestic partner, sibling, care recipient, or member of the household.

~~42. 3433.~~ *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. 3534.~~ *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. 3635.~~ *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. 3736.~~ ~~Floodplains~~ Floodplain or flood hazard area. As defined in ~~G.L. 1956,~~ R.I. Gen. Laws § 45-22.2-4(9), as amended.

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3837. *Greenhouse.*

- i. *Greenhouse - Tier I* (less than 2 acres undercover). - Traditional hoop house, gable, A-frame, gothic arch, geodesic dome, saw tooth and lean-to structures constructed of wood, metal piping (aluminum or steel) solid polycarbonate, acrylic and fiberglass) glass walls and roofs that are customarily accessory to a principal use and do not exceed two (2) acres undercover either by an individual structure or in aggregate for a series of structures on the same property. Houses in this category comprised of aluminum, wood or plastic PVC pipes covered with polymer plastic coverings are exempt from the coverage calculation. Unlike a Tier II and III CEA Greenhouse facilities this category employs less advanced forms of heating ventilation (HVAC) systems, water recycling, computer-managed techniques and automation and does not include floor area specifically dedicated to administration, employees, washrooms, grading, warehousing, distribution and loading docks.
- ii. *Greenhouse - Tier II* (2 to 4 acres undercover). -A structure or structures with walls and roof made chiefly of solid transparent material, such as glass, polycarbonate, acrylic used for the cultivation or protection of tender plants. These structures could be solitary structures or are a series of structures designed for the protection of tender or out-of-season plants against excessive cold or heat. The Tier II greenhouse category limits the area undercover to the growth of plants and does not include floor area specifically dedicated to administration, employees, washrooms, warehousing, distribution and loading docks. Greenhouses in this category comprised of aluminum, wood or plastic PVC pipes covered with polymer plastic coverings are exempt.
- iii. *Greenhouse - Tier III CEA Facility* (greater than 4 acres undercover). Controlled Environmental Agricultural Facility (CEA facility) is a commercial structure that includes related equipment and appurtenances that combine engineering, horticultural science, and computer management techniques to optimize hydroponics, plant quality, and food production efficiency from the land's water for human or livestock consumption. The primary purpose of this commercial facility is to grow crops and obtain a monetary profit from the sale of plant-based food for human or livestock consumption. Unlike Tier I or Tier II greenhouses, this facility is more advanced and utilizes intensive forms of hydroponically-based agriculture along with automation to optimize horticultural practices in sophisticated climate-controlled buildings. These are glass and steel structures that often harvest roof top rainwater and are controlled by state-of-the-art computers that are able to monitor climate 365 days of the year, 24 hours a day, and make smart adjustments, data-driven adjustments, in order to maximize crop productivity, efficiency, reduce production losses. These facilities often include floor area dedicated to administration, employees, washrooms, harvesting, grading, warehousing, and distribution alongside structured parking and loading docks either as part of the facility or attached thereto.

47. ~~3938~~. *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. ~~XX~~. *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. ~~4039~~. *Groundwater*. ~~Groundwater and associated terms as~~ As defined in G.L. 1956, § 46-13-1-3 R.I. Gen. Laws § 46-13.1-3(6), as amended.

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.~~

53. ~~4140~~. *Home occupation*. Any activity customarily carried out for gain by ~~resident, conducted a person in the person's dwelling as an accessory use in the resident's dwelling unit to the principal residential use.~~

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.~~

~~4241~~. *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. The term "household unit" is synonymous with the term

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"dwelling unit" for determining the number of units allowed in a structure. An individual household consists of a family, which may also include servants and employees living with the family, or three or more unrelated persons living together.

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. ~~4342.~~ *Infrastructure.* Facilities and services needed to sustain residential, commercial, industrial, institutional, and other activities.

57. ~~4443.~~ *Junk.* The term "junk" shall include, but shall not be limited to, items including, but not 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; ~~land~~ and iron, steel and other old or scrap ferrous or nonferrous material.

58. ~~4544.~~ *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. ~~4645.~~ *Kenel, 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. ~~4746.~~ *Kenel 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. ~~4847.~~ *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~~ or mixed uses, ~~as may be provided for in the zoning ordinance.~~

~~4948.~~ *Land disturbing activity.* Any physical disturbance of land, including but not limited to clearing and grubbing for future development; excavating; filling; grading; or construction or demolition of a structure.

62. ~~5049.~~ *Land unsuitable for development.* Land ~~having~~ with natural or man-made limitations, ~~which that~~ 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:~~ Land unsuitable for development includes freshwater wetlands but not the area within any regulatory wetland buffer; special flood hazard areas A and A1 through A30, as shown on the FEMA Flood Insurance Rate Maps, as amended; and land within any publicly or

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privately held easement on which above-ground utilities, including but not limited to electrical transmission lines, are constructed. Land shall not be classified as unsuitable for development solely because of its natural gradient.

~~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 any regulatory buffer at the edge of any bog, marsh, swamp, or pond~~

~~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. 5150.~~ *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.

~~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. 5251.~~ *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. 5352.~~ *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. 5453.~~ *Lot building coverage.* That portion of the lot that is or may be covered by buildings and accessory ~~building(s)~~ structures.

~~67. 5554.~~ *Lot depth.* The distance measured from the front lot line to the rear lot line. For lots where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

~~68. 5655.~~ *Lot frontage.* That portion of a lot abutting a public ~~or accepted town~~ street or a private street on an approved plat. Lot frontage must be contiguous ~~frontage to be considered~~ to meet minimum frontage requirements.

~~69. 5756.~~ *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:

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~~A. i. 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. On an interior lot, the front lot line is the lot line abutting a street. On a developed corner lot, the front lot line is the lot line currently used for that purpose. On an undeveloped corner lot, the front lot line is the lot line chosen by the property owner when initial development begins. On a through lot, the lot line abutting the street providing the primary access to the lot.~~

~~B. ii. 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. iii. 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. On a corner lot, a side lot line is along the street lot line other than the front lot line.~~

70. ~~5857.~~ *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. A lot other than a corner lot that fronts on two substantially parallel streets, or fronts on two streets that do not intersect at the boundaries of the lot.

71. ~~5958.~~ *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. ~~6059.~~ *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~~ determined by Rhode Island Housing.

73. ~~6160.~~ *Low or moderate-income housing.* See "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.~~

~~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. 6261. Massing.~~ The three dimensional bulk of a structure consisting of its height, width, and depth.

~~76. 6362. 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. 6463. Mixed use.~~ A mixture of land uses within a single development, building, or tract.

~~79. 6564. Mixed use commercial development.~~ Commercial development in a business zone that contains a mix of commercial and residential uses as provided for in article 4, sec. 4.6 of ~~these regulations~~ this ordinance. 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. 6665. Mobile home (including doublewide trailer) or 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. 6766. 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~~ determined by Rhode Island Housing.

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~~82. 6867.~~ *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. A dimensional variance granted by the zoning inspector pursuant to Sec. 1.4 of this ordinance.

~~83.~~ Mullion: A structural element which serves to frame a multi-pane window unit.

~~84. 6968.~~ *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 increases or adjustments, or bonuses and/or internal subsidies, and any combination of forms of assistance.

~~85. 7069.~~ *Natural vegetation.* Trees, shrubs, grass, or other plants which grow naturally or have been planted.

~~86. 7170.~~ *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:

~~A. i.~~ *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. ii.~~ *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 area per dwelling unit regulations, shall be nonconforming by dimension.

~~87. 7271.~~ *Overlay district.* A zoning district ~~established in the Exeter zoning ordinance~~ that is superimposed on one or more other zoning districts or parts of districts and that imposes specified requirements in addition to but not less than those otherwise applicable ~~for to~~ the underlying zone.

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88. ~~7372~~. *Owner*. ~~Shall be held to mean any A partnership, corporation, or company, or a person who alone, or jointly or severally with others, has legal title to a premises or has control of a premises as agent, executor, executrix, administrator, trustee, guardian of the estate of the holder of legal title, or the holder of equitable title.~~

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. ~~7473~~. *Performance standards*. ~~A set of criteria or limits~~ Criteria relating to elements which ~~that~~ a particular use or process either must meet or may not exceed.

90. ~~7574~~. *Permitted use*. A use ~~by right which~~ that is specifically authorized by right 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. ~~7675~~. *Planned village development (PVD)*. A type of major land development project permitted only within a the planned village overlay zoning district that incorporates a mix of residential ~~and/or~~ and nonresidential uses in a compact, walkable environment, ~~and complying in compliance~~ with the standards set forth in article X of this ordinance.

~~7776~~. *Plant agriculture*. The growing of plants for food or fiber, or to sell or consume. It is a permitted use in 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.

78. *Public Water Supply*. Means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes:

a. Any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and

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b. Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system

94. ~~7977~~. *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. A discussion of a proposed development between the applicant and the official or board with the authority to approve the development. A preapplication conference takes place before a formal application is submitted.

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. ~~8078~~. *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. ~~8179~~. *Rhode Island Housing*. The Rhode Island Housing and Mortgage Finance Corporation, an agency of the State of Rhode Island.

99. ~~8280~~. *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.

100. ~~8384~~. *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. ~~8482~~. *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 a structure must be erected or placed. A line parallel to the property line marking the required depth of the front, side, or rear yard.~~

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102. ~~8583~~. *Site plan*. The development plan for one or more lots on which is shown the existing and/or proposed conditions of the lot.

~~8684~~. *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. Definitions applicable to solar energy facilities are as follows:

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- i. 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.
- ii. Building-mounted solar energy facility. A solar energy system that is structurally appended to the roof of a building or structure.
- iii. 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.
- iv. 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.
- v. 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.
- vi. 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.
- vii. 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.
- viii. 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.
- ix. 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.

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

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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. ~~8785~~. *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. A conditionally permitted use that may be established with a special use permit issued by the zoning board of review or the planning board. See article I, sec. 1.3(F).

104. ~~8886~~. *Street*. ~~A street accepted by the Town of Exeter and maintained by the state or town for vehicular traffic.~~ A public or private thoroughfare used for passage or travel by motor vehicles.

105. ~~8987~~. *Street line*. A lot line that separates a lot from a street.

106. ~~9088~~. *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. ~~9189~~. *Substandard lot of record*. Any lot lawfully existing at the time of adoption or amendment of ~~the Exeter zoning~~ this ordinance and not in conformance with the dimensional and/or area provisions of ~~such~~ the ordinance.

108. ~~Stepback~~. ~~A condition in which the upper story or stories of a building are set back inward from the lower story.~~

109. ~~9290~~. *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. ~~9391~~. *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. ~~9492~~. *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. See Sec. 1.3(E).~~

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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. 9593. *Waters*. As defined in G.L. 1956, § 46-12-1(b) R.I. Gen. Laws § 46-12-1(23).

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. 9694. *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~~; in compliance with this ordinance, taking into account ~~physical constraints to development, such as wetlands, etc.~~ land unsuitable for development. 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~~ and 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. 9795. *Zoning certificate*. A document signed by the zoning inspector, ~~as required in the Exeter zoning ordinance, which that~~ acknowledges that a use, structure, building or lot either complies with or is legally nonconforming to the provisions of ~~the Exeter~~ this zoning ordinance, or is an authorized variance, special use, or modification. ~~therefrom~~

118. 9896. *Zoning inspector*. A person elected by the people of the Town of Exeter ~~and who is~~ charged with the responsibility of enforcing the provisions of ~~the Exeter~~ this zoning ordinance and recording all amendments of the ordinance on the record copy of ~~the Exeter~~ the zoning ordinance.

119. 9997. *Zoning map*. The map ~~or maps which are a~~ that is part of ~~the Exeter~~ this zoning ordinance and ~~which that~~ delineate the boundaries of all mapped zoning districts within the physical boundaries of the Town, ~~of Exeter~~.

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120: ~~10098~~. *Zoning ordinance*. The ~~Exeter~~ zoning ordinance enacted by the town council of the Town of Exeter pursuant to Title 45, Chapter 24, ~~Title 45, Chapter 24 of the General Laws and, in the manner providing for the adoption of ordinances in the town's legislative or home rule charter, if any, which~~ that 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 and~~ includes the ~~Exeter~~ zoning map, ~~and which complies with the provisions of G.L. 1956, title 45, chapter 24.~~

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Approved A M E N D M E N T S
EXETER ZONING ORDINANCE

ARTICLE I. - ADMINISTRATION PROCEDURES

Sec. 1.3. – General provisions.

After the effective date of this ordinance, no land shall be used and no building, structure or part thereof shall be used or erected unless in conformity with all of the regulations specified for the district in which it is located. Uses and structures, legally existing as of the effective date of this ordinance will be permitted to continue under the provisions of article III of this ordinance.

3.A. General provisions: divisions into districts.

In order to carry out the purposes of this ordinance, the Town of Exeter divides the town into the following zoning use districts:

Residential district (RE-2)

Rural district (RU-3)

Rural district (RU-4)

Conservation - Recreation (CR-5)

Business district (B)

Light business/residential (LB/R)

Light industrial (LI)

Open space and public lands (OS/PL)

Groundwater protection overlay district (GWOL)

Planned districts (PD)

Planned village overlay district (PVOD)

~~3.B. General provisions; substandard lots of record.~~

~~Any legal single substandard lot of record or contiguous lots of record at the effective date of adoption or amendment of the Exeter zoning ordinance, notwithstanding the failure of that lot or those lots to meet the dimensional and/or quantitative requirements, and/or road frontage or other access requirements, applicable in the districts as set forth in the ordinance, and lot merger, where applicable, has been completed, shall be considered a legal substandard lot or lots of record.~~

~~The merger of contiguous unimproved, or improved and unimproved, substandard lots of record in the same ownership to create dimensionally conforming lots or to reduce the extent of the dimensional nonconformance shall take place at the effective date of adoption or amendment of the Exeter zoning ordinance. This merger provision shall be effective in all districts. These mergers are based on the intent to retain the character of the neighborhoods of the Town of Exeter, and to ensure consistency with the Exeter comprehensive plan.~~

~~3.C. General provisions; nonconforming development.~~

~~A. The Town of Exeter shall allow the continuation of nonconforming use, activity, structure, building or sign or other improvement, lawfully existing at the time of the adoption or amendment of the Exeter zoning ordinance. This includes nonconforming by dimension.~~

~~B. The Exeter zoning ordinance shall permit the continuation of nonconforming development. However, this shall not prohibit the regulation of nuisances, including, but not limited to those in the noise ordinance of the Town of Exeter.~~

~~C. The Exeter zoning ordinance specifies that if a nonconforming use is abandoned, it may not be reestablished. 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 retained any interest in continuing the nonconforming use unless the owner can demonstrate an intent not to abandon the use. An involuntary interruption of 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 rebutting by the presentation of sufficient evidence of intent not to abandon the use.~~

~~D. Any trailer or mobile home which lawfully exists and has been established for occupancy at the time of passage of this ordinance shall be allowed to continue as a legal nonconforming use. If a trailer or mobile home is demolished, abandoned, or to be replaced, zoning board of review or building inspector approval shall be required.~~

~~3.D. General provisions; alteration of nonconforming development.~~

~~A. A nonconforming development may be altered under the following conditions:~~

~~1. By special use permit, authorizing the alteration, addition, enlargement, intensification or change of use, which must be approved by the Exeter zoning board of review following the procedure established in this ordinance for special use permits.~~

~~B. Such alteration, addition, enlargement, expansion, intensification or change of use shall more closely adhere to the intent and purposes of the Exeter zoning ordinance.~~

~~C. A use established by variance or special use permit shall not acquire the rights of this section.~~

~~3.E.~~ 3.B. *General provisions: variances.*

- A. An application for relief from the literal requirements of the Exeter zoning ordinance because of hardship may be made by an owner, as defined herein, by filing with the zoning board clerk, an application describing the request and supported by such data and evidence as may be required by the Exeter zoning board of review. The zoning board clerk shall immediately transmit each application received to the zoning inspector and shall transmit a copy of each application to the Exeter planning board. The board shall conduct a public hearing on the application in a timely manner.
- ~~B. The Exeter zoning board of review, immediately upon receipt of an application for a variance in the application of the literal terms of the zoning ordinance, shall request that the planning board shall report its findings and recommendations, including statement on the general consistency of the application with the goals and purposes of the Exeter comprehensive plan, in writing to the zoning board of review within 45 days of receipt of the application from the board. The zoning board shall hold a public hearing on any an application for a variance in an expeditious manner, after receipt, in proper form, of an application, and shall give public notice thereof at least 14 days prior to the date of the hearing in a newspaper of general circulation in the Town of Exeter. Notice of hearing shall be sent by certified mail to the applicant, and to at least all those who would require notice under [the] section "Adoption Notice and Hearing Requirements." The notice shall also include the street address of the subject property. The cost of notification shall be borne by the applicant.~~
- ~~C.~~ B. In granting a variance, the Exeter zoning board of review shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:
 - 1. That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant except for those disabilities covered by the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et. seq.
 - 2. That ~~said~~ the hardship is not the result of any prior action of the applicant, ~~and does not result primarily from the desire of the applicant to realize greater financial gain;~~
 - 3. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent of purpose of the Exeter zoning ordinance, ~~or the comprehensive plan, upon which this ordinance it is based.~~
 - 4. ~~That the relief to be granted is the least relief necessary.~~

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

1. In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the Exeter 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 that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience, which shall mean that the relief sought is reasonably necessary for the full enjoyment of the use to which the property will be devoted. 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.

~~E. D.~~ An applicant may apply for, and be issued, a dimensional variance in conjunction with a special use.

~~F. E.~~ Expiration. A ~~dimensional~~ variance granted under this section shall expire ~~within~~ 18 months after the date of the zoning board approval unless the applicant obtains a building permit or otherwise exercises the permission granted. ~~If no building permit is required, then the applicant must exercise the permission granted within 18 months. A use variance granted under this section shall expire 18 months after the zoning board approval unless the applicant has actually put the subject property to said use or, if required, has obtained a building permit in connection with said use.~~ The zoning board of review may approve a single one year extension for a dimensional or use variance granted under this section provided the applicant submits a request for such extension to the clerk in writing prior to the original expiration date and pays the required administrative fee. The board may approve a timely submitted request for an extension by a majority vote.

~~3.F.~~ 3.C. *General provisions: special use permits.*

~~Special use permits.~~ A. An application for the issuance of a special use permit may be made by an owner, as defined herein, by filing with ~~the~~ the zoning board clerk an application describing the request and supported by such data and evidence as may be required by the Exeter zoning board of review, ~~and which shall be approved by the Exeter zoning board of review.~~ A. The zone use table, ~~as presented in article II,~~ specifies the uses requiring special use permits in each district. Only such uses as specified in the ~~above-referred~~ table shall be eligible to receive ~~a~~ a special use permit in each respective district; ~~any use not listed is specifically prohibited. The zoning board of review or the planning board shall conduct a public hearing on the application in a timely manner.~~

~~B. The following describes the conditions and procedures under which special use permits, of each of the various categories of special use permits established in the Exeter zoning ordinance, may be issued:~~

~~1. An application for a special use permit may be made by an owner, as defined herein, by filing with the zoning board clerk an application describing the request and supported by such data and evidence as may be required by the Exeter zoning board of review. The zoning board clerk shall immediately transmit each application received to the Exeter zoning board of review and shall transmit a copy of each application to the planning board.~~

~~2. The Exeter zoning board of review, immediately upon receipt of an application for a special use permit shall request that the planning board report its findings and recommendations, including a statement on the general consistency of the application with the goals and purposes of the Exeter comprehensive plan, in writing to the Exeter zoning board of review within 45 days of receipt of the application from that board.~~

~~C. B. The following criteria will be utilized by the Exeter zoning board of review for issuance of a special use permit. These criteria are in conformance with the purposes and intent of the Exeter comprehensive plan and the Exeter zoning ordinance. An applicant for a special use permit shall demonstrate to the satisfaction of the zoning board by presenting competent evidence that the proposed use and/or structure:~~

~~1. Will be environmentally compatible with the neighboring uses and will not adversely affect the surrounding neighbor's residents' use and enjoyment of their property;~~

~~2. Will be environmentally compatible with neighboring properties and the protection of property values; Will be constructed or established at a location in the zoning district where it will be consistent with the character and appearance of nearby uses.~~

~~3. Will be compatible with the orderly growth and development of the Town of Exeter, and will not be environmentally detrimental, therewith; harm the environment.~~

~~3. 4. That the best practices and procedures to minimize the possibility of any adverse effects on neighboring property, the Town of Exeter, and the environment have been considered and will be employed where applicable including, but not limited to, considerations of soil erosion, water supply protection, stormwater runoff, wastewater disposal, wetland protection, traffic limitation, safety and circulation; and that if the evidence indicates potential for soil erosion or sedimentation, impact on water quality or quantity, inadequate stormwater management, inadequate wastewater disposal, or unsafe traffic or pedestrian circulation, measures will be taken to mitigate or prevent those potential harms.~~

~~5. That the purposes of this ordinance, and as set forth in the Exeter comprehensive plan, shall be served by said special use permit.~~

~~D. That the Exeter zoning board shall hold a public hearing on any application for a special use permit in an expeditious manner, after receipt, in proper form, of an application, and will require the notification of the date, time, place and purpose of the public hearing to interested parties. Public notice shall be given thereof at least 14 days prior to the date of the hearing in a newspaper of general circulation. Notice of hearing shall be sent by certified mail to the applicant, and to all those who would require notice under [the] section "Adoption," section 5.D of this ordinance. The notice shall also include the street address of the subject property. The cost of notification shall be borne by the applicant.~~

~~E. All recording of findings of fact and written decisions of the Exeter zoning board of review shall be in conformance with section 6.H, "Administration decisions and records of the zoning board of review"; and~~

~~F. Any appeals may be taken pursuant to section 1.7, "Appeals" of this ordinance.~~

~~G. The Exeter zoning board has the power to grant dimensional variances where the use is permitted by special use permit.~~

C. An applicant may apply for, and be issued, a dimensional variance in conjunction with a special use.

~~H. D. Expiration. A special use permit granted under this section shall expire 18 months after the zoning board approval unless the applicant has actually put the subject property to said use or, if required, has obtained a building permit in connection with said use. obtains a building permit or otherwise exercises the permission granted. The zoning board of review may approve a single one year extension for a special use permit granted under this section, provided the applicant submits a request for such extension to the clerk in writing prior to the original expiration date and pays the required administrative fee. The board may approve a timely submitted request for an extension by a majority vote.~~

~~3.G.~~ 3.D. *General provisions: special conditions.*

In granting a variance or special use permit, or in making any determination upon which it is required to pass after a public hearing under the zoning ordinance, the Exeter zoning board of review may apply such special conditions that may, in the opinion of the board, be required to promote the intent and purposes of the Exeter comprehensive plan and the Exeter zoning ordinance. Failure to abide by any special conditions attached to a grant shall constitute a zoning violation. ~~These special~~ 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 for:

- A. Minimizing adverse impact of the development upon other land, including the type, intensity, design, density 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. Ensuring 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.

3.E. General provisions: Public hearings before the zoning board of review.

- A. The zoning board shall conduct a public hearing on an application for a variance or special use permit in a timely manner. The zoning board of review shall conduct a public hearing on an appeal from a determination by the zoning inspector or administrative officer within sixty-five days of the date the appeal was filed. A competent stenographer shall take the minutes of each public hearing.
- B. The zoning board of review shall give notice of each public hearing at least fourteen days before the date of the hearing in a newspaper that circulates in Exeter. The notice shall include the applicant's name and address and the street address and plat and lot number of the subject property, and shall describe the relief sought. The notice shall state the date, time, and location of the public hearing.
- C. The clerk of the zoning board of review shall send notice by first class mail, postage prepaid, at least fourteen days before the date of the hearing, to the applicant and to:
 - (1) The owners of property within two hundred feet of the property that is the subject of the application.
 - (2) The town council of any town adjacent to Hopkinton, if the subject property is located within two hundred (200) 200 feet of the boundary of that town.
 - (3) Any individual or entity holding a recorded conservation or preservation restriction on the property that is the subject of the application.

The applicant shall pay the cost of the postage.

- D. At least fourteen days before the date of the public hearing, the notice shall be posted in the town clerk's office, in one other municipal building, and on the home page of the Town's website.
- E. Any party may appear in person or by agent or by attorney. Participation in a public hearing or other proceeding by a party shall not be a cause for civil action or liability except for acts not in good faith, intentional misconduct, a knowing violation of law.

3.F. General provisions: Decisions of the zoning board of review.

- A. The zoning board of review shall render a decision on each application or appeal within fifteen days of the day the public hearing is closed. The written decision shall be posted immediately in the town clerk's office, in a location visible to the public. The date of posting shall be noted on the document. A decision granting a variance or special use permit also shall be recorded in the land evidence records.
- B. The written decision shall include findings of fact, conclusions of law, and any conditions imposed. It shall include the names of the members present and absent, the names of members who participated in the public hearing, the names of the members who voted, and the vote of each voting member.
- C. Within one day of the date the decision was posted, the zoning board of review clerk shall mail a copy of the written decision to the applicant and to any other party who participated in the public hearing and who provided the clerk with his or her name and address. The decision shall be sent by any method that provides confirmation of receipt. The clerk also shall provide a copy of the written decision to the zoning inspector.

~~3.H.~~ *3.G. General provisions: creation of vested rights.*

An application shall be vested ~~and an application shall be deemed substantially complete~~ for the purposes of this ~~section~~ ordinance as follows:

- A. ~~Development not requiring planning board or zoning board approval.~~ Where planning board or zoning board approval is not required, an applicant application is vested when the building official ~~certifies that the application (for a building permit) is complete issues a building permit.~~ The applicant application is vested under the zoning ordinance and regulations in effect ~~at the time of certification, not the on that date, of the application.~~
- B. ~~Development requiring planning board approval.~~ Where only planning board approval is required for development, an application is vested on the date ~~that the application is certified complete by the administrative officer (Pre-application is not a vesting stage of review).~~ the administrative officer certifies as complete the application for the first formal stage of review. The application is vested under the zoning ordinance and regulations in effect ~~at the time of on the date of certification, not the date of the application.~~

C. ~~Development requiring zoning board approval. Where only zoning board approval is required, an application is vested when the application is certified complete by the zoning inspector. on the date the administrative officer or the zoning inspector determines that the application is complete. The applicant is vested under the zoning ordinance and regulations in effect at the time of on the date of certification, ~~not the date of the application.~~~~

D. ~~Development requiring both planning board and zoning board approval. Where both planning board and zoning board approval is required for development, an application is vested on the date that the application is certified complete by the administrative officer (pre-application submissions are not a vesting stage of review). The application is vested under the zoning ordinance and regulations in effect at the time of the certification, not the date of the application.~~

E. ~~Failure to initiate construction. Failure to initiate substantial construction of the property, prior to the time limit established at approval, shall render an approval null and void. Any development of the property proposed after the lapse of the time limit established at approval (or by applicable state law), shall require a resubmission of development plans by the applicant subject to the regulations in effect at the time of resubmission and certification of completeness, as defined within this section.~~

F. ~~D. Applications remain vested under the ordinance and regulations at the time of certification of completeness by the appropriate authority as defined in this section. If an application applicant seeks to create vested rights under a newly adopted or changed amended ordinance or regulation, the applicant shall ~~request in writing to~~ withdraw the previous submission and submit a new application, with all required supporting data, to the appropriate reviewing authority. The newly submitted application shall be vested according to this section.~~

G. ~~Substantially complete defined. For the purposes of this section, "substantially complete" shall mean that any application shall have been deemed such by the local official designated to receive such applications, as specified elsewhere in this chapter, and that all required forms, plans, signatures, fees and supporting documentation and other required information has been received by the official designated to receive such applications. Failure to submit the required information in the proper form, as determined by the designated local official, shall render the submission null and void to any rights afforded through this section.~~

H. ~~Substantial construction defined. For the purposes of this section substantial construction shall mean initial work conducted or completed including but not limited to, roadway and stormwater infrastructure, foundations and structures.~~

~~3.I. 3.H. General provisions: publication and availability of the Exeter zoning ordinance.~~

- A. Printed copies of the Exeter zoning ordinance and zoning map(s) shall be available to the general public and shall be revised to include all amendments. A reasonable charge shall be made for copies to reflect printing and distribution costs.
- B. Upon publication of the Exeter zoning ordinance and zoning map(s), and any amendments thereto, the Exeter town clerk shall send a copy, without charge, to the ~~Associate Director of the Division of Planning of the Department of Administration of the State of Rhode Island, and the state law library.~~

Approved A M E N D M E N T S
EXETER ZONING ORDINANCE

ARTICLE I. – ADMINISTRATIVE PROCEDURES

Sec. 1.4. - Special provisions.

4.A. Special provisions: modification.

A. ~~The Exeter zoning ordinance permits the issuance of modifications or variances from the literal dimensional requirements of the Exeter zoning ordinance in the instance of the construction, alteration or structural modification of a structure or legal lot of record. The Exeter zoning inspector shall be authorized to grant modification permits~~ approve modifications of no more than 15% for dimensional requirements applicable to front, side, and rear yards. The maximum percent requirements specified allowed for a modification shall not exceed those specified in the zoning ordinance. A modification shall not permit moving of lot lines. The table below specifies which dimensional requirements or combinations thereof are allowable under a modification and the maximum percent allowed shows the dimensional regulations and the maximum modification allowed.

	LB/R	RE-2	RU-3	RU-4	CR-5	B	LI	OS/PL	Maximum modification
Front yard	100 ft	60 ft	100 ft	100 ft	150 ft	10 ft	200 ft	200 ft	15%
Side yard	30 ft	30 ft	60 ft	80 ft	100 ft	30 ft	50 ft	50 ft	15%
Rear yard	75 ft	50 ft	50 ft	50 ft	150 ft	75 ft	100 ft	150 ft	15%

B. Within ten days of receipt of a request for a modification, the zoning inspector shall ~~make a decision as to the suitability of the requested modification based on the following determinations~~ approve the modification if he or she finds that the following criteria are satisfied:

1. The modification ~~requested~~ is reasonably necessary for the full enjoyment of the a permitted use;
2. If the modification is granted, neighboring property will neither be substantially injured nor its appropriate use substantially impaired; or The modification will not substantially injure or substantially impair the appropriate use of neighboring property;

3. The modification requested is in harmony with the purposes and intent of the zoning ordinance does not require a variance of a flood hazard requirement, unless the building is built in accordance with applicable regulations; and
4. The modification requested does not ~~require a variance of flood hazard requirement~~ violate any rules or regulations with respect to freshwater wetlands.

~~C. Upon an affirmative determination, the zoning inspector shall notify, by certified 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 general circulation within the Town of Exeter that the modification will be granted unless written objection is received within 30 days of the public notice. If written objection is received within 30 days, the request for a modification shall be denied. In that case the changes requested will be considered a request for a variance and may only be issued by the Exeter zoning board of review following the standard procedures for variances. If no written objections are received within 30 days, the zoning inspector shall grant the modification.~~

If the modification is 5% or less, the zoning inspection has the authority to grant a permit for the modification without public notification. If the modification is more than 5%, notice of the modification request shall be published in a newspaper that circulates in Exeter and shall be sent by first class mail to the owners of property abutting the property that is the subject of the modification request. The notice, which shall include the street address of the property, shall state that the modification will be granted unless written objection is received within 14 days. If an objection is received, the modification request shall be submitted to the zoning board of review as a request for a dimensional variance. If no objection is received, the zoning inspector shall issue a modification permit. The zoning inspector may apply such any special conditions to the permit as may, in the opinion of the officer, be required to conform to that are necessary to ensure that the modification complies with the intent and purposes of the Exeter zoning ordinance. The zoning inspector shall keep public records a record of all requests for modifications, and of findings, determinations, objections received, and special conditions and any objections received applied to any modification permit. Cost The cost of any notice required under this subsection shall be borne by the applicant requesting the modifications.

4.B. Special provisions: land development projects.

- A. Land development projects which are projects 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 for residential, commercial, institutional, industrial, recreational, open space and/or mixed uses as may be provided for in the zoning ordinance.

- B. All open land provided by land development projects for public or common use, shall either (1) be conveyed to the town and accepted by it for park, open space, agricultural or other specified use or uses, or (2) be conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space or resource protection; or (3) be conveyed to a corporation or trust owned or to be owned by the owners of lots or units within the development, or owners of shares within a cooperative development. If such a corporation or trust is used, ownership shall pass with conveyances of the lots or units; or (4) remain in private (non-common) ownership if the use is limited to agriculture, habitat or forestry, and, in accordance with the comprehensive plan and zoning ordinance, that private ownership is necessary for the preservation and management of the agriculture, habitat or forest resources. In any case, where the land is not conveyed to the town, a restriction or conservation easement enforceable by the town shall be recorded, providing that the land shall be kept in the authorized conditions(s) and not be built upon or developed for accessory uses such as parking or roadway without prior town approval.

The planning board may limit or restrict the amount of open space that may remain in private ownership where necessary to contribute to a connecting greenway system or to provide public access to open space, as provided in the comprehensive plan.

C. Rural residential compounds.

1. *Objectives and applicability.* The objective of the rural residential compound is to provide for flexibility of design for residential development and to allow a better relationship between residential development and the natural, historic and rural characteristics of the land. Lots may contain less than the frontage and provide flexibility in the front, side, and rear yard setback requirements as prescribed by this ordinance for the underlying district provided that the requirements of this section are met. See section 2.4.3.
2. *Purpose and review process.*
 - a) Residential compounds are intended to preserve the rural character of the town by permitting low-density residential development on large parcels of land while relieving the applicant from compliance with the design and improvement standards applicable to conventional land development and subdivisions.
 - b) Residential compounds ~~will be subject to the review and approval by the planning board under the provision of the town land development and subdivision regulations. Any proposed rural residential compound of six lots or~~

~~more shall require a public hearing in accordance with the public hearing and notice requirements section of the subdivision and land development regulations.~~
Residential compounds require planning board approval as land development projects.

3. *Permitted uses.* The permitted uses applicable to residential compounds shall be only those residential uses listed as permitted in the applicable zoning district in which the residential compound is located, as set forth in section 2.4 of the zoning ordinance.
4. *Density calculation and dimensional regulations.*
 - a) The maximum number of building lots allowable in a residential compound shall not exceed one lot per ten acres of land, and no fewer than two building lots.
 - b) The planning board may allow flexible lot width or frontage requirements for lots within a rural residential compound, provided however, that no building lots shall be reduced in area to less than one acre. The planning board may reduce those areas or portions of lots within the minimum prescribed front-rear-side yard setbacks, known as building envelopes, to designate an appropriate area for the siting of a house.

Editor's note— Subsection 1.4.C.4.b) was amended in 2004 by the conservation development ordinance.

5. *General requirements.*
 - a) A parcel proposed for development as a residential compound shall have frontage on a town-accepted street. Such frontage shall be a minimum of 50 contiguous feet.
 - b) Each proposed lot must contain a minimum of one acre of land exclusive of land unsuitable for development as defined in section 1.2 herein.
 - c) No lot, which has been reduced in size or acreage after the adoption of this ordinance, shall be developed as a rural residential compound. No lot or parcel that has been developed as a residential compound shall be further subdivided or reduced in size. This provision shall not prevent the development in incremental stages of a parcel as a residential compound as long as each component lot shall not be changed after having received final approval from the planning board.

6. Open space.

At least 50 percent of the total land area of the parcel proposed for development shall be designated as permanent open space in accordance with the provisions of the town land development and subdivision regulations. To the extent possible, the proposed open space shall be contiguous. Any land within a rural residential compound not designated as a building lot shall be protected against future development and environmental damage in perpetuity by conveying to the town or other appropriate legal entity, an open space conservation easement restricting the future use and alteration of the area as provided below.

Ownership of the open space shall be set forth in one or more of the following ways subject to planning board approval and authorization:

- Conveyance to the town for specific open space or recreational purposes provided the need for such is documented in the comprehensive plan;
- Conveyance to an appropriate nonprofit legal entity, the principal purpose of which is the conservation of natural resources and open space;
- Conveyance to a corporation or trust owned or to be owned by the owner(s) of one or more of the lots within the development. There are two options for the ownership of the open space.

Option 1: Each owner will have an undivided interest in and to those open space lots and ownership shall pass with conveyances of the lots or units.

Option 2: One landowner may own all the permanent preserved open space for agricultural or other town accepted uses.

- 1) The open space lot created shall be protected against future development and unauthorized alterations in perpetuity by appropriate deed restrictions and conservation easements. In any case where the land is not conveyed to the town, a restriction enforceable by the town shall be recorded providing that the land shall be kept in the authorized condition(s) and not be built upon or developed for accessory uses such as parking or roadway. The planning board shall approve the form and content of any such restrictions and easements at the time of final approval of the residential compound.
- 2) Any buildings, structures, parking areas or impervious improvements associated with open space use may be located on the open space lot, or lots, provided

however, that any structure is within keeping the lot, or lots, as part of the open space. The planning board shall approve the facility and location of all such facilities and their design in terms of massing, scale and materials.

- 3) The owner(s) of the open space lot, or lots, shall guarantee perpetual maintenance by appropriate deed restrictions and easements and the planning board shall approve the form and content of any such restrictions at the time of final approval of the subdivision. The restrictions shall contain the following provisions:

If the building lot owners and/or their open space lot owners, and/or their successors or assigns fail to maintain the open space lot, or lots, the Town of Exeter may, at its option and its sole discretion, perform any necessary maintenance and enforce the payment for such costs, including reasonable attorneys' fees, by an action of law or in equity against the building lot owners and/or their open space lot owners or their successors or assigns.

- 4) Any rural residential compound approved under this regulation shall be exempt from the subdivision land dedication requirements for open space and/or a fee in lieu of open space.

7. *Design and improvement standards.*

- a) Private roads and drainage improvements within the parcel to be developed as a residential compound shall be privately owned and maintained in common by the residents of the residential compound. At the time of final approval, the planning board shall approve the form and content of the following legal document to be recorded contemporaneously with the final plat:
 - 1) A covenant by the owner of the parcel, binding on his successors and assigns, that the town shall not be asked or required to accept or maintain the private roads within the parcel that do not meet the engineering and design requirements for town-accepted roads, for a minimum of 99 years from the date of recording; or, if only a lesser period is legally enforceable, for that period with as many automatic renewals as are necessary to total 99 years. Such restrictions shall state that all expenses for improvements to private roads to meet town requirements including a town road, shall be born by the owners of the property, including such improvements which may be deemed necessary for public use should the property owners wish a private roadway be made a town-accepted road.

- 2) A document or documents establishing the method of ownership and providing for the maintenance of the private roads and drainage improvements.
 - b) Private roads and appropriate drainage facilities within a residential compound shall be designed, constructed and inspected in compliance with the town land development and subdivision regulations as specified for residential compounds. The planning board shall have the authority to require additional improvements in order to protect the public health, safety, and welfare, if warranted by the characteristics of the land, or if the private road will be used by persons other than the residents of the compound.
 - c) If the planning board determines that an existing private road, which is proposed to be used as access from the compound to a town-accepted road, is not adequate for public health, safety and welfare purposes, the planning board shall have the authority to require improvements to the private road, provided that the applicant shall demonstrate to the boards satisfaction that he/she has legal authority to construct such improvements. Such improvements may include improved pavement surface, increased pavement width, increase in depth below finished grade for removal of boulders or ledge, improvements in the grade of ascent or descent, surface water run-off control, natural water flow protection or drainage improvements. Any such professional engineer and such plan shall be included in the submission requirements for final plan approval and recorded with the endorsed plat. No final approved plat shall be endorsed or recorded and building permits issued for any property in rural residential compounds until such required improvements are completed.
 - d) Private roads, drainage, and other improvements within a residential compound may be bonded pursuant to the town land development and subdivision regulations.
8. *Approval process.* The planning board shall review residential compounds as land development projects, as provided in section 5.2 of the land development and subdivision regulations. Approval of a rural residential compound shall be granted only upon the planning board's determination that the plan preserves open space; utilizes the natural features of the land, allows for more efficient provision of access, provides for stability and appropriate long term safety and capacity of the road system including both internal and external roads of the residential compound, be they private roads, shared driveways, public ways, or town-accepted roads; and preserves the aquifer overlay district and the rural character of the land.

Rural residential compounds are to be allowed by the planning board only when a subdivider can demonstrate to the board that such development would be a better use of the land than a conventional subdivision and is in the best interests of the residents of the town. To this end, the planning board may require the subdivider to provide an alternate plan or plans for developing the land as a conventional subdivision.

The final plan approved by the planning board and recorded in the land evidence records of the town shall contain the following statement: "These premises are subject to the restrictions and conditions that are contained in instruments recorded contemporaneously with this plan and are incorporated herein by reference."

* * *

4.C. Special provisions: preapplication conference.

A preapplication conference shall be held at the request of either the ~~zoning board~~ or zoning inspector ~~–~~ or the applicant to:

- A. Acquaint the applicant with the Exeter comprehensive plan and any specific plans that apply to the parcel, as well as the zoning and other ordinances that affect the proposed development;
- B. Suggest improvements to the proposed design on the basis of a review of the sketch plan;
- C. Advise the applicant to consult appropriate authorities on the character and placement of public utility services; and
- D. Help the applicant to understand the steps to be taken to receive approval.

4.D. ~~Special provisions: development plan review.~~

- ~~A. Development plan review of applications for uses requiring a special use permit, a variance, a zoning ordinance amendment and/or a zoning map change shall be conducted by the Exeter planning board and shall be advisory to the permitting authority.~~
- ~~B. Development plan review of applications for uses that are permitted by right under the Exeter zoning ordinance shall be held in accordance with article II, section 5. The review~~

body shall be the Exeter planning board. A rejection of the application shall be considered an appealable decision pursuant to section 1.7, "Appeals."

~~C. Nothing herein shall be construed to permit waivers of any regulations unless approved by the permitting authority pursuant to the Town of Exeter zoning ordinance and the Zoning Enabling Act.~~

~~4.E~~ 4.D. Low and moderate income housing comprehensive permit procedures.
Comprehensive permit for low or moderate income housing.

1. Authority to grant a comprehensive permit. In accordance with Title 45, Chapter 53 of the ~~Rhode Island R.I.~~ General Laws, the R.I. Low and Moderate Income Housing Act, as amended (the "act" Act), ~~the Exeter Code of Ordinances, and the zoning ordinance,~~ the planning ~~commission board~~ has been designated as the local review board and shall have the authority to issue a comprehensive permit to build a qualifying low or moderate income housing project, ~~which relief shall include all approvals or permits from any local board or town official having supervision of the construction of buildings or the power of enforcing land use regulations, but not limited to, the power to attach to the approval or permit, any conditions and requirement with respect to setbacks, height, site plan, size, shape, building materials, landscaping, and parking consistent with the terms of the act. All definitions and terms contained in the act are incorporated into these regulations by reference. The regulations contained herein are intended to be complementary and to be used in unison with the Exeter Code of Ordinances, zoning, low and moderate income housing.~~

~~7~~ 2. Definitions. The following words, wherever used in this chapter section, unless a different meaning clearly appears from the context, have the following meanings:

(1) Adjustment means a request by the applicant to seek relief from the use and dimensional requirements of the zoning ordinance or the design standards and requirements of the land development and subdivision regulations. The standard for the planning board's consideration of adjustments is in R.I. Gen. Laws § 45-53-9 4(D)(2)(iii)(E)(II).

(4)(2) Comprehensive plan means a the comprehensive plan adopted and approved by a city or town the Town of Exeter pursuant to chapter 22.2 and 22.3 of this title Title 45, Chapters 22.2 and 22.3 of the R.I. General Laws.

(2)(3) Consistent with local needs means reasonable in view of the state need for low and moderate income housing, considered with the number of low income persons in the city or town Exeter affected and the need to protect the health and safety of the

occupants of the proposed housing or of the ~~residence of the city or town residents of Exeter~~, to promote better site and building design in relation to the surroundings, or to preserve open spaces, and if the ~~local zoning or land use ordinances, requirements, and regulations~~ Exeter zoning ordinance and the Exeter land development and subdivision regulations are applied as equally as possible to both subsidized and unsubsidized housing. Local zoning and land use ordinances, requirements, or regulations are consistent with local needs when imposed by a city or town council after comprehensive hearing in a city or town where:

~~(i)~~(a) Low or moderate income housing exists ~~which~~ that is:

~~(A)~~(i) In the case of an urban city or town which has at least 5,000 occupied year-round rental units and the units, as reported in the latest decennial census of the city or town, comprise 25 percent or more of the year-round housing units, is in excess of 15 percent of the total occupied year-round rental units; or

~~(b)~~(ii) In the case of all other cities or towns, is in excess of ten percent of the year-round housing units reported in the census.

~~(ii)~~(b) The city or town has promulgated zoning or land use ordinances, requirements, and regulations to implement a comprehensive plan ~~which that~~ has been adopted and approved pursuant to ~~chapters 22.2 and 22.3 of this title~~ Title 45, Chapters 22.2 and 22.3 of the R.I. General Laws, and the housing element of the comprehensive plan provides for low and moderate income housing in excess of either ten percent of the year-round housing units or ~~15~~ fifteen percent of the occupied year-round rental housing units. ~~as provided in subdivision (2)(i).~~

~~(iii)~~(c) Multi-family rental units built under a comprehensive permit may be calculated towards meeting the requirements of a municipality's low or moderate income housing inventory, as long as the units meet and are in compliance with the provisions of R.I. Gen. Laws § 45-53-3.1.

~~(3)~~(4) Infeasible means any condition brought about by any single factor or combination of factors, as a result of limitations imposed on the development by conditions attached to the approval of the comprehensive permit, to the extent that it makes it ~~impossible for a public agency, nonprofit organization, or limited equity housing cooperative financially or logistically impracticable for an applicant~~ to proceed in building or operating low or moderate income housing ~~without financial loss~~, within the limitations set by the subsidizing agency of government or the planning board,

on the size or character of the development, on the amount or nature of the subsidy, or on the tenants, rentals, and income permissible, and without substantially changing the rent levels and unit sizes proposed by the ~~public agency, nonprofit organization, or limited equity housing cooperative~~ applicant.

~~(4) Local board means any town or city official, zoning board of review, planning board or commission, board of appeal or zoning enforcement officer, local conservation commission, historic district commission, or other municipal board having supervision of the construction of buildings or the power of enforcing land use regulations, such as subdivision, or zoning laws.~~

(5) Low or moderate income housing means any housing whether built or operated by any public agency or any nonprofit organization or by any limited equity housing cooperative or any private developer, that is subsidized by a federal, state, or municipal government subsidy under any program to assist the construction or rehabilitation of housing affordable to ~~low or moderate income households, as defined in the applicable federal or state statute, or local ordinance and that will remain affordable through a land lease and/or deed restriction for 99 years from initial occupancy.~~ Low or moderate income housing is synonymous with affordable housing.

(6) Affordable housing plan means a the component of a the housing element, ~~as defined in G.L. § 45-22.2-4(33), of the Exeter comprehensive plan to meet housing needs, in a city or town that is prepared in accordance with guidelines adopted by the state planning council, and/or to meet~~ and meeting the provisions of ~~G.L. R.I. Gen. Laws § 45-53-4(b)(1) and (c).~~

(7) Approved affordable housing plan means an affordable housing plan that has been approved by the director of administration as meeting the guidelines for the local comprehensive plan as promulgated by the state planning council; provided, however, that state review and approval, for plans submitted by December 31, 2004, shall not be contingent on the city or town having completed, adopted, or amended its comprehensive plan as provided for in ~~G.L. R.I. Gen. Laws §§ 45-22.2-8, 45-22.2-9, or 45-22.2-12.~~

(8) Letter of eligibility means a letter issued by the Rhode Island Housing and Mortgage Finance Corporation in accordance with ~~G.L. R.I. Gen. Laws § 42-55-5.3(a).~~

(9) Local review board means the planning board, ~~as defined by G.L. § 45-22.2-4(24), or if designated by ordinance as the board to act on comprehensive permits for the town, the zoning board of review established pursuant to G.L. § 45-24-56.~~

(10) Meeting local housing needs means as a result of the adoption of the implementation program of an approved affordable housing plan, ~~and the absence of unreasonable denial of applications that are made pursuant to an approved affordable housing plan in order to accomplish the purposes and expectations of the approved affordable housing plan, and a showing that at least twenty percent of the total residential units approved by a local review board in a calendar year are for low and moderate-income housing as defined in R.I. Gen. Laws § 42-28 128-8.1.~~

(11) Monitoring agents means those monitoring agents appointed by the Rhode Island Housing Resources Commission pursuant to R.I. Gen. Laws § 45-53-3.2 to provide the monitoring and oversight set forth in R.I. Gen. Laws §§ 45-53-3.2 and 45-53-4.

~~(14)~~(12) Municipal government subsidy means assistance that is made available ~~through a city or town program by the Town of Exeter~~ sufficient to make housing affordable, ~~as affordable housing is defined in G.L. § 42-128-8.1(d)(1); such~~ Such assistance may include, but is not limited to, direct financial support, abatement of taxes, waiver of fees and charges, and approval of density ~~bonuses and/or internal subsidies and other adjustments,~~ and any combination of forms of assistance.

3. Application procedure. ~~Any~~ An applicant proposing to build low or moderate income housing may submit to the ~~local review~~ planning board a single application for a comprehensive permit to build that housing in lieu of separate applications to the applicable local boards. This procedure is only available for proposals in which at least 25 percent of the ~~housing is~~ dwelling units will be low or moderate income housing, and in which at least 50 percent of the units of ~~said low or moderate income housing~~ those units are restricted to ~~persons of~~ households with an income at or below 80 percent of the area median income. The application and review process for a comprehensive permit shall be as follows:

~~(a) Form of application. Applications for a comprehensive permit shall be made on the form(s) provided by the administrative officer to the local review board.~~

~~(b) General submission requirements. All applications shall include the following submission requirements:~~

~~(i) A letter of eligibility issued by the Rhode Island Housing Mortgage Finance Corporation, or in the case of projects primarily funded by the U.S. Department of Housing and Urban Development or other state or federal agencies, an award letter indicating the subsidy, or application in such form as may be prescribed for a municipal government subsidy; and,~~

- ~~(ii) A written request to the local review board to submit a single application to build or rehabilitate low or moderate income housing in lieu of separate applications to the applicable local boards. The written request shall identify specific sections and provisions of applicable local ordinances and regulations from which the applicant is seeking relief; and,~~
- ~~(iii) A proposed timetable for the commencement of construction and completion of the project; and,~~~~(iv) A sample land lease or deed restriction with affordability liens that will restrict use as low and moderate income housing in conformance with the guidelines of the agency providing the subsidy for the low and moderate income housing, but for a period of not less than 99 years; and,~~~~(v) Identification of an approved entity that will monitor the long-term affordability of the low and moderate income units; and,~~
- ~~(vi) A financial pro-forma for the proposed development; and~~
- ~~(vii) — For comprehensive permit applications:~~
 - ~~(a) — not involving major land developments or major subdivisions including, but not limited to, applications seeking relief from specific provisions of a local zoning ordinance, or involving administrative subdivisions, minor land developments or minor subdivisions, or other local ordinances and regulations; those items required by local regulations promulgated pursuant to applicable state law, with the exception of evidence of state or federal permits; and for comprehensive permit applications; and~~
 - ~~(b) — involving major land developments and major subdivisions, unless otherwise agreed to by the applicant and the town; those items included in the checklist for the master plan in the local regulations promulgated pursuant to G.L. § 45-23-40. Subsequent to master plan approval, the applicant must submit those items included in the checklist for a preliminary plan for a major land development or major subdivision project in the local regulations promulgated pursuant to G.L. § 45-23-41, with the exception of evidence of state or federal permits. All required state and federal permits must be obtained prior to the final plan approval or the issuance of a building permit; and~~
- ~~(viii) — The requisite application fee(s) for the application based on its classification, as set forth herein, provided, however, that the imposition of such fees shall~~

~~not preclude a showing by a nonprofit applicant that the fees make the project financially infeasible; and~~

- ~~(ix) — Notwithstanding the submission requirements set forth above, the local review board may request additional, reasonable documentation throughout the public hearing, including, but not limited to, opinions of experts, credible evidence of application for necessary federal and/or state permits, statements and advice from other local boards and officials.~~
- ~~(c) Certification of completeness. The application must be certified complete or incomplete by the administrative officer according to the provisions of § 45-23-36; provided, however, that for a major land development or major subdivision, the certificate for a master plan shall be granted within 30 days and for a preliminary plan shall be granted within 45 days. The running of the time period set forth herein will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than 14 days after its resubmission. If the administrative officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.~~
- ~~(d) Application fees. The fee for an application shall be based on its classification.~~
 - ~~(i) — For an application seeking relief from provisions of the zoning ordinance or other ordinances and regulations and/or classified as an administrative subdivision, the application fee shall be the same as for the zoning ordinance relief sought and/or an administrative subdivision.~~
 - ~~(ii) — For an application classified as a minor land development or minor subdivision, the preliminary plan application and final plan application fees shall be the same as for such minor land development or minor subdivision as set forth in the subdivision regulations.~~
 - ~~(iii) — For a major land development or major subdivision the master plan, preliminary plan and final plan application fees shall be the same as for such major land development or major subdivision as set forth in the subdivision regulations.~~
 - ~~(iv) — All cost to process a comprehensive permit application, such as, but not limited to, advertising, notices and stenographic fees shall be borne by the applicant.~~

~~(e) Project review fees. Consistent with current practice and consistent with section 3.3.C of the land development and subdivision regulations, a project review fee shall apply to all comprehensive permit applications, and the project review fee shall be determined by the local review board, which amount will depend on the type of application proposed and need for outside assistance to process, review and consider an application. In no case shall a project review fee exceed the actual costs incurred by the local review board in reviewing any comprehensive permit application.~~

~~3. Review procedures. An application for a comprehensive permit shall be reviewed by the local review board in accordance with the following provisions:~~

~~(a) Notification. Upon issuance of a certificate of completeness for a comprehensive permit, the local review board shall immediately notify each local board, as applicable, of the filing of the application, by sending a copy to the local boards and to other parties entitled to notice of hearings on applications under the zoning ordinance and/or land development and subdivision regulations as applicable.~~

~~(b) Pre-application conference. Where the comprehensive permit application includes a major land development project or a major subdivision pursuant to G.L. chapter 23 of title 45 an applicant shall schedule with the administrative officer a pre-application conference before the local review board. All other applicants are also encouraged to schedule a pre-application conference before the local review board, but such a conference is not mandatory under these regulations. The purpose of the pre-application conference shall be to review the concept plan of the proposed development and facilitate the subsequent stages of review. To request a pre-application conference, the applicant shall submit a short written description of the project including the present and proposed use of the property, the number of units, type of housing, proposed subsidy, and a location, together with a concept plan. Upon receipt of a request by an applicant for a pre-application conference, the municipality has 30 days to schedule and hold the pre-application conference. If 30 days have elapsed from the filing of the pre-application submission and no pre-application conference has taken place, nothing shall be deemed to preclude an applicant from thereafter filing and proceeding with an application for a comprehensive permit.~~

~~(c) Public notice. Public notice for all public hearings will be the same notice required under local regulations for a public hearing for a preliminary plan promulgated in accordance with § 45-23-42. The cost of the notice shall be paid by the applicant.~~

- ~~(d) Review of minor projects. The review of a comprehensive permit application involving only minor land developments or minor subdivisions or requesting zoning ordinance relief or relief from other local regulations or ordinances not otherwise addressed in this subsection, shall be conducted following the procedures in the applicable local regulations, with the exception that all minor land developments or minor subdivisions under this section are required to hold a public hearing on the application, and within 95 days of issuance of the certificate of completeness, or within such further time as is agreed to by the applicant and the local review board, render a decision.~~
- ~~(e) Review of major projects. In the review of a comprehensive permit application involving a major land development and/or major subdivision, the local review board shall hold a public hearing on the master plan and shall, within 120 days of issuance of the certification of completeness, or within such further amount of time as may be agreed to by the local review board and the applicant, render a decision. Preliminary and final plan review shall be conducted according to local regulations promulgated pursuant to RIGL tit. 45, ch. 23 except as otherwise specified in this section.~~
- ~~(f) Authority. The local review board has the same power to issue permits or approvals that any local board or official who would otherwise act with respect to the application, including, but not limited to, the power to attach to the permit or approval, conditions, and requirements with respect to height, site plan, size, or shape, or building materials, as are consistent with the terms of this section. The local review board may, from time to time, adopt rules and procedures to assist them in their efforts to administer these regulations.~~
~~Provided that the town has an approved affordable housing plan and is meeting local housing needs, the local review board shall limit the annual total number of dwelling units in comprehensive permit applications from for-profit developers to an aggregate of one percent of the total number of year-round housing units in the town, as recognized in the affordable housing plan. The local review board shall also have the authority to consider comprehensive permit applications from for-profit developers, which are made pursuant to this paragraph, sequentially in the in which they are submitted.~~
- ~~(g) Decision. In reviewing a comprehensive permit request, the local review board may deny the request for any of the following reasons:~~
- ~~(i) If city or town has an approved affordable housing plan and is meeting housing needs, and the proposal is inconsistent with the affordable housing plan;~~

- ~~(ii) The proposal is not consistent with local needs, including, but not limited to, the needs identified in an approved comprehensive plan, and/or local zoning ordinances and procedures promulgated in conformance with the comprehensive plan;~~
 - ~~(iii) The proposal is not in conformance with the comprehensive plan;~~
 - ~~(iv) The community has met or has plans to meet the goal of ten percent of the year-round units or, in the case of an urban town or city, 15 percent of the occupied rental housing units as defined in § 45-53-3(2)(i) being low and moderate income housing; or~~
 - ~~(v) Concerns for the environment and the health and safety of current residents have not been adequately addressed.~~
- ~~(h) Voting. All local review board decisions on comprehensive permits shall be by majority vote of the membership of the board and may be appealed by the applicant to the state housing appeals board.~~
4. ~~Criteria for approval or denial. In approving an application for a comprehensive permit, the local review board shall make positive findings, supported by legally competent evidence on the record which discloses the nature and character of the observations upon which the fact finders acted, on each of the following standard provisions, where applicable:~~
- ~~(a) The proposed development is consistent with local needs as identified in the local comprehensive community plan with particular emphasis on the community's affordable housing plan and/or has satisfactorily addressed the issues where there may be inconsistencies.~~
 - ~~(b) The proposed development is in compliance with the standards and provisions of the municipality's zoning ordinance and subdivision regulations, and/or where expressly varied or waived local concerns that have been affected by the relief granted do not outweigh the state and local need for low and moderate income housing.~~
 - ~~(c) All low and moderate income housing units proposed are integrated throughout the development; are compatible in scale and architectural style to the market rate units within the project; and will be built and occupied prior to, or simultaneous with the construction and~~
 - ~~(d) There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval.~~

- ~~(e) There will be no significant negative impacts on the health and safety of current or future residents of the community, in areas including, but not limited to, safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water run-off, and the preservation of natural, historical or cultural features that contribute to the attractiveness of the community.~~
- ~~(f) All proposed land developments and all subdivisions lots will have adequate and permanent physical access to a public street in accordance with the requirements of § 45-23-60(5).~~
- ~~(g) The proposed development will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable, unless created only as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.~~
- 5. Appeal. All decisions on comprehensive permits may be appealed by the applicant to the state housing appeals board. Any person aggrieved by the issuance of an approval may appeal to the state supreme court.
- 6. Expiration of approval and construction. A comprehensive permit shall expire unless construction is started within 12 months and completed within 60 months of final plan approval unless a longer and/or phased period for development is agreed to by the local review board and the applicant. Low and moderate income housing units shall be built and occupied prior to, or simultaneous with, the construction and occupancy of market rate units.
 - (a) Fees and costs. Application fees shall be the same as the application fees listed in the land development and subdivision regulations for a major land development project. The applicant shall be responsible for the advertising and postage costs for public hearing notice. The applicant shall be responsible for project review fees as provided in the land development and subdivision regulations.
 - (b) Preapplication conference. The applicant shall request a preapplication conference with the planning board. The applicant shall be required to submit only the following information:
 - (i) An application form for preapplication review;

(ii) A brief written description of the project that includes the number of dwelling units, type of housing, a density analysis, and a preliminary list of adjustments needed;

(iii) A location map;

(iv) A conceptual site plan.

The applicant may also submit any other material that will help the planning board understand the proposed project. No certification of completeness is required. The administrative officer shall schedule the pre-application conference upon submission of the required material. If the pre-application conference does not take place within thirty days of the date the application is submitted, the applicant may submit an application for preliminary plan review.

(c) Preliminary plan application. The applicant shall submit the following material for preliminary plan review:

(i) A completed comprehensive permit application form.

(ii) A letter of eligibility issued by the R. I. Housing and Mortgage Finance Corporation, or in the case of projects primarily funded by the U.S. Department of Housing and Urban Development or other state or federal agency, an award letter indicating the subsidy.

(iii) A proposed timetable for the commencement of construction and completion of the project.

(iv) The preliminary plan checklist for a major land development project in the land development and subdivision regulations and all the items required by the checklist except state or federal permits.

(d) Certification. The administrative officer shall certify the application as complete or incomplete within twenty-five days of submission. If the application is incomplete, the administrative officer shall inform the applicant of the specific information that is missing. The running of the time period for certification shall stop when an application is incomplete. The administrative officer shall have at least ten days to certify a revised application as complete.

The administrative officer shall schedule a public hearing on the application as soon as practicable after issuing the certification of completeness. The notice requirements

for a public hearing on a major land development project shall apply. A competent stenographer shall take the minutes of each public hearing.

Notwithstanding the submission requirements above, the planning board may request additional, reasonable documentation during the public hearing, including but not limited to opinions of experts, credible evidence that applications have been filed for necessary federal or state permits, or recommendations from other boards, commissions, or officials.

4. Mandatory adjustments. The planning board shall approve adjustments to the requirements of the zoning ordinance, land development and subdivision regulations, and other municipal ordinances and regulations to offset the cost of constructing the low and moderate income dwelling units. The following adjustments are mandatory:
- (a) If the applicant can demonstrate to the planning board that the R. I. department of environmental management will approve the required on-site wastewater treatment systems, and that Town water is available to the site or that on-site wells will provide the water adequate to serve the proposed dwelling units, the provisions of the zoning ordinance concerning residential density shall be adjusted as follows:
 - (i) In developments in which twenty-five percent of the dwelling units will be low or moderate income, the minimum residential density is three dwelling units per acre.
 - (ii) In development in which fifty percent of the dwelling units will be low or moderate income, the minimum residential density is five dwelling units per acre.
 - (iii) In developments in which one hundred percent of the dwelling units will be low or moderate income, the minimum residential density is eight dwelling units per acre.
 - (b) No more than one off-street parking space shall be required for a dwelling unit with one or two bedrooms.
 - (c) An applicant shall not be required to reduce the number of bedrooms in any dwelling unit to fewer than three.
 - (d) An applicant shall not be required to reduce the area of any room in a dwelling unit below the requirements of the R. I. building code or the R. I. housing maintenance and occupancy code.
5. Preliminary plan approval.

- (a) The planning board shall approve or deny the application within ninety days of the day the preliminary plan submission was certified as complete, unless the applicant consents in writing to an extension of time. If a timely decision is not made, the application will be considered approved and the administrative officer shall issue a preliminary plan approval at the request of the applicant.
- (b) To approve a comprehensive permit application, the planning board must find that the application satisfies the requirements below. The planning board must include in its decision findings of fact based on legally competent evidence in the record. The decision must specify the evidence on which each finding is based.
 - (i) The proposed development is consistent with local needs as identified in the comprehensive community plan, or, if inconsistent, the inconsistencies have been satisfactorily addressed. In particular, the proposed development is consistent with Exeter's affordable housing plan.
 - (ii) The development complies with the zoning ordinance and land development and subdivision regulations, or, if adjustments have been granted from the provisions of the ordinance or regulations, the need for low or moderate income housing outweighs the impact of the adjustments.
 - (iii) The low and moderate income dwelling units will be integrated throughout the development, will be similar in scale and architectural style to the market rate units, and will be built and occupied before or at the same time as the market rate units.
 - (iv) The development as approved will not have any significant negative effects on the health and safety of current or future residents of Exeter in areas including, but not limited to, safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewage disposal, availability of potable water, adequate surface water run-off, and the preservation of natural, historical or cultural features that contribute to the attractiveness of Exeter.
 - (v) All of the buildings in the development will have adequate and permanent physical access to a public street.
 - (vi) None of the building lots will have physical constraints to development that would make construction on those lots impracticable.

- (c) The planning board has the same authority to issue permits or approvals as any town board or official who would otherwise act with respect to the application, including, but not limited to, the authority to impose conditions on the approval, and the authority, consistent with the terms of the Act, to determine building height, size or shape; the site plan; and the building materials. If the planning board proposes conditions to be placed on the approval that the applicant believes would make the development infeasible, the planning board shall give the applicant a reasonable period of time to respond to the proposed conditions before the planning board votes to impose the conditions. The burden is on the applicant to show that the conditions would make the development infeasible.
- (d) If Exeter has an approved affordable housing plan and is meeting local needs, the planning board shall:
 - (i) Limit the annual total number of dwelling units in comprehensive permit applications from for-profit developers to an aggregate of one percent of the total number of year-round housing units in Exeter, as recognized in the affordable housing plan.
 - (ii) Have the authority to consider comprehensive permit applications from for-profit developers sequentially in the order in which they are submitted.
- (e) A majority vote of the planning board members present is necessary for approval.
- (f) The planning board's written preliminary plan decision shall be recorded in the land evidence records within twenty days of the day the planning board votes. Within one day of recording, a copy of the decision shall be mailed, by any method that provides confirmation of receipt, to the applicant and to any other person who has made a written request to receive it.
- (g) The approved Preliminary Plan expires two years after the date of approval. The applicant may request two one-year extensions, and must appear before the planning board to request each one-year extension. Requests for extensions must be in writing. The provisions of the applicable ordinances and regulations in effect at the time of preliminary plan approval are vested until the preliminary plan expires.
- (h) The planning board may deny approval of the application for any of the following reasons:

- (i) Exeter has an approved affordable housing plan, has made significant progress in implementing the approved affordable housing plan, is meeting local housing needs, and the proposed development is inconsistent with the approved affordable housing plan.
- (ii) The proposed development is not consistent with local needs, including but not limited to the needs identified in the approved comprehensive plan or the zoning ordinance.
- (iii) The proposed development is not in conformance with the comprehensive plan.
- (iv) Exeter has plans to make ten percent of the total occupied year-round housing low or moderate income housing, and has achieved that goal or has made significant progress toward meeting that goal.
- (v) The proposed development may negatively impact the environment and the health and safety of current Exeter residents and the applicant has not adequately addressed those concerns.

6. Final plan approval.

- (a) Final plan approval is administrative; provided, however, that the applicant may be required to return to the planning board for final plan approval if the planning board has waived submission at preliminary plan review of any required information, if the application does not satisfy conditions of the preliminary plan approval; if the application does not include all the required material; or the applicant has proposed a major change to the approved preliminary plan. A public hearing is required for approval of a major change to an approved preliminary plan. The applicant shall submit the following material to the administrative officer for final plan approval:
 - (i) All required state and federal permits; provided, however, that the administrative officer shall have the authority to require submission of state and federal permits before the first building permit is issued rather than at final plan submission.
 - (ii) A draft agreement with a monitoring agent appointed by the R. I. Housing Resources Commission that will ensure that each low or moderate income dwelling unit is sold, leased, owned or occupied in compliance with the recorded affordability restrictions.

- (iii) A draft land lease or deed restriction with affordability liens that restricts the use of the property to low or moderate income housing in conformance with R.I. housing and mortgage finance corporation guidelines for at least 99 years.
 - (iv) The Final Plan checklist for major land development projects in the land development and subdivision regulations and all the items required by the checklist.
 - (v) Arrangements for completion of the required public improvements, including financial guarantees.
 - (b) The administrative officer shall certify the application as complete or incomplete within twenty-five days of submission. If the application is incomplete, the administrative officer shall inform the applicant of the specific information that is missing. The running of the time period for certification shall stop when an application is incomplete. The administrative officer shall have at least ten days to certify a revised application as complete.
 - (c) The administrative officer shall approve the final plan within forty-five days of the date it was certified as complete unless the applicant is required to return to the planning board for final approval. The administrative officer shall have the authority to approve minor changes in the approved preliminary plan.
 - (d) If a timely decision is not rendered, the application will be considered approved and the administrative officer shall issue a final plan approval at the request of the applicant.
 - (e) The approved final plan expires two years after the date of approval. The applicant may request a one-year extension, and must appear before the planning board to request the extension. The planning board may approve further extensions for good cause. Requests for extensions must be in writing. The provisions of the applicable ordinances and regulations in effect at the time of Final Plan approval are vested until the final plan expires.

7. Appeal.

- (a) The applicant or any person aggrieved by the decision of the planning board may appeal to the Washington County Superior Court within twenty days of the date the

board's written decision was recorded in the land evidence records pursuant to R.I. Gen. Laws § 45-53-5.1.

(b) If the Superior Court remands the application to the planning board, the board shall hear the remanded application within thirty days of the day it was received.

~~1.4.1.~~ 4.E. *Special provisions: Greenhouse Tier II and Greenhouse Tier III /CEA Facility*

1. *Purpose.* The purposes of this section are:

- A. To support farmland preservation that provides community benefits from a vibrant farm sector balanced with protection of the open agricultural landscape that is a character trait of this rural community;
- B. Preserve the agricultural history and economic benefits of commercial agriculture in the Town of Exeter;
- C. Support the merging of modern technology with traditional agricultural operations;
- D. Provide greater design flexibility in addressing evolving agricultural practices in a balanced way within the community;
- E. Promote agricultural practices that reduce soil erosion, improve water quality, and increase farmland productivity;
- F. Protect areas of the town with productive agricultural soils for continued or future agricultural use by retaining prime agricultural soils and allowing for efficient farm operations;
- G. To create adaptable provisions that promote greenhouse agricultural in equilibrium with the environment and surrounding community and:
- H. Provide eligibility criteria that ensures adequate, safe, and permanent physical access to public streets with a suitable functional classification to service the traffic volume and speeds associated with the intensity of land use proposed.
- I. Implement performance standards that mitigate light pollution, protect area land uses, groundwater aquifers and their recharge areas, surface water bodies, wetlands, reduce soil erosion, mitigate storm water drainage and safeguard similar environmentally important resources as set forth in the comprehensive plan.

2. *Prohibitions.* Tier II and Tier III/CEA Facility Greenhouses. The following are strictly prohibited:
 - A. On site, uncovered stockpiling of greenhouse waste.
 - B. Growing or processing of cannabis.
 - C. Anaerobic Digester Biogas Power Plants.
3. *Review Procedure.* Tier II Greenhouse - Shall be subject to the following review and approval by the Planning Board:
 - A. ~~"Development Plan Review" (DPR)~~ Minor land development - The overall design shall meet or exceed the criteria and standards established in the ~~Exeter, Rhode Island Code of Ordinances APPENDIX A - ZONING ARTICLE II. - ZONING DISTRICT USE REGULATIONS~~ Section 2.5 entitled "Development Plan Review". land development and subdivision regulations for a minor land development plan.
 - B. "Light Pollution Mitigation Plan" - ~~Supplementing the elements of "Development Plan Review" (DPR), the~~ The applicant shall present a "Light Pollution Mitigation Plan" that provides blackout curtains or darkening screens for both the roof of the greenhouse and the sides or due to cost alternative options such as limiting lighting before daylight and hours after dark (as needed seasonally) may be considered.
4. *Eligibility.* Tier III/CEA Facility Greenhouse - The subject proposal must conform with ALL of the following;
 - A. The entirety of the facility shall be located on a single lot of record, or are required to submit an administrative subdivision to merge lots when multiple parcels are proposed; and
 - B. The entirety of the facility shall be located within an RU-3 zoning district: and
 - C. The property shall have access and egress and contain the minimum improved frontage on at least ONE of the following State arterial roadways:
 - i) R.I. Route 2
 - ii) R.I. Route 102
 - iii) R.I. Route 3; and

- D. The subject parcel must have a minimum lot size of no less than 40 acres; and
 - E. Will not result in removing more than twenty (20) percent an existing tree canopy of 10 inch diameter trees (10-inch diameter tree measured four and one-half feet above the downhill ground level with the exception for the removal of trees which are dead, dying or diseased, or trees which have suffered damage, or any tree whose angle of growth makes them a hazard to structures, roads, or human life.); and
 - F. Has been in agricultural use and production for the last five (5) consecutive years as verified by the filing of a SCHEDULE F (Form 1040) tax filings "Profit or Loss from Farming" Department of the Treasury Internal Revenue Service.
5. *Review procedure.* Tier III/CEA Facility Greenhouses - Shall be subject to the following review and approval by the Planning Board:
- A. ~~"Development Plan Review" (DPR)~~ Major land development - The overall design shall meet or exceed the criteria and standards established in the ~~Exeter, Rhode Island Code of Ordinances APPENDIX A - ZONING ARTICLE II. - ZONING DISTRICT USE REGULATIONS~~ Section 2.5 entitled "Development Plan Review". land development and subdivision regulations for a major land development plan.
 - B. "Enhanced Development Standards" - shall comply with specific enhanced development standards contained in Exeter Rhode Island Code of Ordinances APPENDIX A - ZONING ARTICLE I. - ADMINISTRATION PROCEDURES 1.4.1 (5-8) Special provisions; Greenhouse Tier II and Greenhouse Tier III /CEA Facility.
6. *Project review fees.* Tier III/CEA Facility Greenhouses - a A project review fee shall apply to review by outside consultants due to the ~~projects~~ project's size, scale or expertise needed to address the project's potential impacts and/or because the Town lacks the necessary staff with expertise to perform the review work related to the proposal. The fee shall be equal to the actual cost to the Town for such consultant. In hiring outside consultants, the Town may engage engineers, hydrologists, lighting engineers, landscape architects, architects, or other appropriate professionals able to assist the Board and to ensure compliance with all relevant laws, ordinances, and regulations. Such assistance may include, but shall not be limited to, conducting a peer review, analyzing an application, design review of applications to determine consistency with the purposes and design/dimensional standards contained within Exeter Rhode Island Code of Ordinances APPENDIX A - ZONING ARTICLE I. ADMINISTRATION PROCEDURES 1.4.1 "Special provisions"; "Greenhouse Tier II and Greenhouse Tier III /CEA Facility. Project

Review Fees are to be funded by the applicant ~~separate~~ separately from, and in addition to, fees imposed by the Town for application and inspection.

7. *Minimum design standards.* Tier III/CEA Facility Greenhouse - The application shall conform with ALL of the following design criteria:
 - A. The greenhouse structure shall allow the existing soils to remain in place during operation of the greenhouse or stored onsite; and
 - B. The greenhouse shall be considered the primary use of the property; and
 - C. The facility must eliminate 99 percent (99%) of supplementary grow lighting through the use of wall and ceiling light abatement curtains or other mitigation measures such that less than one percent (1%) of interior lighting within the facility shall be visible from the boundaries of the property. ~~Exterior lighting of the building(s), parking lot(s), and loading docks shall be Dark Sky compliant; all exterior lighting fixtures shall have the International Dark-Sky Association (IDA) Fixture Seal of Approval;~~
 - D. The site must be designed to setback the building, parking lot and off street loading a minimum of ~~150'~~ 150 feet from front property line and preserve the front yard as open field or agriculture; and
 - E. Locate and/or orient all buildings, structures, including but not limited to, loading, packing, water storage, power systems, chillers, CO2 systems, ventilation fans and waste disposal containers to maximize the separation distance to abutting residential uses and sensitive natural ecosystems.
8. *Dimensional standards.* Tier III/CEA Facility Greenhouse - The application shall conform with ALL of the following:
 - A. Shall not exceed 25 acres under cover excluding the floor area dedicated to mechanical or electrical equipment, packaging area, and supporting facilities dedicated to shipping and receiving except that this area shall not exceed ten percent (10%) of the total square footage of the greenhouse; and
 - B. Off-street parking and loading should be designed to accommodate the maximum expected number of workers per shift the overall parking loading layout subject to Planning Board approval.

- C. The design shall comply with dimensional requirements of the ordinance with eligible exemption to the maximum percentage of lot coverage in Zoning District RU-3 as provided within the Town of Exeter Code of Ordinances Appendix A, ZONING, ARTICLE XIII. - entitled MAXIMUM LOT COVERAGE OF ALL BUILDINGS.
 - D. The height of a CEA shall not exceed 35 feet.
 - E. All structures and impervious parking lots and off-street loading must be setback a minimum of ~~150'~~ 150 feet from front property line.
 - F. The overall design shall meet or exceed the criteria and standards established in the ~~Exeter, Rhode Island - Code of Ordinances APPENDIX A - ZONING ARTICLE II. ZONING DISTRICT USE REGULATIONS Section 2.5 entitled "Development Plan Review AND Exeter, Rhode Island - Code of Ordinances APPENDIX A - ZONING ARTICLE II. Special provisions Section 1.4.1(9) entitled "Enhanced Development Standards"~~ subsection 9. of this section, below, as determined by the Planning Board.
9. *Enhanced development standards.* Tier III/CEA Facility Greenhouse - The application shall conform with ALL of the following design criteria:
- A. *Project viability* - The applicant shall provide a narrative that demonstrates the project is following the eligibility, design and dimensional requirements contained within the zoning ordinance and is in overall compliance with the Comprehensive Plan. The narrative shall substantiate that adequate services are available to the property and describe employment and occupancy of the facility as well as explain the general greenhouse operation of the facility, hours of operations and horticulture practices to be engaged, and if necessary, information regarding the financial stability of the applicant/corporation/business demonstrating that they retain sufficient resources to develop, operate and if needed, dismantle the facility.
 - B. *Groundwater* - The applicant shall provide a groundwater impact assessment from a qualified professional (subject to peer review) verifying that the design proposed will not adversely impact the quality and quantity of the surrounding groundwater resources and wells located within a 200-foot radius of the subject property.
 - C. *Water recycling plan* - The applicant shall prepare a water recycling plan describing how the facility plans to capture and recycle water and how ~~they plan~~ the applicant plans to use well water as a source of potable water and/or irrigation. The plan must detail the impact of 100% water recycling from the rooftop on groundwater recharge and if 100 percent recycling is not possible how the waste fertilizer solution or leachate will be managed so as not to adversely impact area water quality both

- surface and groundwater. ~~Specifically, The applicant must specifically~~ verify that the water recycling ~~plans plan~~ is compliant with the ~~State~~ Rhode Island Department of Environmental Management ~~Regulations regulations~~ as well as pertinent state and federal laws. (Subject to peer review).
- D. *Light pollution* - The applicant shall provide a photometric light study from a qualified professional (subject to peer review) verifying the design proposed will eliminate 99 percent of supplementary grow lighting through the use of wall and ceiling light abatement curtains or other mitigation measures. The photometric light study shall also validate that the lighting design both interior and exterior of the building (s), parking lot(s), and loading docks do not result in skyglow, (brightening of the night sky in the rural community), light trespass (light falling on neighboring properties), glare (excessive brightness), light clutter (bright, confusing, and excessive groupings of light sources).
- E. *Traffic impact study (TIS)* - The applicant shall complete a traffic impact study (subject to peer review) for the proposed access and egress plan for all proposed ~~(driveways and walkways)~~ driveways and walkways to demonstrate no negative impact to traffic and safe access to the subject property. Should the study ~~warrant the applicant of the development~~ conclude that street upgrades are necessary, the applicant shall be responsible for any necessary road upgrades.
- F. *Public safety* - The applicant shall submit a complete fire safety/compliance plan(s) sent to the Fire Marshal and Fire Chiefs and fund, if necessary, a project peer review that provides review by outside compliance experts in building and fire safety criteria. This information will be used by the Fire Marshal and Fire Chiefs to prepare a report to the Planning Board as to their recommendations.
- G. *Support structures/power generation* - The applicant shall be required to submit a plan that locates all supporting buildings, structures, including but not limited to specifying the type and location of full and stand-by power systems, types of power systems and their location, power equipment, loading, packing, water storage, chillers, CO2 systems, ventilation fans and waste disposal.
- H. *Noise/odor* - The applicant shall be required to submit a noise study that evaluates noise impact at the abutting property line for which there are residential land uses. Measured noise impacts shall include operations, idling trucks, loading, power systems, chillers, CO2 systems and ventilation fans. Said noise events shall be 24-hour day and night A-weighted noise exposure level assigning a 10db increase for night time events. (subject to peer review). The applicant shall provide a plan to

minimize odors from non-farming activities and establish a reporting tool to help identify concerns

- I. *Waste management plan* -The applicant shall be required to submit a detailed waste management plan which includes how waste from the greenhouse facility is to be removed (including but not limited to vines and vegetables) as stockpiling of greenhouse waste uncovered shall be prohibited. The plan shall depict the location of all waste receptacles and composting facilities.
- J. *Operations and maintenance plan*- The applicant shall provide general information about the facility, the processes, control devices and any pollutants controlled by devices along with monitoring frequency and instrumentation information about the maintenance procedures to be performed.

4.E. Special provisions: Unified development review

1. Unified development review authorizes the planning board, rather than the zoning board of review, to approve variances and special use permits that are requested concurrently with an application for approval of a development plan or land development project. The purpose is to provide a more efficient and less costly method of obtaining approval of development that requires zoning relief.
2. An applicant for development plan approval or land development project approval may request unified development review by submitting an application form for zoning relief with the application for development approval. The procedure for review and approval under unified development is contained in the land development and subdivision regulations.
3. When considering an application for zoning relief, the planning board is bound by the same legal requirements and the same criteria for relief that would apply to the zoning board of review's consideration of applications. The planning board shall conduct a public hearing, shall take testimony under oath, and shall make findings of fact and conclusions of law. The planning board's decision on the zoning relief shall be conditional on its approval of the development project.
4. An appeal from a decision by the planning board on a variance or special use permit may be taken pursuant to R.I. Gen. Laws § 45-23-71.

Approved A M E N D M E N T S
EXETER ZONING ORDINANCE

ARTICLE I. – ADMINISTRATIVE PROCEDURES

Sec. 1.5. - Adoption.

5.A. Adoption: power of council to adopt; consistency with comprehensive plan.

For the purpose of promoting public health, safety, morals and general welfare, the Exeter town council shall have the power, ~~in accordance with the provisions of this chapter,~~ to adopt, amend or repeal, and to provide for the administration, interpretation and enforcement of the Exeter the zoning ordinance. Amendments shall be consistent with the comprehensive plan.

5.B. Adoption: ~~procedure for adoption or amendment~~ application procedure.

~~A. Procedure:~~

~~The town council shall designate the planning board to receive an application as described in Section 5.B.B for adoption, amendment or repeal of a zoning ordinance and zoning map(s). The planning board shall have 15 days from receipt of an application (including the applicable application fee) to determine if the application is complete. The planning board shall issue a certificate of completion to the applicant indicating the application is complete, or shall issue a certificate of incompleteness indicating that the said application is incomplete with the specific incomplete items specified. Once the application is determined by the planning board to be complete and a certificate of completeness is issued to the applicant, the planning board shall have 45 days to submit its findings and recommendations as described in 5.C to the town council.~~

~~Where a proposal for adoption, amendment or repeal of a the zoning ordinance or zoning map(s) is made by the planning board, the requirements for study by the board is waived, provided that the proposal by the planning board shall include its findings and recommendations as required by section 5.C of this article. The town council shall hold a public hearing within 65 days of receipt of a complete application, giving proper notice as prescribed in required by section 5.D. If the advertised proposal is altered or amended, the change must be presented during the public hearing so that interested persons have an opportunity to comment on it. The town council shall render a decision on any proposal within 45 days after the date of completion of the public hearing is closed. The provisions of this section pertaining to deadlines shall not be construed to apply to any extension consented to by the applicant.~~

~~B. Application requirements:~~

The following information is required to be submitted. The planning board may recommend to the town council that some application requirements be waived if determined by the board to be not applicable to the proposal. In addition the waiver of any requirement must be consistent with the comprehensive plan and good planning practices.

The applicant shall submit to the planning board at least seven blueline or photocopies of master plan map(s) required below. The scale of all plans shall be sufficient to clearly show all of the information required and shall be subject to the approval of the planning board. Plans shall include a certification that all plans and improvements conform to all existing and amended standards of the State of Rhode Island and Providence Plantations, Board of Registration for Professional Engineers and Board of Registration of Land Surveyors. At a minimum, the following information shall be provided:

1. Master plan drawing(s). A map or plan of the development parcel showing the following information:

A. An application to amend the zoning ordinance shall be submitted to the planning board.

B. If the application proposes an amendment to the zoning map, the applicant shall submit 7 copies of a plan prepared by a professional engineer registered in Rhode Island. The plan shall show the area to be rezoned, shall be prepared to a scale sufficient to clearly show all of the information required, and shall include the following information:

1. Name and address of the proposed development.
2. Name and address of property owner and applicant.
3. Name, address and telephone number of person or firm preparing application plan.
4. Date of plan preparation, with revision date(s) (if any).
5. Graphic scale and true north arrow.
6. Plat and lot number(s) of the land being subdivided.
7. Zoning district(s) of the subject property and the zoning requested. If more than one district, zoning boundary lines must be shown.
8. Perimeter boundary line of the development, drawn so as to distinguish them from other property lines.
9. Area of the development parcel and proposed number of buildable lots, dwellings structures or other proposed improvements.
10. Location and dimension of existing property lines within or abutting the development parcel, easements and rights-of-way.
11. Location, width and names of existing streets within and immediately abutting the development parcel.
12. Names of abutting property owners and property owners immediately across any adjacent streets.

13. Location of wooded areas and notation of existing ground cover.
14. A map showing the existing and proposed boundaries, zoning districts/boundaries and existing streets and roads, their names and town boundaries where appropriate. This map will be advertised in a newspaper, it should be clear and reproducible.
15. Location of wetlands, watercourses or coastal features present on and/or within 200 feet of the property being rezoned.
16. Areas of agricultural use.
17. Location and approximate size of existing buildings or significant aboveground structures on or immediately adjacent to the development.
18. Proposed locations of wells and ISDS systems.
19. Site suitability for collecting and discharging stormwater.
20. Location of historic cemeteries on or immediately adjacent to the development (if any).
21. Location of any unique natural and/or historic features, including stone walls.
22. Notation on plan if the development parcel(s) are located within any of the following areas:
 - Natural heritage area (RIDEM); letter from DEM required for verification.
 - Groundwater protection overly district (town).
23. Base flood elevation data.
24. Identify wellhead protection area(s) within 500 feet of the development site.
25. A summary and description of the proposed amendment or repeal including intended use(s) of the property.
26. Any other information that the planning board deems necessary to evaluate the unique conditions of the proposed use or site.

~~2. Supporting materials. The applicant shall submit to the planning board 15 copies of a project description and impact statement providing a general description of the existing physical environment and existing use(s) of the property, along with a general description of the uses and type of development proposed by the applicant.~~

C. The following supplemental information shall be submitted with the plan:

1. ~~An aerial photograph of a blueline copy of an existing aerial photograph of the proposed development parcel and surrounding area.~~
2. A copy of the soils map of the development parcel and surrounding area. Use soil groupings from the Exeter comprehensive plan, and a general analysis of soil types and suitability for the development proposed. If any prime agricultural soils are within the development parcel(s), ~~and~~ soils map shall be marked to show the their ~~location of said prime agricultural soils.~~
3. An estimate of the approximate population of the proposed development.
4. An estimate of the number of school-aged children to be housed in the proposed development.

5. Proposed impact to town services including, but not limited to, roads, fire, police, ~~and~~ and schools.
6. Proposed phasing, if any.
7. A vicinity (locus) map, drawn to scale of one inch equals 400 feet, or as necessary to show the area within one-half mile of the development parcel showing the locations of all streets, existing lot lines, and zoning district boundaries. Significant public facilities shall be identified.
8. An area context map to show the proposed developed site and the 500 feet immediately surrounding the site. The map shall contain information on all significant topographic, natural and build features.
9. An estimate of existing and potential traffic volumes related to the proposal.
10. Water supply ~~from development of plan review.~~
11. ~~Any other information that the planning board deems necessary to evaluate the unique conditions of the proposed use or site.~~
12. ~~Local agencies comments:~~
[delete box]
13. ~~Adjacent communities. If applicable (specify):~~

14. Fees:

1. ~~Planning board has authority to charge the application fee commensurate with technical review costs; take from development plan review.~~
2. ~~Application fee (to cover public hearing expences, including stenographer; planning board review and legal costs).~~

- D. The applicant shall submit the application fee with the application and supporting documents.
- E. The administrative officer shall have 15 days from receipt of an application and the applicable application fee to determine if the application is complete. The administrative officer shall issue a certificate of completion or a certificate of incompletion with the incomplete items specified. The administrative officer may waiver of any application requirement that are not applicable to the proposal; provided, however, that the planning board shall have the authority to require an applicant to submit any additional information it determines to be necessary to assess the potential impact of the proposed zone change or to determine consistency with the comprehensive plan.

~~5.C. Adoption: review by Exeter planning board.~~

~~Among its findings and recommendations to the town council with respect to a proposal for adoption, amendment or repeal of a zoning ordinance or zoning map(s), the planning board shall determine if the proposal is consistent with the land use map in the Exeter comprehensive plan and:~~

~~A. Include a statement on the general consistency of the proposal with the Exeter comprehensive plan, including the goals and policies statement, the implementation program, and all other applicable elements of the comprehensive plan; and~~

~~B. Include a demonstration of recognition and consideration of each of the applicable purposes of zoning as presented in G.L. 1956, § 45-24-30 of the Zoning Enabling Act.~~

~~C. In the event the proposal is determined to be inconsistent with the Exeter comprehensive plan, the planning board shall recommend to the council that a public hearing be held to consider reviewing the comprehensive plan prior to any consideration of the proposed zone change.~~

~~D. Include a written report on the potential effects of the proposal as determined from the issues addressed in the application.~~

5.C. Adoption: ~~review by Exeter planning board recommendation~~

A. When the application is complete, the planning board shall have 45 days to submit its findings and recommendations to the town council.

B. The planning board shall review the application to determine its potential impact on the public health, safety and welfare and its consistency with the comprehensive plan. For zoning ordinance amendment applications submitted by property owners and for zoning ordinance amendments proposed by the planning board, the planning board shall prepare a written recommendation to the town council. The recommendation to the town council shall include:

(i) A determination of whether the amendment is consistent with the comprehensive plan, including but not limited to consistency with the goals and policies, the implementation program, and the future land use map;

(ii) A statement of how the proposed amendment addresses each of the purposes of zoning in R.I. Gen. Laws § 45-24-30 that are applicable to the proposal; and

(iii) A determination of the amendment's potential effects, if any, on the health, safety, and welfare of the town.

C. If the planning board determines that the proposal is inconsistent with the comprehensive plan, the planning board may advise the town council that an amendment to the comprehensive plan is necessary before the town council can approve the proposal.

5.D. ~~Adoption: notice and hearing requirements:~~ town council public hearing

- A. ~~The Exeter zoning ordinance shall not be adopted, repealed or amended until after a public hearing has been held upon the question before the town council. The town council shall first give notice of the public hearing by publication of notice in a newspaper of general circulation within the town that circulates in Exeter at least once each week for three successive weeks prior to the date of the hearing, which may include the week in which the hearing is to be held, at which hearing opportunity shall be given to all persons interested to be heard upon the matter of the proposed ordinance. Written notice, which may be a copy of the newspaper notice, shall be mailed to the Associate Director of the Division of Planning, Rhode Island Department of Administration, and where applicable, to the parties specified in subsections (B), (C), (D) and (E) of this section, at least two weeks prior to the hearing. The newspaper notice shall be published as a display advertisement, using a type size at least as large as the normal type size used by the newspaper in its news articles, and shall:~~
- B. Before acting on the proposed amendment, the town council shall conduct a public hearing at which all interested person shall have an opportunity to be heard.
- C. The town council shall give notice of the public hearing by publishing the notice in a newspaper that circulates in Exeter at least once each week for three successive weeks prior to the date of the hearing, which may include the week in which the hearing is to be held. The notice shall:
1. Specify the date, time, and place of the hearing; and the date and time of its commencement
 2. Indicate the adoption, amendment or repeal of the zoning ordinance is under consideration;
 3. Contain a statement of the proposed amendments amendment. to the ordinance. The amendments that amendment may be printed once in its entirety, or summarize and describe the matter under consideration;
 4. Advise those interested where and when a copy of the matter under consideration may be obtained or examined and copies; or copied; and
 5. State that the proposals shown thereon proposed amendments may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any alteration or amendment must be presented for comment in the course of during the hearing.

~~D.~~ At least 14 days before the date of the public hearing shall be posted in the town clerk's office, in one other municipal building, and on the home page of the Town's website.

~~B.~~ E. Where a proposed general amendment to the existing zoning ordinance includes general changes in an existing zoning map, public notice shall be given as required by subsection (A) subsections A and B of this section. In addition, if the proposed text amendment would cause one or more lots to become nonconforming in area or frontage, written notice shall be mailed at least 14 days before the public hearing by first class mail to the owner of each lot that would become nonconforming. If article III of this zoning ordinance contains a section automatically merging nonconforming lots in the same ownership, the notice shall contain a copy of the merger section and shall state that adoption of the proposed amendment may cause a legal nonconforming lot to merge with an adjacent nonconforming lot if both lots are owned by the same person or persons.

~~C.~~ E. Where a proposed amendment to an existing ordinance includes a specific change in a the zoning district map, but does not affect districts generally, public notice shall be given as required by subsection (A) subsections B, and C of this section, with the additional requirements that : 1. Notice the notice shall include a map showing the existing and proposed lot boundaries, existing and proposed zoning district boundaries, and existing streets and roads and their names, and town boundaries, where appropriate; and Written notice shall be sent by first class mail at least 14 days before the date of the public hearing to:

~~2. Written notice of the date, time and place of the public hearing and the nature and purpose thereof shall be sent to all owners of real property whose property is located in or within not less than 200 feet of the perimeter of the area proposed for change, whether within the town or within an adjacent town. The notice shall be sent by certified mail to the last known address of the owners, as shown on the current real estate tax assessment records of the town in which the property is located. shall be sent by first class mail at least 14 days before the public hearing to the following:~~

1. The owners of real property within 200 feet of the property that is the subject of the amendment, whether located in Exeter or an adjacent town. The last known names and addresses of the property owners shall be obtained from current real estate tax assessment records.

~~D. Notice of a public hearing shall be sent by certified mail to the town council of any town to which one or more of the following pertain:~~

~~1. Which is located in or within not less than 200 feet of the boundary of the area proposed for change; or~~

~~2. Where there is a public or quasipublic water source, or private water source that is used or is suitable for use as a public water source, within 2,000 feet of any real property that is the subject of a proposed zoning change, regardless of municipal boundaries.~~

~~E. Notice of a public hearing shall be sent to the governing body of any state or municipal water department or agency, special water district or private water company that has riparian rights to a surface water resource and/or surface watershed that is used or is suitable for use as a public water source and that is within 2,000 feet of any real property which is the subject of a proposed zoning change; provided, however, that the governing body of any state or municipal water department or agency, special water district or private water company has filed with the building inspector a map survey, which shall be kept as a public record, showing areas of surface water resources and/or watersheds and parcels of land within 2,000 feet thereof.~~

2. The town council of any town adjacent to Exeter if the subject property is located within 200 feet of the boundary of that town.
 3. The town council of any other town where a public or quasi-public water source, or private water source that is used or is suitable for use as a public water source, located within 2,000 feet of the subject property.
 4. The governing body of any state or municipal water department or agency, special water district, or private water company, or any private property owner, that has riparian rights to a surface water resource or surface watershed that is used or is suitable for use as a public water source and that is within 2,000 feet of the property that is the subject of the application, provided that the governing body of the state or municipal water department or agency, special water district, or private water company, or the private property owner, has filed with the Exeter building official a map survey showing those areas of surface water resources or watersheds and parcels of land.
 5. An individual or entity holding a conservation or preservation restriction on the property.
- ~~F. G.~~ No defect in the form of any notice under this section shall render any ordinance or amendment invalid, unless the defect is found to be intentional or misleading.
- ~~G. H.~~ Costs of any notice required under this section shall be borne by the applicant. If the applicant mails notices required by this section, he or she shall submit to the town clerk an affidavit attesting to the mailing, a copy of the notice mailed, and the names and addresses of the property owners to whom it was mailed.

5.E. Adoption: limitations and conditions.

- ~~H. A.~~ In granting a zoning ordinance amendment, notwithstanding the provisions of section 3, the town council may limit the change to one of the uses 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 that~~ are the subject of the zoning change.
2. Those relating to the effectiveness or continued effectiveness of the zoning change. ~~and/or~~
3. Those relating to the use of the land. ~~, as it deems necessary.~~

B. The zoning inspector shall cause the limitations and conditions so imposed 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. ~~If the permitted use for which the land has been rezoned is abandoned or if the land is not used for the requested purpose for a period of two years or more after the zone change becomes effective, the town council may, after a public hearing as hereinbefore set forth, change the land to its original zoning use before the petition was filed.~~

C. 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.

~~1. The above requirements are to be construed as minimum requirements.~~

~~2. Following the end of the appeal period, the town council shall publish either a summary or the complete text of the adopted amendment to the zoning ordinance, if altered or revised at the public hearing.~~

5.F. Public notice registry

A. The town shall establish and maintain a public notice registry that enables anyone to register to receive electronic notice of any proposed or enacted amendments to the zoning ordinance.

B. At least once a year, the town shall publish a notice of the availability of the public notice registry in a newspaper that circulates in Exeter.

C. The town shall post notice of the availability of the public notice registry on the town website and provide a link that members of the public can use to register to receive notice.

D. Notice provided through this registry does not qualify the recipient as an aggrieved party as that term is defined in article 2, section 1.2 of this ordinance.

Approved A M E N D M E N T S
EXETER ZONING ORDINANCE

ARTICLE I. - ADMINISTRATION PROCEDURES

Sec. 1.6. - Administration.

6.A. Administration: administration and enforcement of zoning ordinance.

The ~~local~~ official responsible for administration and enforcement shall be the zoning inspector. The zoning inspector is ~~an elected official~~, elected by the voters ~~the town~~ ~~during a~~ at each general election for a two-year term. The ~~minimum~~ responsibilities of the zoning inspector shall include:

1. The issuing of any required permits or certificates;
2. Collection of required fees;
3. Keeping of records showing the compliance of uses of land;
4. Authorizing commencement of uses or development under the provisions of the zoning ordinance;
5. Inspection of suspected violations;
6. Issuance of violation notices with required correction action;
- ~~7. Collection of fines for violations; and~~
7. Issuing permits for modifications.
8. Performing such other duties and taking such actions as may be assigned ~~in the~~ or designated elsewhere in this ordinance.

No building or structure shall hereafter be erected, enlarged or relocated, and no nonstructural use shall be initiated, until a zoning certificate has been issued by the zoning inspector indicating that the proposed use and the structure conforms to the provisions of this ordinance. The zoning inspector may require that information necessary to ensure compliance with the provisions of this ordinance be filed with the application for such permit. ~~Any building permit issued and outstanding on the date of~~

~~the adoption of this ordinance shall be valid for a period of 12 months from the date of its issuance.~~

No zoning certificate may be issued by the zoning inspector for any use not specifically permitted in this ordinance, except where the inspector receives a statement in writing from the zoning board of review indicating the granting of a special exception or variance or a written statement from the town council specifically referencing an amendment to the ordinance, except as specifically provided in section 6.A.6. below.

The zoning inspector shall retain a copy of each zoning certificate issued and one copy each shall be forwarded to the town clerk, the building inspector and the tax assessor(s). ~~Where~~ If the inspector ~~denied~~ denies the issuance of a zoning certificate, within 15 days, a written statement shall be given to the applicant, ~~the zoning board of review,~~ and the president of the town council, indicating the reason(s) for such refusal.

In order to provide guidance or clarification, the zoning inspector shall, upon written request, issue a zoning certificate or provide information to the requesting party ~~as to the determination by the inspector~~ within 15 days of the written request. In the event that no written response is provided within that time, the requesting party shall have the right to appeal to the zoning board of review for the determination.

Upon written request, the zoning inspector shall determine whether a use not listed in the use code table in Article II of this ordinance is so similar in type, character, and intensity to a special use that is listed in the use code table that it should be treated as a special use.

6.B. Administration: maintenance of zoning ordinance.

The town clerk shall be the custodian of the zoning ordinance and zoning ~~map(s)~~ map, ~~created hereunder.~~

- A. The zoning inspector shall be responsible for the maintenance and update of the zoning ordinance text and zoning map, ~~comprising the zoning ordinance.~~ Changes which impact to the zoning map shall be depicted on the map within 90 days of the authorized change(s) amendment.
- B. ~~The planning board will review the zoning ordinance whenever changes are made to the comprehensive plan of the town and at least once every three calendar years, for the identification of any changes necessary and for the forwarding of these changes to the town council.~~ When amendments to the comprehensive plan are adopted, and at least once every three years, the planning board shall review the zoning

ordinance, identify necessary amendments, and forward those amendments to the town council.

Charter reference— Planning board, § 901 701.

6.C. Administration: Exeter zoning board of review; establishment and procedures.

~~A. The Exeter zoning ordinance shall provide for the creation of a zoning board of review and for the appointment of members, including alternate members, and for the organization of the board, as specified in the zoning ordinance. The Exeter zoning board of review may engage legal, technical or clerical assistance to aid in the discharge of its duties. The board shall establish written rules of procedure, a mailing address to which appeals and correspondence to the zoning board of review shall be sent, and all records and decisions shall be filed in the town hall.~~

~~B. The zoning board of review shall consist of five members, each to hold office for the term of five years; provided, however, that the original appointments shall be made for terms of one, two, three, four and five years, respectively. The zoning board of review shall also include two alternates to be designated as the first and second alternate members. Their terms shall be initially one year for the first alternate member and two years for the second alternate member, and thereafter, terms shall be two years.~~

~~These alternate members shall sit and may actively participate in hearings. The first alternate shall vote if a member of the board is unable to serve at a hearing, and the second shall vote if two members of the board are unable to serve at a hearing. In the absence of the first alternate member, the second alternate member shall serve in the position of the first alternate. No member or alternate may vote on any matter before the board unless they have attended all hearings concerning that matter. Each member shall serve until reappointed or a new member be appointed by the council. Appointments to the zoning board of review shall be made in the month of July.~~

~~C. Members of zoning board of review serving on the effective date of adoption of this zoning ordinance under this chapter shall be exempt from provisions of this chapter respecting terms of originally appointed members until the expiration of their current terms.~~

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

~~E. The board shall appoint a clerk to keep the records of the board and all other duties as prescribed by law.~~

~~F. If a vacancy occurs in the board, the town council shall appoint a new member for the unexpired term. A vacancy shall be deemed to exist in the event any one or more~~

~~member is absent from the board's meeting for three consecutive months or all board meetings held within a time period of 90 days, whichever is longer. All members of the board shall be legal residents and real estate owners of the Town of Exeter, and no member shall be an elected official or salaried employee of the Town of Exeter. The term "elected official" referenced herein shall not include elections to an Exeter charter commission.~~

- A. Appointment. The town council shall appoint a zoning board of review consisting of five full members and two alternate members who are designated as the first alternate and the second alternate. Full members and alternates shall be appointed to staggered five-year terms. All terms shall expire on June 30. Members shall serve until their successors are appointed. If a vacancy in any seat occurs, the town council shall appoint a qualified person to serve the remainder of the term. If a member is absent from meetings for ninety consecutive days without cause, the town council shall have the authority to declare the seat vacant.
- B. Qualifications. Zoning board members shall be residents of Exeter and owners of real property in Exeter. No member shall be a town employee or an elected official; provided, however, that members of the charter commission shall not be considered elected officials for the purpose of this section.
- C. Organization. At the first meeting of each calendar year, the board shall elect a chairperson and a vice chairperson from among its members. The chairperson, and in his or her absence, the vice chairperson, shall preside at meetings and shall have the authority to administer oaths and issue subpoenas to compel the attendance of witnesses.

Charter reference— Zoning board of review, § 903.

6.D. Administration: powers and duties of the zoning board of review

- A. The zoning board of review shall have the following powers and duties:
 - 1. To hear and decide appeals in a timely fashion where it is alleged there is an error in any order, requirement, decision or determination made by the zoning inspector in the enforcement or interpretation of ~~this chapter, or of any ordinance adopted pursuant hereto~~ the zoning ordinance;
 - 2. ~~To hear and decide appeals from a party aggrieved by a decision of an historic district commission, pursuant to G.L. 1956, §§ 45-24.1-7.1 and 45-24.1-7.2;~~
 - 3. 2. To authorize, upon application, in specific cases of hardship, variances in the application of the terms of the zoning ordinance, pursuant to ~~section 3.E,~~ "Variances"; Art I, Sec 1.3.B.

4. ~~3.~~ To authorize, ~~upon application,~~ in specific cases, special use permits, pursuant to section 3.F, "Special use permits," where the zoning board of review is designated as a permitted authority for special use permits Art. I, Sec. 1.3.C.

5. ~~4.~~ To refer matters to the planning board or to other boards or agencies of the town as the zoning board of review may deem appropriate, for findings and recommendations;

6. ~~5.~~ ~~To approve a proposed application with conditions 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 have not been deemed satisfied; and~~ To grant conditional approval to an application when one or more state or federal permits or approvals necessary for the project is pending. A conditional approval shall expire one year after the date it was approved unless the required state or federal permit or approval has been issued.

B. ~~Be required to vote as follows:~~ The zoning board of review shall vote as follows:

1. ~~Five~~ Four active members ~~shall be necessary~~ must be present to conduct a hearing. ~~As soon as a conflict occurs for a member, that~~ A member ineligible to vote due to a conflict of interest shall recuse himself or herself, shall not sit as an active member, and take no part in the conduct of the hearing. shall not take part in the hearing, and shall not vote. ~~Only~~ No more than five active members shall be entitled to vote on any issue application. In order to vote, a member must have been present during the entire public hearing.
2. ~~The concurring affirmative vote of three of the five voting members of the zoning board of review sitting at a hearing shall be is necessary to reverse any order, requirement, decision or determination of the zoning inspector from whom an appeal was taken; and the concurring vote of four of the five members of the zoning board of review sitting at a hearing shall be required to decide in favor of an applicant on any matter within the discretion of the board upon which it is required to pass under the ordinance, including variances and special use permits~~ or to grant a variance or special use permit.

6.E. *Administration: application procedure.*

~~The application procedures for the filing of appeals, requests for variance, special use permits; and such other applications as may be specified in the zoning ordinance, with the zoning board of review, consistent with the provisions of G.L. 1956, § 45-24-58, shall be those adopted and presented in the Town of Exeter application guidelines and procedures. These guidelines and procedures specify the submission and resubmission requirements, for~~

each type of application required. A time period of one year shall be required to pass before a successive similar application may be filed.

A. An application for a variance, a special use permit, or an appeal may be made by submitting a completed application form and the required supporting documents to the clerk of the zoning board of review. The approved application form may be obtained on the town's website or from the clerk of the zoning board of review.

~~6.F. B. Administration; fees. Fees, in an amount not to exceed actual costs incurred, for mailing, legal advertising and professional services shall be paid by the appellant or applicant for the adequate review and hearing of applications, and for the recording of the decisions thereon. The fees for filing an application to the zoning board of review cover the actual costs for review, mailing, advertisement, professional services, and recording of the board decision. The amounts of the fees are listed in the application materials or may be obtained from the clerk of the zoning board of review.~~

~~6.G.~~ 6.F. *Administration: violations.*

~~A. The penalty for any violation of the Exeter zoning ordinance, or for a violation of any terms or conditions of any action imposed by the zoning board of review or of the zoning enforcement officer charged in the ordinance with enforcement of any of its provisions shall reasonably relate to the seriousness of the offense, and shall not exceed \$500.00 for each violation, and each day of the existence of any violation shall be deemed to be a separate offense. Any fine shall inure to the Town of Exeter.~~

~~B. The town may also cause suit to be brought in the supreme or superior court, or any municipal court, including a municipal housing court having jurisdiction, in the name of the town, to restrain the violation of, or to compel compliance with the provisions of its zoning ordinance. The town may consolidate an action for injunctive relief and/or fines under the ordinance in the superior court of the county in which the subject property is located.~~

~~(C) Violations susceptible to the imposition of cumulative fines and penalties may include, but not be limited to the following examples; construction without a permit, after the fact permits, construction in noncompliance with the terms of a permit, construction beyond the restrictions or permission of the enforcement officer's or zoning board's decision.~~

~~(D) In addition to the cumulative fines and penalties stated in subsections (A), (B) and (C), the enforcement officer or zoning board may order removal of the entirety or any offending portion of a violating structure and the town may recover its costs and attorneys' fees from any such violator which were incurred while seeking to compel compliance with any lawful order.~~

A. If the zoning inspector determines that a violation of the zoning ordinance exists, he or she may issue a written zoning violation notice to the owner of the property or refer the matter to the town solicitor for legal action. A violation notice shall specifically describe the violation and the action necessary to correct it, and shall state the time period within which the violation must be corrected.

B. The town solicitor shall have the authority to bring suit in any court of competent jurisdiction in the name of the town:

1. To restrain a violation of the zoning ordinance, including the erection, alteration, or use of any structure in violation of the zoning ordinance;

2. To compel compliance with the zoning ordinance, order the removal of any structure or abatement of any violation, or authorize the zoning inspector to cause the removal or abatement at the expense of the owner;

3. To compel compliance with a decision of the zoning board of review; or

4. To impose a fine or other penalty for violation of the zoning ordinance. Any fine imposed shall inure to the town.

A. ~~C.~~ The penalty for any violation of the Exeter zoning ordinance or for a violation of any the terms or conditions of any action imposed decision by the zoning board of review or of the zoning enforcement officer charged in the ordinance with enforcement of any of its provisions shall reasonably relate to the seriousness of the offense, and inspector shall not exceed \$500.00 \$500 for each violation, and each Each day of the existence of any violation shall be deemed to be a separate offense. Any fine shall inure to the Town of Exeter.

6.H. ~~6.G.~~ *Administration: decisions and records of the zoning board of review.*

~~A. Following a public hearing, the zoning board of review shall render a decision within a reasonable period of time. The zoning board of review shall include in its decision all findings of fact and conditions, showing the vote of each member participating thereon, and the absence of a member or his or her failure to vote. Decisions shall be recorded and filed in the office of the zoning board of review within 30 working days from the date when the decision was rendered, and shall be a public record. 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 office of the zoning board of review in an expeditious manner upon completion of the proceeding. For any proceeding in which the right of appeal lies~~

~~to the superior or supreme court, the zoning board of review shall have the minutes taken either by a competent stenographer or recorded by a sound recording device.~~

A. The zoning board of review shall render a decision on each application or appeal within fifteen days of the day the public hearing is closed. The written decision shall be posted immediately in the town clerk's office in a location visible to the public. The date of posting shall be noted on the document. A decision granting a variance or special use permit shall be recorded in the land evidence records.

~~B. Any decision by the zoning board of review, including any special conditions attached thereto, shall be mailed to the applicant, to the zoning inspector, and to the Associate Director of the Division of Planning, Rhode Island Department of Administration. Any decision evidencing the granting of a variance, modification or special use shall also be recorded in the land evidence records of the town.~~

B. The written decision shall include findings of fact, conclusions of law, and any conditions imposed. It shall include the names of the members present and absent, the names of members who participated in the public hearing, the names of the members who voted, and the vote of each voting member.

C. Within one day of the date the decision was posted, the zoning board of review clerk shall mail a copy of the written decision to the applicant and to any other party who participated in the public hearing and who provided the clerk with his or her name and address. The decision shall be sent by any method that provides confirmation of receipt. The clerk also shall provide a copy of the written decision to the zoning inspector.

D. 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 office of the zoning board of review in an expeditious manner upon completion of the proceeding. For any proceeding in which the right of appeal lies to the superior or supreme court, the zoning board of review shall have the minutes of each public hearing taken either by a competent stenographer, or recorded by a sound-recording device.

~~6.I. Administration; judicial aid in enforcement. The supreme court and the superior court, within their respective jurisdictions, or any justice of either of those courts in vacation, shall, upon due proceedings in the name of the town, instituted by its town solicitor, have power to issue an extraordinary writ or to proceed according to the course of law or equity, or both:~~

~~A. To restrain the erection, alteration or use of any building, structure, sign or land erected, altered or used in violation of the provisions of any zoning ordinance enacted under the authority of this chapter, and to order its removal or abatement as a nuisance;~~

~~B. To compel compliance with the provisions of the Exeter zoning ordinance;~~

~~C. To order the removal by the property owner of any building, structure, sign or improvement existing in violation of the Exeter zoning ordinance and to authorize the zoning inspector of the town, in the default of the removal by the owner, to remove it at the expense of the owners;~~

~~D. To order the reimbursement for any work or materials which shall have been done or furnished by or at the cost of the town;~~

~~E. To order restoration by the owner, where practicable; and/or~~

~~F. To issue fines and other penalties.~~

Approved A M E N D M E N T S
EXETER ZONING ORDINANCE

ARTICLE I. - ADMINISTRATION PROCEDURES

Sec. 1.7. - Appeals.

~~7.A. Appeals; right of appeal. Appeal from a decision of the zoning inspector or administrative officer~~

~~A. An appeal from any decision of an administrative officer or zoning inspector charged in the Exeter zoning ordinance with the enforcement of any of its provisions may be taken to the zoning board of review by an aggrieved party.~~

- ~~1. An aggrieved party may appeal a decision by any official charged with enforcement or application of the zoning ordinance, including the administrative officer or the zoning inspector, to the zoning board of review.~~

~~B. An appeal from a decision of the zoning board of review may be taken by an aggrieved party to the superior court for the county in which the town is situated within 20 days of the date on the written decision.~~

~~C. If the decision of the zoning board of review is overturned by the court, a copy of that decision shall be sent to the abutting owners of the subject premises.~~

~~7. B. Appeals; appeals to zoning board of review. An appeal to the zoning board of review from a decision of any other zoning enforcement agency or officer may be taken by an aggrieved party. The appeal shall be taken within a reasonable time, not to exceed 15 days, of the date of the recording of the decision by the zoning inspector 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 thereof. The officer or agency from whom the appeal is taken shall forthwith transmit to the zoning board of review all the papers constituting the record upon which the action appealed from was taken. Written notice of the appeal shall also be transmitted to the Exeter planning board.~~

~~7.C. Appeals; stay of proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning inspector or agency from whom the appeal is taken certifies to the zoning board of review, after an appeal shall have been duly filed, that by reason of facts stated in the certificate a stay would in the officer's or agency's opinion cause imminent peril to life or property. In that case, proceedings shall not be stayed other than by a restraining order, which may be granted by a court of competent jurisdiction on application thereof and upon notice to the officer or agency from who the appeal is taken on due cause shown.~~

2. The appeal shall be taken within fifteen days of the date of the decision or determination, or within fifteen days of the date the appellant knew or should have known of the decision or determination. The appeal shall specify the grounds for the appeal and shall include a copy of the decision or determination appealed from.
3. The appeal shall be filed with the clerk of the zoning board. The official shall immediately deliver to the clerk of the zoning board all of the documents constituting the record of the decision or determination appealed from. An appeal shall stay all proceedings in furtherance of the decision or determination appealed from unless the official certifies to the zoning board of review that a stay would cause imminent peril to life or property. In that case, the proceedings shall be stayed only by a restraining order issued by a court of competent jurisdiction.

~~7.D. Appeals; public hearing by zoning board of review. The zoning board of review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties of interest, and decide the matter within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The cost of any notice required for the hearing shall be borne by the appellant.~~

4. The zoning board of review shall conduct a public hearing on the appeal within sixty-five days of the date the appeal was filed, and shall give notice of the public hearing in the manner required by Sec. 1.3.E of this ordinance.

~~7.E. Appeals; participation in zoning hearing. Participation in a zoning hearing or other proceeding by a party shall not be a cause for civil action or liability except for acts not in good faith, intentional misconduct, a knowing violation of law, transactions where there is an improper personal benefit or malicious, wanton or willful misconduct.~~

~~7.F. Appeals; decisions and records of zoning board of review. 5. In exercising its powers the zoning board of review may, in conformity with the provisions of this chapter, reverse or affirm wholly or part and may modify the order, requirement, decision or determination appealed from and may make such orders, requirements, decisions or determinations as ought to be made, and to that end shall have the powers of the officer from whom the appeal was taken. All decisions and records of the zoning board of review respecting appeals shall conform to the provisions of section 6.H.~~

~~7.G. Appeals; appeals to superior court. Appeal of a decision by the zoning board of review.~~

~~A. An aggrieved party may appeal a decision of the zoning board of review to the superior court for the county in which the town is situated by filing a complaint setting forth the reasons of appeal within 20 days after the decision has been recorded and posted in the office of the town clerk, and have a subpoena issued to the chairman of the board through the town clerk.~~

1. A party aggrieved by a decision of the zoning board of review may file an appeal pursuant to R.I. Gen. Laws §§ 45-24-69 and 45-24-69.1 in the Washington County Superior Court with twenty days of the date the written decision was posted in the town clerk's office.
2. The clerk of the zoning board of review ~~will~~ shall file the original documents acted upon by it and constituting the record of the case appealed from, or certified copies thereof, together with such other facts as may be pertinent, with the clerk of the court within ~~30~~ thirty days after being served with a copy of the complaint. When the complaint is filed by someone other than the original applicant or appellant, the original applicant or appellant and the members of the zoning board shall be made parties to the proceedings.
3. An aggrieved party who files an appeal in the Superior Court shall give notice of the appeal to those persons who were entitled to notice of the hearing before the zoning board of review. The notice shall be sent by first class mail within ten business days of the date the appeal was filed. The notice shall contain the date of the notice; the caption and civil action number of the case; the county in which the case was filed; the date the case was filed; the name, address, and telephone number of the attorney filing the appeal or of the aggrieved party. The notice shall state in boldface type that an appeal has been filed in the superior court, that the aggrieved party will serve the complain on the named defendants; that persons receiving the notice may retain counsel and participate in the appeal so far as the law allows; and that the appeal is governed by R.I. Gen. Laws §§ 45-24-69 and 45-24-69.1. Within twenty days after the notices are sent, the aggrieved party shall file an affidavit in the court containing the names and addresses of the person to whom the notice was sent; the date the notice was sent; an affirmation that the notices were sent by first class mail, postage prepaid, in envelopes containing a return address; and the return address; and a list of the notices that were returned to the sender. A copy of the notice shall be attached to the affidavit.

~~B. If, before the date set for hearing in the superior court, an application is made to the court for leave to present additional evidence before the zoning board of review and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for the failure to present it at the hearing before the zoning board of review, the court may order that the additional evidence be taken before the zoning board of review upon conditions determined by the court. The zoning board of review may modify its findings and decision by reason of the additional evidence and shall file that evidence and any new findings or decisions with the superior court.~~

~~C. The review shall be conducted by the superior court without a jury. The court shall consider the record of the hearing before the zoning board of review and, if it shall appear to the court that additional evidence is necessary for the proper disposition of the matter, it may allow any party to the appeal to present that evidence in open court, which evidence, along with the report, shall constitute the record upon which the determination of the court shall be made.~~

D. The court shall not substitute its judgement for that of the zoning board of review as to the weight of the evidence on questions of fact. The court may affirm the decision of the zoning board of review or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions or decisions which are:

1. In violation of constitutional, statutory or ordinance provisions;
2. In excess of the authority granted to the zoning board of review by statute or ordinance;
3. Made upon unlawful procedure;
4. Affected by other error of law;
5. Clearly erroneous in view of the reliable, probative and substantial evidence of the whole record; or
6. Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

7.H. Appeals; priority in judicial proceedings. Upon the entry of any case or proceeding brought under the provisions of this zoning ordinance, including pending appeals and appeals hereinafter taken to the court, the court shall, at the request of either party, advance the case, so that the matter shall be afforded precedence on the calendar and shall thereupon be heard and determined with as little delay as possible.

~~7.I. 7.H. Appeals; appeal Appeal of enactment of or amendment to of the zoning ordinance.~~

- A. ~~1.~~ 1. An appeal of an enactment of or an amendment to a zoning ordinance may be taken to the superior court for the county in which the municipality is situated pursuant to R.I. Gen. Laws § 45-24-71 by filing a complaint, as set forth herein, in the Washington County Superior Court within 30 thirty days after the enactment or amendment has become effective.
- ~~2.~~ 2. The appeal may be taken by an aggrieved party, or by any legal resident or landowner of the municipality, or by an association of residents or landowners of the municipality. The appeal may be filed by an aggrieved party, by a legal resident of Exeter, by an owner of real property in Exeter, or by an association of residents or property owners in Exeter. The appeal shall not stay the enforcement of the zoning ordinance, as enacted or amended, but the court may, in its discretion, grant a stay on appropriate terms, which may include the filing of a bond, and make such other orders as it deems necessary for an equitable disposition of the appeal.
- ~~B. 3.~~ 3. The complaint shall set forth with specificity the area or areas in which the enactment or amendment does not conform with the comprehensive plan and/or the manner in which it constitutes a taking of private property without just compensation.
4. The appeal shall not stay the enforcement of the zoning ordinance, as enacted or amended, but the court may, in its discretion, grant a stay on appropriate terms, which

may include the filing of a bond, and make such other orders as it deems necessary for an equitable disposition of the appeal.

~~C. The review shall be conducted by the court without a jury. The court shall first consider whether the enactment or amendment of the zoning ordinance is in conformance with the comprehensive plan. If the enactment or amendment is not in conformance with the comprehensive plan, then the court shall invalidate the enactment or the amendment, or those parts of the enactment or amendment which are not in conformance with the amendment which are not in conformance with the comprehensive plan. The court shall not revise the zoning ordinance to conform with the comprehensive plan, but may suggest appropriate language as part of the court decision.~~

~~D. In the case of an aggrieved party, where the court has found that the enactment or amendment of the zoning ordinance is in conformance with the comprehensive plan, then the court shall next determine whether the enactment or amendment works as a taking of property from the aggrieved party. If the court determines that there has been a taking, the court shall remand the case to the legislative body of the municipality, with its findings that a taking has occurred, and order the municipality to either provide just compensation or rescind such enactment or amendment within 30 days.~~

~~E. The superior court shall retain jurisdiction, in the event that the aggrieved party and the municipality do not agree on the amount of compensation, in which case the superior court shall hold further hearings to determine and to award compensation. Furthermore, the superior court shall retain jurisdiction to determine the amount of an award of compensation for any temporary taking, if that taking shall exist. F. The court may, in its discretion, upon motion of the parties or on its own motion, award reasonable attorney's fees to any party to an appeal, as set forth herein, including a municipality.~~

~~Sec. 1.8. Severability.~~

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

Approved A M E N D M E N T S
EXETER ZONING ORDINANCE

ARTICLE II. - ZONING DISTRICT USE REGULATIONS

Sec. 2.1. - Zoning districts.

The districts, their abbreviations and common names as used herein shall be designated as follows:

2.1.1. Residential district, RE-2. The purpose of ~~this [RE-2]~~ the RE-2 zone is to provide adequate land suitable for residential development. More importantly, the density permitted in this ~~[RE-2]~~ district would maintain an adequate water supply and suitable soil for individual septic disposal systems.

2.1.2. Rural district, RU-3. The purpose of ~~this [RU-3]~~ the RE-3 zone is to provide adequate land suitable for low density residential rural development blended with forestry, farming and recreational activities.

2.1.3. Rural district, RU-4. The purpose of ~~this [RU-4]~~ the RU-4 zone is to protect land now used for forestry, farming and related activities and the natural habitat and wildlife and to preserve the area's rural character. This ~~[RU-4]~~ zone provides land suitable for low density residential development and reserves land for future farming, forestry, conservation practices and recreational uses.

2.1.4 Conservation/recreation, CR-5. ~~This [CR-5]~~ The CR-5 zone is established as a separate district to preserve and protect an area abundant with natural resources, landscapes and sensitive soils having severe limitations, and to provide for a natural mixture of residential and recreational uses.

2.1.5. Business district, B. The purpose of ~~this [B]~~ the B zone is to provide areas for business ~~which would~~ that serve the day-to-day needs of the residential population of the community. Also, its purpose is to provide areas for commercial activities to serve the needs of the entire community and the contiguous regions. Any use not specifically listed as a permitted use is prohibited. Each business must contain, within its own lot, the wellhead protection for the well supplying all its water.

2.1.6. Light business/residential district, LB/R. The purpose of ~~this [LB/R]~~ the LB/R zone is to allow the development of low density commercial uses including residences, home occupations and light business uses, and to provide a buffer to the existing general business uses that exist. All uses are subject to ~~development plan review requirements~~ land development plan approval.

2.1.7. Light industrial district, LI. The purpose of ~~this [LI]~~ the LI zone is to provide areas for the future development of light industrial and allied uses and to provide for existing uses of this nature. Areas so designated are considered to be geographically and topographically suitable for the future economic growth of the community. All uses shall strictly comply with the established maximum building capacity of 250 persons. Each industry must contain, within its own lot, the wellhead protection for the well supplying all its water. All uses in this district require approval as a major land development.

2.1.8. Open space and public land, OSPL. The purpose of ~~this [OSPL]~~ the OSPL zone is to identify state lands and other lands held for recreation, conservation and public access purposes and to afford future protection against the conversion of these lands to another use inconsistent with that now in existence. Other lands that are purchased or controlled in the town in the future may be added to this category.

2.1.9. Groundwater protection overlay district, GWOL. The purpose of ~~this [GWOL]~~ the GWOL zone is to preserve, protect and maintain the quality and quantity of groundwater supply and groundwater recharge areas of the Town of Exeter. This groundwater is the primary existing and future water supply source for the town. The groundwater reservoirs that underlie Exeter are unique and valuable resources that are vulnerable to contamination due to their unconfined condition, closeness to the ground surface, and the permeability of the overlying soils. It is the intent of this ~~[GWOL]~~ overlay district to protect the health, safety and welfare of the public.

2.1.10 Planned districts. The purpose of this [planned districts] zone is to provide control for the future business and industry, and special sites including the Ladd Center and Dorset Mill. Included in this [planned districts] zone are village center districts, planned business and light industrial development districts. An additional purpose of this [planned districts] zone is to foster development given the unique nature of these zones as sites for future mixed use development and sensitive environmental constraints. Any proposed use in this ~~[planned districts]~~ zone shall require a special use permit and ~~be subject to development plan review requirements.~~ approval as a major land development.

2.1.11 Planned village overlay district. The purpose of ~~this [PVOD]~~ the PVOD district is to implement the vision for Exeter by allowing for planned village development (PVD) in designated areas. ~~PVD~~ Development in this district shall be designed and built in a manner that is compact, pedestrian friendly, and consistent with the rural setting of Exeter. Development within these districts may include a mix of uses conducive to a vibrant traditional New England village setting and architectural techniques shall reflect the historic patterns that help to define Exeter's community character. These districts shall allow for densities in commercial and residential development that are allowed in no other district and shall therefore require the transfer of development rights to leverage an increased density. The town may also allow increased density as part of its own municipal subsidy toward the provision of deed restricted affordable housing.

* * *

Sec. 2.3. - Zoning use table terms.

2.3.1. The abbreviated terms used in the following table of uses, table 2.4, shall have the following meanings:

A. Y (Yes). The use is permitted by right within the district so designated.

B. N (No). The use is not permitted and is specifically prohibited within the district so designated , except as provided in Art. I, Sec. 6.A.6.

C. S (special permit required). The use is allowed by special use permit only if approved by the zoning board of review or by the planning board under unified development review.

D. Zoning districts are as defined above.

2.3.2. Any use not listed is specifically prohibited. The zoning inspector shall have the authority to determine, upon application, whether a use falls within one of the use codes listed in the table of uses.

2.3.3. ~~Any use requiring a special use permit shall be subject to development plan review requirements.~~ Unless other specifically provided, a use requiring a special use permit that will involve land disturbing activity of greater than 3,000 square feet but not exceeding 20,000 square feet must be approved as a minor land development, and a use requiring a special use permit that will involve land disturbing activity of greater than 20,000 square feet must be approved as a major land development.

* * *

NOTES: [to use table]

1. Any industrial structure or activity or outdoor storage shall be set at least 200 feet from the RE-2, RU-3, RU-4 and CR-5 district boundaries, and at least 100 feet from any B or LB/R district boundaries. A setback for structures and parking lots of 200 feet from all roads and suitable landscape screening shall be provided.

2. No certificate of occupancy for any use shall be issued until the ~~planning board~~ administrative officer has certified in writing that ~~all development plan review requirements have been met~~ the use has received all required approvals.

3. Each business or industry must contain within its own lot the wellhead protection for the well supplying all its water.

4. For all setback requirements; setbacks shall be measured from the lot line to any ~~building projection and not necessarily the foundation~~ part of the building that projects beyond the foundation.
5. On corner lots, the rear setback shall conform to the side setback requirements that there shall be no rear yard; only a front and two side yards.
6. For the purposes of calculating minimum lot dimensions, area, density, maximum percent coverage, and the maximum number of lots or dwelling units permitted in a conservation development in any zoning district where permitted, the provisions of the land development and subdivision regulations shall apply.
7. The maximum gross building footprint per retail structure shall be 40,000 square feet in all zones except the LI zone which ~~will~~ does not have a maximum. This maximum footprint shall not apply to agricultural structures.
8. To be determined as part of the PVD review process by the planning board in conformance with all other provisions of PVD. ~~The planning board shall condition approval upon the future maintenance of these standards for lot coverage. Where a future application may show a deviation from these lot coverage standards, said application shall require major land development review.~~ Maintenance of the approved percentage of lot coverage shall be a condition of planning board approval. If an application for further development would increase the percentage of lot coverage, the application must be approved as a major land development project.
9. To be determined as part of the PVD review process by the planning board in conformance with all other provisions of PVD including but not limited to those standards within the land development and subdivision regulations specifically requiring site design techniques that facilitate a safe, pedestrian friendly, compact village development. ~~The planning board shall condition approval upon the future maintenance of these setbacks. Where a future application may show a deviation from these lot coverage standards, said application shall require major land development review.~~ Maintenance of the approved setbacks shall be a condition of planning board approval. If an application for further development would decrease any setback, the application must be approved as a major land development project.

~~Sec. 2.5. -- Development plan review.~~

~~2.5.1. Purpose; when required.~~

~~A. Development plan review is required for all permitted uses other than one- or two-family dwellings or accessory buildings. Uses located within a conservation development shall not be required to obtain development plan review approval.~~

B. No building permit may be issued for any building within the purview of this section except in conformance with an approved development plan review. No certificate of occupancy may be issued for any building or use of land within the purview of this section unless the building is constructed or used, or the land is developed or used in conformity with an approved development plan review.

C. As part of the development plan review process, the planning board may request opinions and technical reviews by federal and state agencies or representatives as it deems appropriate. Advisory opinions shall be requested of the department of public works, conservation commission, fire chief of the appropriate fire district, zoning inspector, and other local agencies, as needed.

D. Development plan review approval by the planning board:

1. Development plan review approval for the erection, enlargement or change of use of any building or other structure other than one- or two- family dwellings and their accessory uses, or uses requiring a special use permit, a variance, a zoning ordinance amendment, and/or a zoning map change, may be required by the zoning board of review or the town council. The review conducted by the planning board shall be advisory to the permitting authority.
2. Development plan review approval for uses that are permitted by right under the zoning ordinance shall be required for any permitted use other than one- or two- family residential and their accessory uses. The review body shall be the planning board. A rejection of the application shall be considered an appealable decision.
3. Development plan review approval for all uses of open land for which a certificate of occupancy is required; and
4. Development plan review approval for any amendment of a previously approved development plan review.
5. Applications for uses in planned districts, special use districts, groundwater protection overlay districts, except for single- family residential use.

2.5.2. Performance and design standards; standards of review. The following criteria and standards shall be used by the planning board in reviewing applications for site plan approval. They are intended to provide a framework within which the designer of the site development is free to exercise creativity, invention and innovation. The planning board shall not specify or favor any particular architectural style or design or assist in the design of any of the buildings submitted for approval. Participation by the board shall be restricted to a reasonable, professional review and, except as otherwise provided in the following subsections, full responsibility for design shall be retained by the applicant. In all instances, the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application.

2.5.2.1. Landscaping. The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of the soil and retaining existing vegetation during and after construction. After construction is completed, landscaping shall be installed according to the landscaping design shown on the site plan that will define, soften, or screen the appearance

of the off-road parking areas from the public right-of-way and abutting properties and/or structures in order to enhance the design or building(s) or site, and to minimize the encroachment of the proposed use on neighboring land uses.

- A. Existing trees and vegetation shall be preserved to the maximum extent possible.
- B. Buffering elements in the form of architectural design and landscape design that provide a logical transition to adjoining existing or permitted uses shall be provided.
- C. Scenic views and historically significant landscape features shall be preserved whenever possible as determined by the planning board and/or the scenic highway commission.
- D. The planting of large deciduous street trees, no smaller than two-inch caliper, along principal road corridors to help shade and enclose the highway shall be encouraged.
- E. New landscaping shall use native plant material of species hardy to the area.
- F. [The] Applicant shall submit a landscape plan subject to planning board approval, including a plant species list with sizes, common and scientific names, and quantities.

2.5.2.2. Visual relationship of buildings and their design.

- A. The architectural design of the project, buildings, structures and site layout shall be visually compatible with the character the Town of Exeter seeks to retain within the area and the surrounding district, including building materials, massing of structures, small scale, and pitched building roof line, and shall be compatible with any special area master plan concepts as adopted by the town planning board and town council.
- B. A diversity of roof heights, gable orientations and volumes in new buildings should be considered. Mansard, flat and shallow pitched roofs are not permitted. Instead new buildings shall be designed with traditional roof forms that are compatible with the character of the town, including gambrel and gable roofs commonly found in Exeter.
- C. Architectural elements such as dormers should be in proportion with the overall building and should also be in keeping with the surrounding building context. Exaggerated or excessively large (or tiny) architectural elements should be avoided. If used properly, traditional and contemporary architectural detailing can create variety, interest and texture on new buildings and additions, which is compatible with the character of the area.
- D. Building materials. The following building materials for use on the exterior of all structures may be acceptable:
 - Wood or wood products
 - Brick
 - Masonry products
 - Stone
 - Vinyl products which resemble the above
 - Such other materials as may be approved by the planning board
- E. Buildings that are three-dimensional expressions of chain architectural logotypes which are incongruous with the character of the town shall not be allowed.
- F. Development projects shall reuse existing buildings of historical character whenever possible. Reuse may take the form of additions to older buildings rather than demolition of listed historic

buildings (Rhode Island Historical Preservation and Heritage Commission town survey) shall be discouraged.

G. Large-scale development shall take the form of village-like groupings, rather than a large individual structure set back on a large expanse of asphalt parking. Large box buildings are discouraged, however if proposed, their architectural incongruity shall be corrected by the articulation of building facades into an appearance of smaller-scaled multiple building fronts expressed in a variety of heights and materials to create a pedestrian scale.

2.5.2.3. Vehicular access. The proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers, and control of access points including site distances, turning lanes, and traffic signalization when required by existing and projected flow on the municipal road systems. Provisions shall be made providing and maintaining safe and convenient emergency vehicle access to all buildings and structures on the site at all times. The development shall not impose unreasonable burdens on the circulation system of the town. Town roads inadequate to handle the volume of traffic generated by the development shall be improved by the applicant to provide safe passage. The developer shall be required to provide a traffic impact report prepared by a certified traffic engineer including, but not limited to, present and future traffic volumes, present and future traffic flows, traffic safety, and impact to level of service.

2.5.2.4. Parking and circulation. The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangement and use of parking areas. Adequate off-street parking and loading shall be provided to prevent on-street traffic congestion. All parking spaces, maneuvering areas, entrances and exits shall be identified on the site plan. The interior circulation system shall be designed to provide safe and convenient access to all structures, uses, and/or parking spaces. Parking areas shall be protected with suitable guards, rails, islands, crosswalks, speed bumps, and similar devices deemed necessary by the planning board.

A. Parking lots shall be located to one side or behind commercial buildings, particularly within the Route 102 and Route 2 corridors and along arterial highways.

B. Whenever possible, parking lots on adjoining commercial lots shall be connected internally to each other to allow for through traffic between and reducing the need for multiple curb cuts, particularly within major arterial road corridors.

C. Parking lot units shall be designed with ample landscaping and shall be limited in size to accommodate no more than 30 to 40 cars per units. Parking for large complexes shall be broken up into units of this size with each lot connected with the other but buffered from the other with landscaping including trees and shrubs. The following parking lot landscaping standards may be required by the planning board:

1. Parking lots containing ten or more spaces shall be planted with at least one tree per five spaces, no smaller than two-inch caliper, each tree being surrounded by no less than 40 square feet of permeable unpaved area.

2. The planning board may require placement of trees along the perimeter of parking areas and within parking areas.

D. Native trees required by these provisions shall be at least five feet in height at the time of planting and shall be of a species characterized by hardiness within the area.

E. To the extent practicable, existing trees shall be retained and used to satisfy the provisions of this section.

F. Where reasonable and practical, the planning board may require new roads and interconnected parking to be located behind existing commercial buildings scheduled for rehabilitation or reuse to reduce traffic along arterial highways.

G. The planning board may require the consolidation of existing curb cuts into a smaller number of clearly defined entrances in projects involving the reuse of existing buildings and parking areas. If such buildings are within major road corridors or along an arterial highway and set back from the highway, the planning board may require a reconfiguration of the parking to accommodate these standards. In such cases where new additions or new structures are part of the application, the planning board may encourage such new construction to be located along the highway or interior roads to create a traditional commercial main street appearance and to create a visual setback line to create a visual screen to existing or proposed interior parking areas.

H. No development shall be allowed where there is unrestricted access to public streets or roads (with an unlimited curb cut) or where the public street must be utilized to maneuver in and out of a parking space unless such development is located on an interior street and is subject to the design guidelines of a special area master plan adopted by the town planning board or town council.

I. Glare from the installation of outdoor lights and signs and from the movement of vehicles on the site shall be shielded from the view of adjacent residential properties.

J. Buildings and the grounds adjoining them shall permit easy access and operation of fire, police, and other emergency vehicles.

K. The design of the project's circulation systems shall relate to planned improvements in the area, including future street widening, realignments, paving programs, and street width requirements determined by the planning board relating to traffic use which have been planned and/or scheduled for construction. The design should be congruent with any proposed area master plan, commercial master plan, village type plan, or mixed-use area plan adopted by the town.

2.5.2.5. Stormwater runoff and erosion control. Adequate provisions shall be made for the treatment and control of soil erosion and stormwater runoff so that runoff will not adversely affect neighboring properties, surface [water] or groundwater quality, aquifers, wetlands, any storm drainage system or road. Whenever possible, on-site absorption of runoff waters shall be utilized to minimize discharges from the site. Provisions shall be made to control erosion during and after construction. All stormwater runoff and erosion control shall meet the guidelines set forth in the Rhode Island Stormwater Runoff and Rhode Island Erosion and Sediment Control Handbooks.

A. Erosion and sedimentation shall be controlled during and after construction and shall not adversely affect adjacent or neighboring property or public facilities or services either during or after construction.

B. The design of stormwater control systems shall be for a zero net increase from present undeveloped drainage patterns compared to future site development conditions.

C. Direct discharge of untreated stormwater runoff to a wetland or watercourse from impervious surfaces including, but not limited to, roadways, parking lots, driveways, basement drainage systems, and roofs shall not be allowed.

D. All development stormwater control shall meet the standards of the Rhode Island Stormwater Design and Installation Standards Manual and be of nonstructural character to the extent possible. Such stormwater control shall be designed to be integral to the designed landscape of the project.

2.5.2.6. Existing utilities. The development shall not impose unreasonable burdens on sewers, sanitary and storm drains, water lines, or other public utilities.

2.5.2.7. Advertising features. The size, location, design, lighting and materials of all exterior signs and outdoor advertising structures shall be compatible with the design of the proposed building(s) and structure(s) and surrounding properties and conform with article VI of the Exeter zoning ordinance. A uniform signage design for projects is recommended. The planning board shall require conformance with any standards adopted with a town special area master plan for signs and signage design.

2.5.2.8. Special features of the development. Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utility buildings, and similar structures shall have sufficient setbacks and screening to provide an audiovisual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties.

2.5.2.9. Exterior lighting. All exterior lighting shall be designed to minimize impact on neighboring properties. Lighting shall be directed away from any residential zoned properties.

2.5.2.10. Municipal services. The development will not have an unreasonable impact on the municipal road system, fire department, police department, solid waste program, schools, open spaces recreational programs and facilities, and other municipal services and facilities.

2.5.2.11. Water pollution. The project shall be designed to prevent the pollution of surface [water] or groundwater resources. In making this determination, the planning board will review the project area including, but not limited to, the elevation of the land above sea level and its relation to the floodplains, the nature of soils and subsoils and their ability to adequately support wastewater disposal and other DEM approved discharge; the slope of the land and its effect on effluents; the aquifer and aquifer recharge areas; the availability of streams for surface runoff; and the applicable federal, state and local laws, ordinances, codes and regulations. The planning board may require specific site designs, best management practices, and/or applicable management measures to protect surface [water] and groundwater quality.

~~2.5.2.12. Air pollution. The use of the site shall not reduce the ambient quality of the air. In making this determination, the applicant shall consult federal and state authorities to determine air quality laws and regulations.~~

~~2.5.2.13. Water supply. Sufficient water must be available for reasonably foreseeable needs of the development and not cause any unreasonable burden on the existing water supply if this supply is utilized. [The] Applicant must demonstrate by clear, convincing, and documented evidence, that an adequate drinking water supply is available for the reasonable, foreseeable needs of the proposed development and that water use by the proposed development will not have an adverse impact on the water needs of adjacent properties.~~

~~2.5.2.14. Wastewater disposal. The planning board shall require a total nitrogen removal of 50 percent at the treatment unit before discharge to the wastewater disposal system that is located within the groundwater protection zone as described in section 7.3 of the zoning ordinance. This same requirement may apply for sewage disposal systems located within a wellhead protection area. The applicant shall also determine any potential impacts from a proposed wastewater disposal system to surface [water] and groundwater. In addition, the potential impacts to adjacent public or private wells shall be assessed. An operation and maintenance plan shall be developed to ensure a regular inspection and maintenance of the wastewater disposal system. The Rhode Island Handbook for Inspection of Operating Septic Systems shall be used as guidance for operation and maintenance.~~

~~2.5.2.15. Unique areas. There must not be any undue adverse effect on the scenic or natural beauty of the project area, aesthetics, historic sites, or rare and irreplaceable natural areas.~~

~~2.5.2.16. Water bodies. Whenever situated in the whole or in part, within 300 feet of any pond, lake, river or other freshwater wetland (as defined by RIDEM), the proposed project shall not adversely effect the quality of such body of water or unreasonably affect the shoreline of such body of water. There will be no disturbance of soil within 100 feet of the outer edge of a wetland (as defined by RIDEM).~~

~~2.5.2.17. Wellhead protection. The proposed project must own the entire wellhead protection area in either fee simple or a conservation easement. No structures that require wastewater disposal, the storage of hazardous materials or any land use that may contaminate the water supply shall be permitted within the wellhead protection area other than a wastewater disposal system to serve the proposed development project.~~

~~2.5.2.18. Town service needs and costs. The applicant shall determine the estimated need for town services including, but not limited to, police, fire, rescue, road improvements, education and public works.~~

~~2.5.3. Submission fees and procedures.~~

A. Fees. All submissions for site plan approvals shall be accompanied by a fee to pay for the costs of the technical planning and consultants review. The development plan review fee shall be equal to the actual amount expended by the town to hire the professional resources necessary to complete the review. The said fees shall be payable by the applicant prior to the issuance of a building permit, zoning permit or both, and after final approval has been granted by the planning board. All reasonable and necessary costs, fees and expenses, without limitation, incurred pursuant to the inspection of a development project approved by the planning board, shall be charged as an inspection fee, separate from the review fee, by the planning board to the applicant or developer.

B. Required submissions. At least 14 days in advance of the planning board meeting at which a development plan is to be presented for review, the information enumerated below, including the review fee, must be submitted as required to the secretary of the planning board. The information to be submitted for site plan approval with the planning board: eight copies of the proposed site plan, 24-inch by 36-inch in size at a scale no smaller than one inch equals 40 feet, unless approved by the planning board, and eight copies of reduced plans no smaller than 11 inches by 17 inches, and which in total constitutes a development plan, is as follows:

1. Preapplication plan.a.Legal data.

i.The names of all owners of record of all adjacent properties, and the plat and lot of the subject property, all as shown on the town's official tax assessment maps;

ii.Existing zoning and boundaries;

iii.Boundaries of the property, building or setback lines and lines of existing streets and adjoining lots, as shown on the town's official tax assessment maps. Reservations, easements and areas dedicated to public use, if known, shall be shown;

iv.Previous subdivision history of the property.b.General project site description. The following information will be shown either on a single map or a series of maps:

i.Map showing the applicant's entire property and adjacent properties and streets, at an approved scale, including the approximate location and dimensions of all existing and proposed structures, utility lines, wells, septic systems, and major natural features on the proposed development site and on adjacent properties and within 500 feet of the site boundary;

ii.All existing and proposed paved areas;iii.Existing topography at five-foot contour intervals, soil types, vegetation pattern, including major stands of trees and large specimen trees, watercourses and bodies of water, wetlands, rock outcrops, and other prominent physical features;

iv.Cross sections of the existing site including one north-south section, one east-west section and cross sections where the existing site grade exceeds eight percent;

v.Areas to be left undisturbed;vi.Existing pedestrian and vehicular circulation plan for the site and within 500 feet of the site boundary;

vii.The names and addresses of the applicant, and other planners, engineers, architects, surveyors and/or other professionals engaged to work on the project shall be shown. Where the applicant or owner is a corporation, the planning board may require the names and addresses of all officers, directors and principal stockholders of said corporation.

[2.]Preliminary plan.

a.Legal data. As set forth in the preapplication plan.

b.Existing conditions. As set forth in the preapplication plan.c.Development data.

- i. Title of development, date, north arrow, scale, name and address of record owner and of the engineer, architect, land planner, or surveyor preparing the site development plan;
- ii. All means of vehicular access and egress to and from the site onto public streets;
- iii. Three sets of preliminary plans, elevations and sections of proposed structures and roads, showing the proposed location, use and design of all buildings and structures, including any proposed division of buildings into units of separate occupancy and location of drives thereto, and showing the proposed location of all roads, pedestrian walkways and fire lanes;
- iv. The location and layout of any off-street parking or loading areas;
- v. The location of all proposed water lines, valves, and hydrants and sewer lines, or of alternative means of water supply and sewage disposal and treatment as well as the proposed easements for these utilities;
- vi. The proposed location, direction, power and timing of proposed outdoor lighting;
- vii. Preliminary grading and landscaping plan;
- viii. Extent and amount of cut and fill for all disturbed areas, including before and after profiles of typical development areas, parking lots and roads;
- ix. Proposed stormwater drainage system;
- x. The proposed location, size, color and illumination of proposed signs;
- xi. Location of all existing and proposed site improvements, including drains, culverts, retaining walls and fences;
- xii. Location of any outdoor storage;
- xiii. Detailed breakdowns of all proposed floor space by type of use;
- xiv. In all business and industrial districts, specific uses proposed, number of employees for whom buildings are designed, type of power to be used for any manufacturing process, type of wastes or byproducts to be produced by any manufacturing process, and the proposed method of disposal of such wastes or byproducts shall also be shown;
- xv. Copies of all permit applications from all appropriate federal, state and local regulatory agencies.

3. Final plan.

a. Legal data. As set forth in the preapplication and preliminary plan.

b. Existing conditions. As set forth in the preapplication and preliminary plan.

c. Development data. i. Three sets (one of which is recordable mylar) of final plans, including site plan, floor plans, elevations and sections of proposed structures; ii. Final grading and landscaping plan.

[C.] Additional submissions. Where, due to special conditions peculiar to a site, or the size, nature or complexity of the proposed use or development of land or buildings, the planning board finds that additional information is necessary for proper review of the site plan, the board may request additional pertinent information, including:

A. A class II survey by a registered land surveyor of the subject property;

B. A copy of any covenants or deed restrictions that are intended to cover all or any part of the tract;

C. Existing contours with intervals of two feet or less referred to town datum, and showing at least one benchmark;

D. All proposed lots, easements, and public and community areas. All proposed streets with: (a) Profiles indicating grading; and

(b) Cross sections showing width of roadway, location and width of sidewalk, and location and size of utility lines, according to the standards and specifications established or approved by the town.

E. Reports of any environmental analyses performed on the development site which relate to the existence of hazardous substances or identify other potential negative impacts of the proposed development.

[D.] Exceptions. The board may waive, by majority vote, development plan approval requirements or any specific provision(s) thereof for any change in use, and construction of an addition or accessory building to any other principal building, provided that the use is subordinate and customarily incidental to the principal use, and provided that either of the following are met: Such building area does not exceed 25 percent of the existing building(s) or 1,500 square feet, whichever is less and no site improvements are intended, required, or will result from such building; including, but not limited to, the development of additional parking spaces, or the change of actual use does not affect existing circulation, drainage, landscaping, buffering, lighting, or other considerations of site plan review.

2.5.4. Duties of planning board. The planning board shall review the final site development plan and act on the application within 45 days from and after the time the final plan is deemed complete and is accepted as such by the planning board. Failure on the part of the planning board to act shall be deemed to constitute approval, unless the time limit is extended by stipulation with the applicant. In reviewing the site plan, the planning board shall take into consideration the public health, safety and general welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular, and shall set any appropriate conditions and safeguards in harmony with the general purpose and intent of these regulations, and according to the general criteria and standards set forth herein.

2.5.5. Planning board initiative. The planning board may, on its own initiative, propose a general or specific site plan for a particular area where development plan approval may be required in the future, using as a guide the requirements of this section.

2.5.6. Performance bonds. The applicant may be required to post acceptable performance bonds, letters of credit, cash or acceptable equivalents in sufficient amounts and duration to ensure that all streets or other public places shown on the site plan shall be suitably graded and paved, and that street signs, sidewalks, street lighting standards, curbs, gutters, street trees and all landscaping materials, water mains, fire alarm signal devices including necessary ducts and cables or other connecting facilities, sanitary sewers and storm drains shall all be installed in accordance with standards, specifications and procedures acceptable to the planning board.

2.5.7. Expiration. An approved site plan shall be void if construction is not started within one year and completed within two years of the date of the final site plan approval, except that such site plan approval may be continued or renewed by the planning board for additional one-year periods.

(Ord. of 11-2-98(2); Amd. of 1-6-03(3); Amd. of 10-5-04)

Sec. 2.6. - Other general provisions.

1. *Zoning affects every structure and use.* No structure shall be constructed, erected, placed, moved or maintained, nor shall the exterior be altered, and no land use shall be commenced or continued within the town unless in conformity with the regulations herein specified for the district in which it is located, except as provided for in ~~article I, section 3.C (nonconforming).~~ article III of this ordinance.
2. *Reduction of lot and areas prohibited.* No lot, yard, required open space or off-street parking area shall be so reduced, diminished or maintained that the yards, other open space, total lot area, or off-street parking area shall be smaller than prescribed by this ordinance.
3. *Required yards cannot be used by another use or building.* No part of a yard, parking space or other open space required for any building or use for the purpose of complying with the provisions of this ordinance shall be included as part of a yard, parking space or other open space required under this ordinance for another use or building, except as provided in article V (parking-section).
4. *Only one dwelling structure on any lot.* ~~In no case shall there be more than one residential building and its accessory buildings on one lot.~~ No more than one principal residential structure shall be located on one lot except in a development approved by the planning board.
5. *More than one nonresidential use or building on a lot.* More than one nonresidential structure may be allowed on a single lot within appropriately zoned nonresidential districts if devoted to the same actual use. Upon application to the zoning board of review, a special use permit may be granted in accordance with ~~article 1.3.F~~ article I, section 1.3.C. (special use permits) of this ordinance, where more than one actual use on a lot may be requested; provided, however that such uses shall be only those that are permitted within the district in question. In both instances, principal front and rear walls of a building shall be at least 40 feet from any wall or another building. Any side wall of a building may not be less than 25 feet from any side wall of another building.
6. *Public street access.* No structure shall be erected on or moved onto a lot which does not have frontage on a public or private street equal to or greater than the required minimum frontage in table 2.4, or elsewhere as required in this ordinance.
7. *Visibility at corners.* At any corner lot and at street intersections in all districts, no wall, fence, structure, sign or building shall be erected or placed, and no hedge, tree, shrub or other vegetation shall be maintained between the heights of three feet, and ten feet, above street level within the triangle formed by the two street lines and a third line joining points on the street lines 20 feet from the intersection of the street lines.

8. *Temporary uses permitted.* A temporary building for construction materials and/or equipment for a permitted use on a construction site, a temporary office for the sale or rental of real property, if in connection with and incidental and necessary to real estate development, and ~~to~~ a temporary trailer or mobile home used for residential occupancy necessitated by any loss or damage of a principal structure by fire, hurricane or other natural disaster, shall be permitted in any district, subject to approval of both the building inspector and zoning inspector. ~~provided that any building permit for any~~ Any such temporary use shall be ~~valid~~ permitted for not more six months unless such time period is extended by the building inspector and zoning inspector.

TEXT IS MISSING HERE

may be permitted as an accessory use, but in no event shall continue for more than 30 days following the completion of such construction or sale or rental of such property.

Temporary storage containers may be permitted as an accessory use in LB/R, B, LI and OS/PL zones, provided that there shall be suitable screening.

All other temporary and/or mobile facilities for residential, commercial or industrial use are prohibited in all districts; provided, however, that this prohibition shall not apply to temporary and/or mobile facilities which are owned and/or operated by federal, state or municipal agencies.

9. *Use regulations.* No building, structure or land shall be used except for those purposes noted in the table 2.4. Any use not listed shall be construed to be prohibited, except as provided in article I, Sec. 6.A.6 of this ordinance.
10. *Setback from water bodies.* Sewage disposal facilities which are designed to leach wastes into the soil shall be located in accordance with ~~RIDEM~~ Rhode Island Department of Environmental Management (RIDEM) regulations.
11. *Fresh water wetlands.* No fresh water wetland, as defined ~~by chapter 213 of the RIGL of 1970 relating to fresh water wetlands by RIDEM regulations,~~ shall be excavated, drained or filled, nor shall any extraneous materials be placed in these wetlands or water flow diverted out of or any other change be made to the natural condition of any fresh water wetland without prior approval of the ~~Rhode Island Department of Environmental Management (RIDEM) and the Exeter town council in accordance with the provisions of said chapter.~~ RIDEM.

Approved A M E N D M E N T S
EXETER ZONING ORDINANCE

ARTICLE III. - CONFORMING AND NONCONFORMING LOTS AND USES

Sec. 3.1. - General application ~~and~~ definitions.

~~A nonconformance is a building, structure, sign or parcel of land, or use thereof, which was lawfully existing at the time of the adoption or amendment of this zoning ordinance, and not in conformity with the provisions of such ordinance or amendment.~~

Nonconformance occurs when a building, structure, sign, lot, or use was legal when created or established but is not in conformance with the current zoning ordinance.

1. *Lawfully existing or established.* A building, structure, sign or parcel of land, or use thereof, was lawfully existing or lawfully established if it was lawfully in existence prior to December 12, 1995 and was established in conformance with the zoning ordinance in effect at the time the use was first established. For the purpose of this ordinance, a lot was lawfully existing or lawfully established if it was of record or shown on a recorded plat prior to December 12, 1995, or was separately owned.
2. *Prior illegal establishment.* Any use or structure illegally established prior to the effective date of this ordinance or any amendment thereto shall not be granted nonconformance status, nor shall it become legally established subsequent to the effective date of this ordinance or any amendment thereto. Proof of use or structure shall be the burden of the owner of such property.
3. *Nonconforming by use.* A lawfully established use of land, building or structure which is not a permitted use in the zoning district in which it is located, as set forth in article II, is nonconforming by use.
4. *Nonconforming by dimension.* A lawfully established building, structure or parcel of land not in compliance with the dimensional regulations of this ordinance is nonconforming by dimension. Dimensional regulations include all regulations of this ordinance, other than those pertaining to the permitted uses. A lawfully established building, structure, parcel of land or use thereof, not in compliance with the parking regulations of this ordinance, as set forth in article V (parking and loading), also nonconforming by dimension. A lawfully existing or lawfully established lot that is not in compliance with the dimensional regulations of the zoning ordinance including, but not limited to, those regulations for minimum lot size, lot width and lot frontage, (also known as a substandard lot of record) is also nonconforming by dimension.
5. *Nonconforming by dwelling unit.* A building or structure containing more dwelling units than are permitted by the use regulations of this ordinance shall be nonconforming by

use. A building or structure containing a permitted number of dwelling units by the use regulations of the zoning ordinance, but not meeting the lot area per dwelling unit regulations, shall be nonconforming by dimension.

6. *Most restrictive regulations to apply.* A building, structure or parcel of land nonconforming by more than one factor, such as by use, dimension, area or parking, shall comply with all regulations of this section. Where the regulations conflict, the most restrictive regulations shall apply.
7. *Existence by variance or special use permit.* A nonconforming building, structure, sign or parcel of land, or the use thereof, which exists by virtue of a variance or a special use permit (or a special exception) granted by the board, shall not be considered a nonconformance for the purposes of this section, and shall not acquire the rights of this section. Rather, such building, structure, sign, parcel of land, or use thereof, shall be considered a use by variance or a use by special use permit and any moving, addition, enlargement, expansion, intensification or change of such building, structure, sign, parcel of land or use thereof, to any use other than a permitted use or other than in complete conformance with this ordinance, shall require a further variance or special use permit from the board.

Sec. 3.2. - Building or structure nonconforming by use.

Nonconforming uses are incompatible with and detrimental to permitted uses in the zoning districts in which they are located. Nonconforming uses cause disruption of the comprehensive land use pattern of the town, inhibit present and future development of nearby properties, and confer upon their owners a position of unfair advantage. It is intended that existing nonconforming uses shall not justify further departures from this ordinance for themselves, or for any other properties.

1. *Treatment in residential zones (RE-2, RU-3, RU-4, CR-5).* Nonconforming uses in residential zones are to be treated in a stricter fashion than nonconforming uses located in nonresidential zones. Due to the disruption which nonconforming uses cause to the peace and tranquility of a residential zoning, nonconforming uses therein should be eventually abolished or reduced to total conformity over time.
2. *Continuance of use.* Nothing in this ordinance shall prevent or be construed to prevent the continuance of a nonconforming use of any building or structure for any purpose to which such building or structure was lawfully established.
3. *Maintenance and repair.* A building or structure containing a nonconforming use may be maintained and repaired except as otherwise provided in this section.
4. *Moving.* A building or structure containing a nonconforming use shall not be moved, in whole or in part, either on or off the lot on which it is located unless the use contained

within such building or structure is made to conform to the use regulations of the zone in which it is relocated.

5. *Addition and enlargement.* A building or structure containing a nonconforming use shall not be added to or enlarged in any manner, including any addition or enlargement of floor area or volume, unless the use contained within such building or structure, including such addition and enlargement, is made to conform to the use regulations of the zone in which it is located except by special use permit.
6. *Expansion.* A nonconforming use of a building or structure shall not be expanded into any other portion of the building or structure which contains a conforming use or which is unoccupied or unused except by special use permit.
7. *Intensification.* A nonconforming use of a building, structure or land shall not be intensified in any manner unless a special use permit is granted for the intensification. Intensification shall include, but not be limited to, increasing hours of operation, increasing the number of dwelling units or increasing the seating capacity of a place of assembly. However, this section shall not prohibit the reconfiguration of existing dwelling units within a building or structure ~~so long as reconfiguration complies with the requirements of subsection 6 and section II.~~ in compliance with subsections 3.2.5 and 3.2.6.

~~A. The above paragraph[s] 5, 6 and 7 would be allowed under a special use permit as designated in article I, section 3-F.~~

8. *Change of use:*

- A. *Residential zones (RE-2, RU-3, RU-4 and CR-5).* Within any residential zone, a nonconforming use shall only be changed to a permitted use or to the same actual use. A nonconforming use, if changed to a permitted use, may not be changed back to a nonconforming use.
 - B. *Nonresidential zones.* Within any nonresidential zone, a nonconforming use may be changed to a permitted use, or to the same use code listed under article II. A nonconforming use, if changed to a permitted use, may not be changed back to a nonconforming use.
9. *Abandonment.* If a nonconforming use is abandoned, it may not be reestablished. 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 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 or more, 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 or intent not to abandon the use.

Sec. 3.3. - Building or structure nonconforming by dimension.

Buildings or structures that are nonconforming by dimension are likely to cause overcrowding and congestion in the neighborhoods, contribute to unhealthy conditions and are contrary to the purposes of this ordinance. Building or structures that are nonconforming by dimension cause disruption of the comprehensive land use pattern of the town, inhibit present and future development of nearby properties and confer upon their owners a position of unfair advantage. It is intended that existing buildings or structures that are nonconforming by dimension shall not justify further departures from this ordinance for themselves or for any other property.

1. *Continuance.* Nothing in this ordinance shall prevent or be construed to prevent the continuance of the use of any building or structure nonconforming by dimension for any purpose to which such building or structure was lawfully established.
2. *Maintenance and repair.* A building or structure nonconforming by dimension may be maintained and repaired except as otherwise provided in this section.
3. *Moving.* A building or structure which is nonconforming by dimension shall not be moved, in whole or in part, to any other location on the lot in which it is located, unless every portion of such building or structure is made to conform to all of the dimensional requirements of the zone in which it is located, ~~except as provided in Sec. 3.5(4)(B).~~
4. *Addition and enlargement.* A building or structure nonconforming by dimension shall not be added to or enlarged in any manner, unless such addition or enlargement conforms to all the dimensional regulations of the zone in which the building or structure is located.
5. *Expansion.* A conforming use within a building or structure which is nonconforming by dimension (other than by lot area per dwelling unit) may be expanded into any other portion of the building or structure which is unoccupied or unused.
6. *Intensification.* A conforming use within a building or structure which is nonconforming by dimension may be intensified, provided that such intensification is in conformance with the use and lot area per dwelling unit regulations, if applicable, for the zone in which it is located.
7. *Change in use.* A conforming use within a building or structure which is nonconforming by dimension may be changed to any other conforming use.

8. *Demolition.* A building or structure nonconforming by dimension, if voluntarily demolished, shall not be reconstructed, unless it conforms with the dimensional regulations of the zone in which it is located. Such voluntary demolition shall be considered an abandonment of the use. If such building or structure is involuntarily demolished, destroyed or damaged, it may be repaired or rebuilt to the same size and dimension as previously existed.

Sec. 3.4. - Land nonconforming by use.

1. *Continuance.* The lawfully established nonconforming use of land, where no building is involved, may be continued, provided that no such nonconforming use of land shall in any way be expanded or intensified either on the same or adjoining property.
2. *Change of use.* The nonconforming use of land shall not be changed to a different use, unless such use conforms to the use regulations of the zone in which it is located.

Sec. 3.5. - Land nonconforming by area.

1. *Enlargement of undersized lots.* Lawfully established lots which have less than the minimum area requirements, may be maintained and may be changed by adding additional land to such lots without prejudice to the rights of the owner of such lots pursuant to the provisions of this section.
2. *Merger of abutting nonconforming lots.* If two or more abutting nonconforming lots are held in the same ownership at any time after May 2, 1977, such lots shall be combined for the purposes of this ordinance in order to conform or more nearly conform to any of the dimensional requirements of this ordinance for the district in which the lots are located, and such lots shall not be sold separately, provided, however that a lot that is nonconforming by area shall not merge with an adjacent lot if the nonconforming lot has an area at least as large as half of the lots within two hundred feet of the nonconforming lot.
3. *Subdivision of merged lots.*
 - A. A lot ~~which that~~ has been created by the merger of two or more nonconforming lots may be subdivided, or combined with other lots and subdivided, provided that ~~approval is given by the planning board, and provided that the following requirements are met:~~ the planning board or the administrative officer approves the subdivision.
 - A. ~~In all zones, [in] which any portion of the lot is within the groundwater overlay protection district, all dimensional requirements for the zone including, without limitation, area, frontage and lot width, shall be met.~~

~~B. In the RE-2 zone, all dimensional requirements for the zone including, without limitation, area, frontage and lot width, shall be met.~~

~~C. In all other residential zoned districts all dimensional requirements for the zone including, without limitation, area, frontage and lot width, shall be met.~~

B. Lots in the RE-2 zoning district and lots in the groundwater protection overlay district shall not be reduced in size or frontage.

C. If a lot in the RU-3 or RU-4 zoning district that has been created by the merger of two or more nonconforming lots is subdivided, or combined with other lots and subdivided, the new lots may be created with reduced area or reduced frontage by special use permit. The planning board shall require the applicant to produce evidence that:

- 1) Each lot is suitable for the installation of an on-site wastewater treatment system that complies with R.I. department of environmental management regulations, and
- 2) The proposed reduction in area or frontage will not substantially impact the appropriate use of the surrounding property or, if such an impact may occur, that it will be adequately mitigated by the installation or construction of fences, vegetative buffers, or by other measures.

~~4. Residential use of nonconforming lots. In any district in which dwellings are permitted, a dwelling may be erected, enlarged or altered on a nonconforming lot or on two or more abutting nonconforming lots, subject to the following:~~

~~A. Where such lot or lots contain less than two acres of land, or have less than 150 feet of frontage, it shall be necessary for the owner thereof to receive from the zoning board of review a dimensional variance in order to construct a new dwelling thereon; and the zoning board of review shall designate the maximum size of the dwelling to be placed thereon and its location on said lot or lots and any other conditions it deems reasonably necessary to promote the purposes of this ordinance.~~

~~B. Where there is an existing dwelling on a nonconforming lot prior to the effective date of this ordinance or any amendment thereto, such dwelling may be enlarged or altered without approval from the zoning board of review being necessary, provided that such alteration or enlargement complies with front and corner side yard, side yard and rear yard requirements of article II, dimensional regulations for the district in which such lot is located.~~

~~C. Any vacant lot in a residence district or any existing dwelling on a lot in a residence district made nonconforming by the adoption of this ordinance or by the adoption of the predecessor to this ordinance on May 2, 1977, may be built upon, enlarged or altered after the effective date of such ordinance, provided that the construction, alteration or enlargement complies with the~~

~~front and corner side yard, side yard and rear yard requirements of article II, dimensional regulations for the district in which such lot was formerly located, provided that the requirements of subsection V-2 (merger of abutting nonconforming lots) are met, if applicable.~~

4. Use of dimensionally nonconforming lots.

- A. The owner of a dimensionally nonconforming lot shall not be required to obtain relief from the zoning board of review to construct a building on the lot simply because the lot is dimensionally nonconforming by area. The required minimum front, side, and rear yard depths shall be reduced, and the maximum building lot coverage shall be increased, by the same proportion that the lot area is not in conformity with the minimum lot area for the zoning district. If further dimensional relief is necessary to construct the building, that relief is available by modification or by dimensional variance.
- B. A dimensionally conforming building on a dimensionally nonconforming lot may be enlarged or altered without zoning relief if the enlargement or alteration complies with the applicable dimensional regulations for the zoning district.
- C. A dimensionally nonconforming building on a dimensionally nonconforming lot may be enlarged or altered with a modification or a dimensional variance.

Sec. 3.6. - Buildings and structure nonconforming by parking.

A building or structure is considered nonconforming by parking if the lawfully established use of the building or structure does not meet the parking requirements of article V (off-street parking and loading).

1. *Addition enlargement; expansion and intensification.* Any building or structure, nonconforming by parking, may not be added to, enlarged, expanded or intensified, unless brought into full compliance with the parking requirements of article V (off-street parking and loading), such that sufficient parking is provided for the entire structure including the original portion and the addition, enlargement, expansion or intensification, except as otherwise specifically provided in this ordinance.
2. *Change of use.* A building or structure, nonconforming by parking, may be enlarged to a different use other than residential use, pursuant to all other provisions of this ordinance, provided that such new use meets the following parking requirements. The number of additional parking spaces required shall be the difference between the number of spaces required for the proposed use and the number of spaces required for the previous use, except as otherwise specifically provided in this ordinance. In the event that the new use requires less parking spaces than the previous use, no additional parking spaces need be supplied. However, none of the existing parking spaces shall be eliminated unless the total number of spaces required by this ordinance for the new use are provided.

Sec. 3.7. – Mobile homes and trailers.

A mobile home or trailer placed on a lot before December 12, 1995 and continuously occupied on the same lot since that date, and not located in a mobile home park or a trailer park, shall be considered a legal nonconforming use and may be replaced only with a special use permit from the zoning board of review.

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ARTICLE IV. - SUPPLEMENTARY REGULATIONS

Sec. 4.1. Accessory buildings and uses.

Accessory buildings and uses as defined in Article I, Section 1.2, (2) and (3) include, but are not limited to, home occupations, accessory dwelling units, private garages, barns, carports, vehicle storage, recreational vehicle storage, boat and RV storage, outbuildings, greenhouses, swimming pools or any other structure. Accessory buildings and uses are subject to all the requirements of this ordinance, except as specifically provided for by this subsection as follows:

1. Accessory buildings and uses, residential: accessory buildings and uses, including private garages, in a Residential District (RE-2, RU-3, RU-4 and CR-5) are permitted which:
 - A. Are clearly incidental to and customarily associated with the principal use. An accessory use shall not be permitted or continued without the principal use to which it is related.
 - B. Are operated and maintained under the same ownership and on the same lot as the principal use.
 - C. Do not exceed 20 feet in height for detached buildings except for barns.
2. Location of accessory buildings and uses: A building or use accessory to a dwelling shall not be located within any required front, corner, side, or rear yard setback.
3. Drive-thru facility. Drive-thru facilities may be allowed by special permit as an accessory use, where customary for otherwise permitted uses in the B (business), LB/R (light business/residential), and light industrial (LI) zones, and provided the following requirements are met.
 - A. The minimum lot area for a building with a drive-thru shall be 40,000 square feet.
 - B. A The planning board must grant a special use permit for the drive-thru window. is granted by the zoning board of review
 - C. Development plan review is obtained from the planning board. The planning board must approve the building as a minor land development.

- D. A minimum stacking before window of 12 cars, and stacking for three cars after window. All stacking area must be contained on private property. Stacking is defined as queuing space for vehicles that is dedicated for this purpose only, and does not conflict with any other traffic movements.
- E. Limit to one lane for stacking (except for banks). A by-pass lane must also be provided on site. All drive-thru windows shall be located on the side or rear of buildings. They shall not be located on the front.
- F. Drive-thru facilities must be designed so that they avoid creating traffic hazards for vehicular or pedestrian traffic.
- G. A menu board not to exceed 32 square feet in area and not more than eight feet in height (as measured from ground level) be allowed, provided the same is not located in the front yard.

Sec. 4.2. - Home occupations. [*no amendments*]

Sec. 4.3. Accessory dwelling unit.

1. In a light business/residential (LB/R) and business (B) district, one accessory dwelling unit shall be permitted on a lot in a commercial building ~~which~~ that is permitted by right or special use permit ~~in article 2, zoning use table,~~ provided that any such accessory dwelling unit:

~~A.~~ (a) Shall be maintained entirely within a structure containing the principal use.

~~B.~~ (b) Shall be occupied only by the owner or an employee of the principal business use.

~~C.~~ (c) Shall ~~utilize not~~ have an area of no more than 1,000 square feet and shall have no more than two bedrooms.

~~D.~~ (d) Shall not ~~permit~~ be occupied by boarders.

~~E. Has no more than two bedrooms.~~

2. In ~~any~~ residential (RE-2, RU-3, RU-4, CR-5) districts, one accessory dwelling unit, as defined in article I, section 1.2(2), shall be permitted on a each lot, ~~only~~ provided that any such accessory dwelling unit:

~~A. Shall only be located on a lot that complies with the plat area regulations of the district in which it is located.~~

- ~~B.~~ (a) Shall not be larger than 900 square feet, or 30 percent of the gross floor area of the ~~entire building,~~ principal dwelling unit, whichever is smaller.
 - ~~C.~~ (b) Shall not have separate utility connections and service unless it is located in an accessory building.
 - ~~D.~~ (c) ~~Shall not contain more than one bedroom.~~ Has one off-street parking space.
 - ~~E.~~ (d) Shall require issuance of a certificate of occupancy ~~to be issued,~~ by the building official, who may require adequate supporting documentation to prove that all of the conditions ~~herein~~ in this section have been satisfied. ~~The certificate of occupancy shall state on its face that its validity is limited to the named owner or occupant only, and that any subsequent owner or occupant will be required to apply for a new certificate.~~
3. Relief may be granted by dimensional variance for construction of an accessory dwelling unit that will encroach on a required side or rear yard setback, notwithstanding the provisions of article IV of this ordinance.
 4. An accessory dwelling unit may be constructed in an existing dimensionally nonconforming principal structure or in an existing dimensionally nonconforming accessory structure without zoning relief if it does not enlarge the footprint of the building.

Sec. 4.4. - Swimming pools. [*no amendments*]

Sec. 4.5. - Operating standards for all uses. [*no amendments*]

Sec. 4.6. Mixed use commercial development.

In all business (B) districts, and light business/residential (LB/R) districts, multi-family residential uses shall be allowed ~~only upon the issuance of a~~ by special use permit ~~from the zoning board of review and development plan review approval by the planning board,~~ and only under the conditions set forth herein. The purpose of allowing mixed use commercial developments is to create diverse housing opportunities in the town, and in particular, for the purpose of addressing the need for affordable housing as defined in the town affordable housing plan. Use of this regulation shall be considered a municipal subsidy for the purpose of creating affordable housing for low and moderate income persons in a manner and location otherwise prohibited by these regulations. Such residential units in mixed use commercial developments ~~are proposed in locations~~ should be constructed in close proximity to essential services such as those typically provided in commercial developments.

1. Residential units in mixed use commercial developments shall consist of studio, one- and two-bedroom apartments ~~and should range~~ ranging in size between 600 and 1,250 square feet of gross floor area.

2. Residential units in mixed use commercial developments shall be constructed on the second or third floor of otherwise permitted first floor commercial uses. Ground floor units shall be allowed for persons of special needs, provided that these units do not constitute more than ten percent of the overall area of the residential units constructed.
3. Mixed use commercial developments containing residential units shall only be allowed in association with commercial structures of 3,000 square feet and greater.
4. Mixed use commercial developments must have at a minimum one acre of land per each residential unit proposed.
5. A minimum of 20 percent of the number of residential units, and a minimum of 20 percent of the floor area of the residential units, must be deed restricted for a minimum of 30 years for the occupancy of persons of by low and moderate income (LMI) households, as defined in the town affordable housing plan. In no event shall a mixed use commercial development be permitted without a minimum of one ~~LMI~~ low or moderate income unit. While a mix of incomes is encouraged, in no case shall more than 50 percent of the ~~LMI units created be for persons of income greater than 80 percent AMI.~~ affordable units be occupied by households with incomes greater than 80 percent of the area median income.
6. In no event shall the floor area of the residential units exceed the floor area of the commercial space associated with the mixed use commercial development.
7. Every mixed use commercial developments shall be ~~subject to the requirements of section 2.5 DPR of this ordinance, including the residential portion of the development.~~ approved as a major or a minor land development. Parking shall be provided for the residential units as required in ~~section 5.1~~ article V of this ordinance.
8. Applications for mixed use commercial developments must demonstrate to the satisfaction of the planning board that the site has the capacity (not limited to but including water, septic, parking, and circulation) to accommodate the proposed residential development.
9. All residential units of mixed use commercial developments shall be accessed from enclosed or interior walkways. All such walkways shall be provided with an enclosed main entranceway for the residential portion of the development. Such entranceways shall be at a minimum eight feet long and six feet wide and shall have two doors, an exterior door and an interior door. Between the two doors shall be common space for uses such as mailboxes, delivery of packages, etc. Elevators are encouraged.

Sec. 4.7 – Adaptive reuse.

1. Definition. Adaptive reuse is the conversion of an existing structure from the use for which it was constructed to a new use by maintaining elements of the structure and adapting those elements to the new use. Conversion of a nonresidential building to a multi-unit residential or mixed-use building is permitted in all zoning districts, notwithstanding the use restrictions of article II of this ordinance, if at least 50% percent of the gross floor area of the existing building is converted to dwelling units.
2. Review and approval.
 - (a) An adaptive reuse project in a residential zoning district that creates fewer than nine units or an adaptive reuse project in any zone that proposes no extensive exterior improvements shall be approved as a minor land development project.
 - (b) An adaptive reuse of an existing building with a gross floor area of less than 25,000 square feet for which extensive exterior improvement are not proposed is classified as a minor land development project.
 - (c) All other adaptive reuse projects are classified as major land development projects.
3. Residential density. Residential density of fifteen dwelling units per acre shall be permitted, notwithstanding the requirements of article II of this ordinance, provided that:
 - (a) The developer must submit evidence to the planning board or the administrative officer that the on-site wastewater treatment systems required by R.I. department of environmental management regulations will be constructed and that adequate water for consumption and fire safety for the building will be provided.
 - (b) The developer may be required to submit a traffic study if the administrative officer or the planning board finds that the streets connecting the development to the nearest major collector street (as that term is defined in the R.I. statewide planning program's Technical Paper Number 165, Highway Functional Classification 2014) may not be adequate for the volume of traffic that the development is expected to generate. A required reduction in the proposed residential density must be based on a peer-reviewed traffic study.
4. Dimensional regulations.
 - (a) The height and the front, side, and rear yard setbacks of the building shall be treated as if they are legally nonconforming dimensions. The planning board shall have the authority to approve an additions to the existing building height, or reduction of the existing front, side, and rear yards, by special use permit.

- (b) To obtain such a special use permit, the applicant must provide evidence that the proposed use with the proposed height and front, side, and rear yard dimensions will not substantially impact the appropriate use of the surrounding property or, if such an impact may occur, that it will be adequately mitigated by the installation or construction of fences, vegetative buffers, or by other measures.
- 5. Off-street parking and loading. The parking and loading requirements of article V of this ordinance shall apply to development of the site, provided, however, that:
 - (a) No more than one parking space shall be required for each dwelling unit, and
 - (b) The planning board or the administrative officer shall have the authority to waive or modify any requirement of article V of this ordinance that cannot be satisfied because of the size, shape, or location of the existing building or the lot on which the building is located.
- 6. Performance and development standards.
 - (a) Municipal services. The Planning Board must find that the development will not have an unreasonable impact on the municipal road system, fire department, police department, solid waste program, schools, open spaces recreational programs and facilities, and other municipal services and facilities. The applicant shall estimate the impact the project will have on town services, including but not limited to police, fire, and emergency medical services; streets and other public infrastructure; and education. The developer may be required to submit a traffic study if the administrative officer or the planning board finds that the streets connecting the development to the nearest major collector street (as that term is defined in the R.I. statewide planning program's Technical Paper Number 165, Highway Functional Classification 2014) may not be adequate for the volume of traffic that the development is expected to generate.
 - (b) Water pollution. The project shall be designed to prevent the pollution of surface water or groundwater. In making this determination, the planning board will review the project area including, but not limited to, the elevation of the land above sea level and its relation to the flood plains, the nature of soils and subsoils and their ability to adequately support wastewater disposal and other DAM-approved discharge; the natural gradient of the land and its effect on effluents; the proximity of the project to the aquifer and aquifer recharge areas; and the availability of streams for surface runoff. The planning board may place conditions on approval that protect the quality of surface water and groundwater.
 - (c) Water supply. Sufficient water, including water pressure adequate for fire suppression equipment, must be available. The applicant must demonstrate by clear, convincing,

and documented evidence that adequate potable water is available for reasonably foreseeable needs and that water use by the proposed development will not have an adverse impact on the water needs of adjacent properties.

(d) Wastewater disposal. If the development is located in the groundwater protection overlay zone or within a wellhead protection area:

- i) The planning board shall require a total nitrogen removal of 50 percent at the treatment unit before discharge to the wastewater disposal system, pursuant to section 7.3 of this ordinance.
- ii) The applicant shall submit an assessment of the potential impacts of the proposed on-site wastewater disposal systems on surface water, groundwater, and public or private wells on adjacent properties.
- iii) The applicant shall prepare and submit to the Planning Board an operation and maintenance plan for the on-site wastewater disposal systems. The R. I. Handbook for Inspection of Operating Septic Systems shall be used as guidance for operation and maintenance.

(e) Unique areas. The Planning Board must find that the project will not have an adverse impact on the scenic beauty of the project area, historic sites, or rare and irreplaceable natural areas.

(f) Water bodies. If any part of the building is located within 300 feet of a water body or freshwater wetland, the proposed project shall not have an adverse impact on the water body or wetland.

(g) Well protection areas. If a well or wells will be installed on the property, the entire wellhead must be located on property owned by the owner of the project, or the owner of the project must have a conservation easement on the wellhead. No structure that requires wastewater disposal shall be permitted within the wellhead protection area except on-site wastewater disposal systems required to serve the project; no hazardous materials shall be stored within the wellhead protection area; and no use that may contaminate the groundwater shall be permitted within the wellhead protection area.

7. Environmental restrictions. Adaptive reuse of a building pursuant to this section is prohibited if the R.I. department of environmental management or the U.S. environmental protection agency has recorded a use restriction on the property in the land evidence records.

[Sec. 4.7. - Reserved.]

Sec. 4.8. - Exeter and North Kingstown transfer of development rights. [*no amendments*]

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ARTICLE IX. AFFORDABLE HOUSING

Sec. 9.1. General.

- A. *Findings.* It is a public purpose of the Town of Exeter to achieve and maintain a diverse and balanced community with housing opportunities for residents of all income levels. Through its affordable housing plan, the town has formally committed itself to meeting the 10 percent affordable housing goal established by Title 45, Chapter 53 of the General Laws, the Low and Moderate Income Housing Act (~~G.L. ch. 45-53~~), and has specified the strategies and means by which the goal is to be achieved. This section sets forth a regulatory framework that is designed to ensure an adequate supply of housing to serve these needs.
- B. *Intent.* The affordable housing provisions of this article ~~IX~~ are intended:
1. To promote affordable housing production in accordance with the goals and policies of the town comprehensive plan's housing element and affordable housing plan;
 2. To encourage the development and availability of housing that qualifies as low or moderate income housing as mandated by ~~G.L. ch. 45-53~~ the Rhode Island Low and Moderate Income Act, and the Rhode Island Comprehensive Housing Production and Rehabilitation Act of 2004, as amended; and
 3. To maintain and enhance the socio-economic diversity of the community through the development of housing for all populations within the Town, including, but not limited to, housing for the resident workforce and housing for special needs populations.

Sec. 9.2. Assurance of affordability.

- A. *Basic requirement.* All ~~inclusionary units provided under section 9.4, and other~~ **by the Town Council 11/6/23 effective 12/31/23** affordable units provided under ~~section 4.6 (mixed-use commercial development) created pursuant to this ordinance~~ shall meet the definition of "low or moderate income housing" ~~as contained in article I, section 1.2 of~~ 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

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12-month period. Rental units may be sub-leased only to ~~a household~~ households 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~~ agent appointed by the R. I. Housing Resources Commission 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;~~
- ~~3.2.~~ Provisions for monitoring and assurance of compliance over time; and
- ~~4.3.~~ Provisions under which the town may exercise a right of first refusal to purchase an affordable unit being offered for sale.

Sec. 9.3. Marketing and resident selection.

- A. *Plan required.* The developer of all low or moderate income units ~~under sections 9.4 (inclusionary zoning) [repealed by the Town Council 11/6/23 effective 12/31/23] or 4.6 (mixed use commercial development) created pursuant to this ordinance~~ 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 percentage, then additional minority applicants not qualifying for local preference shall be added to the pool until it reaches the statewide percentage.

Sec. 9.4. Inclusionary zoning: [repealed by the Town Council 11/6/23 effective 12/31/23]

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 project 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 LMI	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. 45-52.~~

~~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~~

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~~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 the 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.~~

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~~G. Cost mitigating provisions. 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. Limitations adjusted. Where the residential density is increased pursuant to section 9.4.H.1, the dimensional regulations of section 2.4.2 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 2.4.2 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 others.~~
- ~~2. Inclusionary unit size.~~

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- 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.~~

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ARTICLE VIII. - CELLULAR AND OTHER COMMUNICATIONS FACILITIES

Sec. 8.1. Communications facilities—Purpose and goals.

The purpose of this section is to establish special conditions and performance standards for the use of communications antennae, antenna arrays, and communications towers, as defined below, that are consistent with the rural and residential character of the town, and consistent with the land uses in the town. The goals of this section include encouraging, where appropriate, the location of antennae on existing structures, and the joint use (co-location) of new and existing towers in order to minimize or mitigate any adverse impact on the town that may result from the location or configuration of communications antenna arrays and communications towers. Every effort shall be made by the applicant to use an alternative tower structure, as defined below. The town shall give due consideration to the municipality's ~~master~~ comprehensive plan, zoning map, existing land uses and environmentally sensitive areas in approving sites for the locations of towers and antennas.

Sec. 8.2. Definitions.

- A. Cellular communications antenna array shall mean the antenna or antennae from which wireless radio signals are sent and received by a personal wireless service facility as defined by the Telecommunications Act of 1996. It may, ~~in at the discretion of the zoning board of review~~ in at the discretion of the planning board, include no more than 12 antennae in one array and one microwave antenna for the exclusive use of the carrier in transmitting its own signals. It may also include an equipment shelter as an accessory use. A cellular or other communications antenna array may be public or private.
 - (1) Public cellular communications antenna array shall mean any antenna used exclusively for governmental functions and owned by the United States of America, the state, or the town, or any political subdivision duly authorized to own and operate a cellular communications array.
 - (2) Private communications antenna array shall mean any antenna used for a private purpose and owned by a private person, partnership, corporation, organization, association or any entity subject to taxation.
- B. Cellular communications tower shall mean a free-standing structure used for the location of one or more cellular communications antenna arrays. It may, where necessary, include an

equipment shelter of no more than 120 square feet in floor area as an accessory use. A cellular communications tower may be public or private.

- (1) Public cellular communications tower shall mean any tower structure used exclusively for a governmental function and owned by the United States of America, the state, or the town, or any political subdivision duly authorized to own and operate a cellular communications tower.
 - (2) Private communications tower shall mean any tower used for a private purpose and owned by a private person, partnership, corporation, organization, association or any entity subject to taxation.
- C. Co-location shall mean use of a common cellular or other tower or common site by two or more license holders or by one license holder for more than one type of communications technology.
- D. Equipment shelter shall mean an enclosed structure, cabinet, shed or box used as an accessory to a cellular communications antenna array to house electrical equipment, batteries and emergency electrical generators, directly related to such antenna array. No other uses, including storage, shall be permitted in any equipment shelter.
- E. Height shall mean the distance measured from ground level to the highest point on a cellular communications tower including the cellular communications antenna array.
- F. Other communications tower shall include broadcast television or radio and other non-cellular telecommunications towers. This use includes above grade towers, including self-supporting lattice towers, guy towers or monopole towers or similar structures more than 35 feet in height for communications equipment and principally intended for the transmittal or reception of commercial, governmental, and related radio, television, and similar telecommunication signal of a non-cellular nature.
- G. Alternative tower structure means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Sec. 8.3. Applicability.

No cellular or other communications antenna array or cellular or other communications tower shall be erected, constructed, altered or maintained on any lot with the town after the date of enactment of this amendment on August 7, 2000, without complying with the terms of this section. Nothing herein shall be deemed to prohibit any previously existing public antenna or cellular communications tower used solely in the exercise of a governmental function. This ordinance does not apply to towers or antennas under 70 feet in height that are owned and

operated by a federally licensed amateur radio station operator or used exclusively for receive only antennas.

- A. A cellular or other communications antenna array may be allowed by special use permit on an existing nonresidential structure within the zones specified in ~~section 2.4 zoning use table~~ article II, section 2.4 of this ordinance, the zoning use table, provided that the height of such cellular or other communications antenna array shall not exceed the height of such existing structure by more than 12 feet if omni-directional or whip type antennae are used, and by not more than six feet if direction or panel type2 antennae are used.

Sec. 8.4. Application requirements.

Every cellular or other communications tower or equipment shelter that requires a special use permit for its construction, erection, installation, or mounting pursuant to article II, section 2.4 of this ordinance must be approved as major land development plan by the planning board.

All applications for permits to construct, install or erect cellular or other communications towers or equipment shelters, or to install, mount or erect cellular or other communications antenna arrays on existing buildings or on other alternate antenna support structures, ~~shall be~~ are subject to the following ~~additional~~ requirements:

- (1) A building permit is required;
- (2) An electrical permit is required;
- (3) Payment of all permit and inspection fees;
- (4) Proof of ownership of the land upon which a cellular or other communications tower, antenna array or equipment shelter is proposed to be constructed, installed, erected, mounted or attached or a copy of an appropriate easement, lease, or rental agreement;
- (5) A scaled plan and a scaled elevation view and other supporting drawings and calculations, indicating color and other documentation; and showing the location and dimensions of the relevant cellular or other communications tower, cellular or other communications antenna array, equipment shelter and any and all other devices and attachment, including electrical wiring cable, wire or other connective materials to and from the antennae to the equipment shelter, and to and from the equipment shelter to any existing or proposed wires, cables, or other connective devices, including conduit and ducts, whether owned, operated or managed by the applicant, or by others, and a statement identifying the owner, operator or manager of any wires, cables, or connective devices that enter or exist on or along any public street or right of way.

Sec. 8.5. General requirements.

- A. All antennae shall comply with applicable Federal Communication Commission and Federal Aviation Administration regulations unless there exists a proven, present emergency effecting the public health, safety, and welfare. The town shall not regulate the placement, construction, and modification of cellular communications antenna arrays on the basis of the environmental effects of radio frequency emissions, provided that such facilities shall be subject to compliance with corresponding Federal Communication ~~Commission's~~ Commission regulations concerning such emissions.
- B. A cellular or other communications tower shall be set back from all property lines a minimum of one foot for each ~~one~~ foot of tower height. When the property abuts an overlay district, the setback distance from such district shall be one and one-half feet for each ~~one~~ foot of tower height.
- C. All tower supports, accessory equipment, equipment shelters, and peripheral anchors, including guy wire anchors, shall be set back from all property boundaries the minimum distance required for a principal structure for the zoning district in which a cellular communications tower is to be located, and shall comply with all other applicable zoning requirements and building codes.
- D. Equipment shelters shall be obscured from view by ~~being placed among or surrounded by~~ trees, shrubs or fences and shall be locked at all times. ~~and shall be clearly labeled as to Contact information for the person to be contacted~~ notified in the event of an emergency shall be posted on site.
- E. ~~Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. The provisions of article II, section 2.5.6 of this ordinance that prohibit more than one non-residential use on a lot shall not apply to antennas and towers.~~
- F. No cellular communications tower, if otherwise allowed or permitted, shall exceed 125 feet in height without a separate special use permit for excess height. No other communication tower, if otherwise allowed or permitted, shall exceed 500 feet in height without a separate special use permit for excess height.
- G. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is constructed and maintained in compliance with standards contained in the State Building Code as amended from time to time. If upon inspection, the building official concludes that a tower fails to comply with such code and standards; and constitutes a danger to persons or property, then the building official shall proceed in accordance with G.L title 23, ch. 27.3, entitled "State Building Codes." Towers must be structurally inspected by a registered engineer every ten years and a certificate of such inspection shall be filed with the building official. All towers 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 and regulations are changed, then the owners of the towers and antennas governed by this ordinance 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 and 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.

- H. All telecommunication facilities and structures which have not been used for a period of one year shall be considered abandoned and shall be dismantled and removed at the owner's expense. The owner of such facility shall remove same within 90 days of receipt of notice from the building official. The applicant shall post a bond or cash security with the town treasurer sufficient to cover the cost of removal and restoration of the site prior to construction in any zone. The amount of said bond or security shall be estimated by the building official. If such antenna or tower is not removed within 90 days of receipt of notice, the town may take necessary action to remove the facility and restore the site to a condition consistent with the character of the surrounding area, at the owner's expense.
- I. ~~All cellular communications or other antenna arrays, (except public cellular communications antenna arrays,) and all cellular or other communications towers shall be subject to development plan approval and review, as set forth herein and in the land development and subdivision regulations, and appropriate~~ Appropriate ~~camouflaging, landscaping and screening shall be provided for all cellular communications or other antenna arrays except public cellular communications antenna arrays. pursuant to the design standards set forth in this section. For such uses permitted by right or special use permit, development plan review shall be conducted by the planning board, and the decision of such authority shall be advisory only to the zoning board in accordance with G.L. § 45-24-49.~~
- J. Each applicant for an antenna and/or tower shall provide to the ~~zoning board~~ planning board an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the ~~jurisdiction of the town~~ or within one mile of the town border ~~thereof~~, including specific information about the location, height, and design of each tower. The ~~zoning board of review~~ planning board may share such information with other applicants ~~applying~~ for administrative approvals or special use permits under this ordinance or other organizations seeking to locate antennas within ~~the jurisdiction of the town~~, provided, however that the ~~zoning board of review~~ planning board is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

- K. The town supports multiple antenna/tower plans in which the users of towers and antennas are encouraged to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.
- L. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the town have been obtained and shall file a copy of all required franchises with the zoning board of review.

Sec. 8.6. Additional application requirements for use by special use permit.

In addition to all other requirements imposed by this ordinance, an application for a special use permit for a cellular or other communications antenna array or cellular or other communications tower shall include the following information:

- A. The applicant shall define the area of service and indicate the current coverage capacity.
- B. The applicant shall show that the proposed facility would provide the needed coverage and/or capacity.
- C. The applicant shall provide a map or maps, covering the entire town and showing all existing, proposed or planned sites of all carriers including alternative sites from which the needed coverage could also be provided, and indicating the zoning for all such sites.

Sec. 8.7. Additional standards for special use permit—towers.

In addition to all other applicable provisions of this ordinance, the ~~zoning board of review~~ planning board shall make affirmative findings of fact relative to each of the following factors in determining whether to issue a special use permit for the construction of cellular or other communications tower:

- A. Applicant has exhausted all reasonable efforts to utilize existing structures for a cellular or other communications antenna array and that no other structures are reasonably available within the area sought by the applicant to produce adequate communications coverage for the applicant.
- B. Applicant has exhausted all reasonable efforts to avoid the necessity of erecting a new tower, including but not limited to the construction of a permitted structure on which a cellular or other communications antenna array could be placed. Every effort shall be made by the applicant to use an alternative tower structure as previously defined.
- C. The applicant must demonstrate that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-

powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

- D. Applicant's proposed tower comports with the height restrictions and/or requirements provided for herein.
- E. Applicant's proposed tower comports with the use requirements and/or restrictions provided for herein, as well as the uses of the neighboring properties.
- F. Applicant's proposed tower comports with the surrounding topography, tree coverage and other natural elements of the landscape of the proposed site and applicant's property.
- G. Applicant's proposed tower comports with the design characteristics that reduce or eliminate adverse impacts on the community including type (guyed tower, lattice tower or monopole) of tower or antenna array, color of tower or antenna array, and overall visual obtrusiveness.

Sec. 8.8. Design standards ~~for development plan review.~~

~~All applicants for a cellular or other communications antenna array or a cellular or other communications tower shall be subject to development plan review.~~ The following design standards shall apply to all cellular and other communications antennae arrays and cellular and other communications towers:

- A. For the erection of a cellular or other communications antenna array on an existing structure, the proposed facility shall preserve or enhance the pre-existing character of the building or structure on which it is located, as well as the surrounding buildings and land uses. All components of the proposed facility shall be integrated through location and design to be compatible with the existing characteristics of the site to the extent practical. Existing on-site vegetation shall be preserved or improved and the disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the facility on the surrounding areas.
- B. For the erection of a cellular or other communication tower, the proposed facility shall preserve or enhance the pre-existing character of the surrounding buildings and land uses as much as possible. All components of the proposed facility shall be integrated through location and design to be compatible with the existing characteristics of the site to the extent practical. Existing on-site vegetation shall be preserved or improved and the disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the facility on the surrounding areas.

- C. Appropriate screening shall be installed at all tower sites to screen views from adjacent properties and streets. Planting shall be of such a height and density to ensure screening. Screening shall consist of plant and/or tree material approved by the planning board. Screening shall not be less than five feet in width, nor less than eight feet in height. Screening may be waived on those sides or sections which are adjacent to undevelopable lands. The owner of the property shall be responsible for all maintenance and shall replace any dead plantings within thirty days.
- D. Towers shall either maintain a galvanized steel finish or, subject to any applicable Federal Aviation Administration standards, be painted a neutral color, so as to reduce visual obtrusiveness.
- E. At a tower site, the design of the buildings and related structures shall use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting and existing environment.
- F. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color identical to or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- G. Towers shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable authority. If lighting is required, the reviewing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
- H. There shall be no signs, symbols, flags, banners or other devices or things attached or painted or inscribed upon any tower.

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ARTICLE X. - PLANNED VILLAGE DEVELOPMENT

Sec. 10.1. - Planned village development general requirements.

10.1.1. *Purpose.* The purpose of this section is to promote development that:

- A. Incorporates residential, commercial, and public uses in a compact, walkable environment;
- B. Includes housing units providing long-term housing affordability to low or moderate-income households;
- C. Reflects traditional New England village development in terms of its physical design, scale, mix of uses, and visual character;
- D. Supports environmental sustainability by providing for pedestrian access and circulation, compact design, and open space preservation through transfer of development rights; and
- E. Implements "A Vision for Exeter" as described in the comprehensive plan.

10.1.2 *Establishment of a planned village overlay district.* Planned village development (PVD) can only occur in the Town of Exeter through the establishment of a planned village overlay district (PVOD) in accordance with the provisions of this article.

- A. Applications for a PVD may be submitted to the Town of Exeter for land within an existing PVOD or as part of a new district. Applications for a new district shall be accompanied by a proposed comprehensive plan future land use map amendment (if necessary) and a zoning map amendment consistent with the comprehensive plan.
- B. Where a change to the zoning map is required, application to the planning board for the zoning map amendment shall be accompanied by site plans depicting the proposed development within the full extent of the district. ~~Said~~ The site plans shall include all information that would be required for a master plan submittal for a PVD major land development project.

10.1.3. *Eligibility.* Locations eligible for PVOD shall meet all of the following criteria:

- A. At least one lot within a proposed PVOD shall have adequate frontage on and access to an arterial ~~road~~ street as defined in ~~the zoning article I, section 1.2 of this ordinance.~~
- B. The location of the proposed PVOD shall be consistent with areas identified as potential village sites in the comprehensive plan.
- C. For newly proposed PVOD districts, the minimum aggregate lot size shall be no less than ten acres.
- D. Land that abuts an existing PVOD may also be considered for PVOD zoning change where the property will be integrated by design into the existing PVOD. Where an abutting property may be added on to an existing PVD, there shall be no minimum area requirement for that abutting property.

10.1.4. *Permit procedures.*

- A. Any application for PVOD that requires a change to the zoning map shall be reviewed as a major land development project.
- B. Approval of a PVD master plan submission by the planning board shall be conditional upon subsequent changes to the future land use map and the zoning map to establish the PVOD.
- C. Where a PVOD is already established on the zoning map, but the development proposed as part of the initial zoning map change was not constructed per the conditions of the approved master plan within the required timeframe allowed by state law, new proposals or revisions to that first proposal shall require review as a new major land development project.
- D. Any change to restrictions or conditions ~~per~~ placed on the original zoning map amendment including, but not limited to, deed restrictions, covenants, maintenance agreements, design standards, and limits on commercial square footage, shall require a formal re-submittal of the master plan.
- E. Where a PVOD zoning district is already established and substantial construction conforming to the plans reviewed approved as part of the initial zoning map change ~~are substantially constructed~~ has taken place, applications for additional development or changes within the district that meet or exceed the following criteria shall be submitted as a major land development projects in accordance with the procedures of the ~~town's~~ land development and subdivision regulations:
 - 1. Any new commercial use with a building footprint that exceeds ~~[4,000]~~ 4,000 square feet;

2. Any proposed use that requires ~~TDR~~ transfer of development rights;
3. The creation of new development or the expansion of existing development that would increase the amount of parking by more than ten spaces.

10.1.5. *Relationship to other sections of the zoning ordinance.* Where the provisions set forth in this section of the zoning ordinance govern the procedures or standards found elsewhere in the zoning ordinance that would otherwise apply, including but not limited to those that apply to the underlying districts, the provisions of the PVOD shall govern. Where this section of the zoning ordinance may be silent on procedures found elsewhere in the zoning ordinance, and which are otherwise applicable, those standards found elsewhere in the zoning ordinance shall govern.

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. At least one low or moderate income dwelling unit shall be provided for every seven market-rate dwelling units.

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]~~ 15 units per acre. The average density of residential development in the PVOD shall not exceed ~~[eight units per acre]~~ 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~~ the 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~~ the 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~~ the parking area is consistent with the ~~goals~~ goal 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.

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ARTICLE XI. - RENEWABLE ENERGY

Sec. 11.1. - Solar.

11.1.1. Solar energy facilities.

- A. *Purpose.* The purpose of this section is to regulate the installation of solar energy facilities by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such facilities that address public safety, minimize impacts on scenic, natural and historic resources and are compatible with the town's comprehensive plan.
- B. *Applicability.* The provisions of this section shall apply to placement, design, construction, operation, monitoring, expansion and/or repair or removal of any solar energy facility in the Town of Exeter.
- C. *General requirements.* All solar energy facilities shall comply with the following requirements.
 - 1. *Location.* Solar energy facilities shall be allowed in accordance with section 2.4.1 of the Town of Exeter Zoning Ordinance Use Tables.
 - 2. *Building permit and inspection.* No solar energy facility shall be constructed, installed, or modified without first obtaining a building permit and such facility shall be subject to periodic inspections as deemed necessary by the building official and/or electrical inspector.
 - 3. ~~All solar energy facilities~~ Applicants are strongly encouraged to ~~be located on~~ locate solar energy facilities on rooftops, contaminated sites, gravel banks, quarries, and parking lots and in existing industrial zones. To encourage solar development in these locations, the solar land coverage requirement may be increased to 50 percent of the land suitable for development if it can be demonstrated to the planning board that the remaining general requirements in this section can be met and the modification of the solar land coverage requirement would not negatively impact adjacent property owners and is consistent with the Exeter Comprehensive Plan. All other provisions of this ordinance would remain applicable.
 - 4. No individual panel within a ground-mounted solar energy facility shall exceed 12 feet in height. Solar canopies are exempted from this requirement.

5. Proposed site re-grading shall not be excessive and shall be kept to the minimum amount necessary. No removal of topsoil or unnecessary disturbance of the ground or grading is permitted as part of the installation or maintenance. Any topsoil that must be moved shall be stored and stabilized on-site for future use.
6. To the maximum extent practicable, all ground mounted solar installations shall be located so as to take advantage of existing cleared land. Clearing of forest or woodland shall be avoided to the greatest extent practicable.
7. A building mounted solar energy facility shall not exceed the permitted building height as set forth in section 2.4.2.
8. Ground-mounted solar energy facilities shall conform, at a minimum, to the yard setback requirements of the applicable zoning district.
9. *Decommissioning.* Any solar energy facility which has reached the end of its useful life shall be removed within 180 days from the date of discontinued operations. A decommissioning estimate, prepared by a RI-licensed professional engineer registered in Rhode Island, must be approved by the planning board during the preliminary phase of review. Each element of the decommissioning cost estimate must include verifiable source with contact information. Decommissioning shall consist of:
 - a. Physical removal and recycling of all solar energy facility structure, equipment, security barriers, fencing and transmission lines from the site.
 - b. Disposal of all solid and hazardous waste in accordance with all federal, state and local laws, regulations and ordinances.
 - c. Stabilization and re-vegetation of the site in compliance with all state and local laws, regulations, and ordinances necessary to minimize erosion. The site shall be inspected by the Exeter Zoning Inspector and/or his/her designee in coordination with the town planner.
10. *Financial surety.* Prior to the issuance of a building permit for a medium, large or utility scale ground mounted or solar canopy solar energy facility, an escrow agreement or escrow fund to cover 125 percent of the cost of decommissioning, as approved by the planning board, shall be posted with the Town of Exeter. This surety shall be automatically renewed annually for a minimum of 20 years or for the anticipated life of the solar energy system.
11. *Parking and circulation.* The applicant shall demonstrate that adequate access and parking are provided for service and emergency vehicles as determined by the planning board in consultation with the fire marshal.

12. *Fencing.* The applicant shall be required to install a minimum of a six foot fence around the perimeter of the solar energy facility. Barbed wire fencing is prohibited. The fence shall be installed a minimum of eight inches off the ground to allow small animals to pass underneath. Newly installed fences shall be flagged for at least six months to protect both fencing and wildlife. In the instance where the applicant can show that the surrounding area and site do not require fencing for protection or trespass, or to allow agricultural production within the array area, the planning board may waive the fencing requirements. Solar canopies are exempt from this requirement.
13. Applicants must provide a thorough explanation of any transmission lines access or upgrade required as a result of the project, including but not limited to the route starting and end points, potential impacts to street trees, and right-of-way width.
14. Applicants must provide a thorough explanation of any new or proposed upgrades to electrical substations that are related to the proposed project. Information necessary ~~is including~~ includes, but is not limited to location, screening, setbacks and noise impacts.
15. *Stormwater management and erosion and sediment control.* Every effort shall be made to avoid or minimize changes to existing topography and hydrology. Site alterations must conform to the most recent edition of the RI Stormwater Design and Installation Standards Manual and the RI Soil Erosion and Sediment Control handbook, as well as applicable town regulations. All applicable erosion and sediment controls must be in place prior to construction, including site work, begins.
16. *Siting and screening.* The solar facility shall be sited and screened to minimize the aesthetic effect of solar facilities on viewsheds within the community. The design shall incorporate landscaping and design elements to visually screen the installation from view of public roads and adjoining properties. Solar installations in residentially zoned districts shall maintain a 200 foot undisturbed vegetated setback from all adjacent properties and roadways. If planting is required within the designated setback due to a lack of natural screening, such plantings shall be a minimum of six feet in height at the time of installation. Solar energy facilities in the B, LB-R, LI, Planned District and PVOD zones shall be required to provide the 200 foot undisturbed vegetated buffer on property lines abutting residentially zoned land. As part of the major land development ~~or development plan review~~ process the planning board may alter this width or require additional screening elements dependent on site characteristics such as slope, wetland area, existing buffering, etc.

17. Reasonable efforts shall be made to place all utility connections from the facility underground, depending upon appropriate soil conditions, shape, topography of the site, sub-surface conditions, and any requirements of the utility provider.
18. Lighting of a ground-mounted solar energy facility shall be consistent with local, state and federal law. Lighting of other parts of the facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the facility shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
19. Solar energy facilities and associated equipment shall not be allowed on land held under conservation easement or land for which the development rights have been sold, transferred, or otherwise removed from the parcel, unless the conditions of the easement, deed or other applicable legal document specifically allows for such facility.
20. All solar energy facilities shall be designed and located to prevent reflective glare toward any inhabited buildings or adjacent properties. Glare generated from solar panels shall not interfere with traffic or create a safety hazard.
21. The applicant is required to provide verification from a ~~RI-licensed~~ landscape architect licensed in Rhode Island at the preliminary stage of review that the landscape buffer is adequate to thoroughly screen the solar energy facility year round. In addition, the required vegetated buffer/screening shall be maintained for the life of the solar energy facility. The property owner and/or facility owner shall be required to replant any section of the buffer/screening found not to meet the requirements of this section as determined by the zoning enforcement officer with consultation from the town planner.
22. In any areas of the site where prime farmland or farmland of statewide importance, as determined by the United States Department of Agriculture Natural Resource Conservation Service within the most recent Rhode Island Soil Survey, and where the solar facility or a portion of is proposed the following is required:
 - a. If soils need to be removed from areas of the site for installation purposes, the soils must be stored on site for future reclamation and areas under the panels are to be replanted with grass or low growth vegetation that is listed in the University of Rhode Island's native plant database;
 - b. Siting of the facility overall and individual panels shall keep with the existing contours of the land, and only pile driven or ballast block footing are to be used, so as to minimize the disturbance of soils during installation; and

- c. Required vegetative buffers are to be composed of plant materials listed in the University of Rhode Island's native plant database (except as otherwise permitted in this ordinance), with a preference for pollinator-friendly materials to the maximum extent practicable.

D. *Applications for major land development projects.* Applications shall include, in addition to the requirements set forth in the town's land development and subdivision regulations, the following items. These items are required for submission in order for the administrative officer to certify the application as complete and place it on an agenda for review at the master plan ~~(and all subsequent stages)~~ stage of review and all subsequent stages, unless otherwise specified. The planning board may waive any document requirement it deems appropriate upon written request of the applicant.

1. Class I comprehensive boundary survey site plan including a T-1 topography survey;
2. Property lines and all physical features for the project site;
3. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting and screening vegetation or structures that conform to the town's land development and subdivision regulations;
4. A site plan of the solar energy facility showing the proposed layout of the system and any potential shading from nearby structures or vegetation;
5. One or three line electrical diagram detailing the solar energy facility, associated components and electrical interconnection methods, with all current state electrical code compliant disconnects and over current devices (required at preliminary stage plan review submission);
6. Documentation/details of major system components to be used, including the energy panels, mounting system and inverter (required at preliminary stage plan review submission);
7. An operation and maintenance plan which addresses site access maintenance, vegetation management, equipment and fence maintenance and any other maintenance that may be needed to address town requirements imposed as a result of unique site conditions (required at preliminary stage plan review submission):
8. Proof of liability insurance in an amount approved by the town (required at final stage plan review submission);

9. Decommission/restoration plan including an itemized cost estimate for the decommissioning and restoration of the site (required at preliminary stage plan review submission);
10. A copy of the preliminary interconnection feasibility study from ~~national grid or~~ the applicable utility company;
11. A zoning certificate for the property on which the solar facility is proposed;
12. The calculated square footage of the proposed solar facility including rows and interspacing between panels to be used to calculate the fee for each stage of review and for the calculation of the coverage area; (required at each stage of review)
13. A project narrative, which shall contain a summary of the proposed facility, a description of the facility's context in relation to the surrounding neighboring land uses and environmental features, and detail regarding the proposed operational characteristics of the solar energy facility, including features concerning the means and methods planned to minimize or avoid off-premise impacts to adjoining land use;
14. A landscape plan, stamped by an ~~Rhode Island-registered~~ landscape architect registered in Rhode Island showing the following information:
 - a. That the land beneath the panels will be reseeded after installation with a grass or low growth vegetation that is listed in the University of Rhode Island's native plant database to the maximum extent practicable;
 - b. Required vegetative buffers are comprised of plant materials listed in the University of Rhode Island's native plant database, with a preference for pollinator-friendly materials;
 - c. Any areas of buffering or screening required by the planning board.
 - d. Only native vegetation and planting shall be used as screening for solar facilities. Additional landscaping vegetation and plantings must not be conspicuously different than the existing natural vegetation and planting in the project vicinity, both in the types of plants and layout configuration;
 - e. The planning board may allow for exceptions to these requirements in the event that the applicant requests to plant non invasive harvest crops to allow agricultural production within the limits of the solar installation.

- E. To ensure the fulfillment of the requirements of this section, the planning board shall have the authority to require the following:
1. Adjustments to the proposed location of the solar energy facility determined to be necessary to mitigate negative impacts to adjacent properties or impacts to the general public through loss of scenic vistas and/or cultural and/or historic character.
 2. The provision of additional landscaping beyond the minimum requirements of this section and the town's land development and subdivision regulations, where such is necessary to mitigate negative impacts to adjacent properties or prominent viewsheds, or due to the unique characteristics of the subject property.
 3. Submission of an Environmental Community Impact Study (ECIS) in accordance with section 3.4 of the land development and subdivision regulations at the master plan review stage.
- F. Additional requirements for solar energy facilities in all residential zones:
1. Ground mounted solar facilities allowed pursuant to this section shall have a solar land coverage of no more than 15 percent of the parcel on which they are located including existing structures. The planning board may waive this requirement if they find that the parcel and/ or circumstances of the facility are unique and/or would serve a public benefit to allow a higher percentage of solar land coverage, this is including but not limited to contaminated sites, gravel banks and landfills.
 2. Any subsequent subdivision of a parcel in residential zone that contains a solar energy facility shall be required to maintain the minimum parcel size on which the facility exists, as well as not exceeding the solar land coverage established in this ordinance.
- G. Additional requirements for solar energy facilities in non-residential zoning districts (B, LR-R, LI, Planned District, PVOD)
1. Ground mounted solar energy facilities in the B, LB-R, LI, Planned District and PVOD zone shall not have a solar land coverage of more than 25 percent of the lot on which they are located, including existing structures.
- H. Additional requirements for solar energy facilities along scenic roadways:

1. Ground mounted solar energy facilities located adjacent to a designated (local or state) scenic highway shall locate the solar facility, including solar panels and any appurtenant structures, out of the viewshed of the scenic roadway.

11.1.2. Procedural Requirements

A. Building-mounted solar energy facilities.

1. Building-mounted solar energy facilities are permitted in all zoning districts per section 2.4.1 of the Zoning Ordinance.
2. Issuance of a building permit (local and/or state) is required prior to any installation of a building-mounted solar energy facility.
3. All building mounted solar energy facilities adjacent to a scenic roadway (local or state designated) shall place the solar panels and appurtenant structures out of the viewshed from the scenic highway, where possible.
4. No individual panel ~~within~~ within a building mounted solar energy facility, shall exceed the permitted building height for the zoning district which the structure the panel is mounted on is located.

B. Solar canopies.

1. Solar canopies shall be located over parking lots, driveways or walkways.
2. All solar canopies shall meet all applicable zone requirements including but not limited to lighting, setbacks and signage.
3. All medium and large scale solar canopies shall meet the following:
 - a. ~~Development plan review~~ Major land development project approval from the planning board.
 - b. Applicable general requirements identified in section 11.1.1.C.

C. Small-scale solar energy facilities.

1. All small-scale solar energy facilities are required to ~~apply for development plan review in accordance with section 2.5 of the zoning ordinance~~ obtain major land development project approval. In addition, ~~to the requirements found in section 2.5~~ all applicable requirements under 11.1.1.C of this section shall apply.

D. Medium-scale solar energy facilities.

1. All medium-scale solar energy facilities are required to ~~apply for development plan review~~ obtain major land development project approval and a special use permit, ~~in accordance with section 2.5 of the zoning ordinance. In addition, to the requirements found in section 2.5~~ all applicable requirements under 11.1 of this section shall apply.

E. Large-scale solar energy facilities.

1. All large-scale solar energy facilities ~~shall be subject to~~ are required to obtain major land development plan approval ~~per the land development and subdivision regulations~~ and a special use permit, ~~and all~~ All applicable requirements set forth in ~~this ordinance~~ section 11.1 of this ordinance shall apply.

F. Utility-scale solar energy facilities.

1. All utility-scale solar energy facilities ~~shall be subject to~~ are required to obtain major land development plan approval ~~per the land development and subdivision regulations~~ and a special use permit, ~~and all~~ All applicable requirements set forth in ~~this ordinance~~ section 11.1 of this ordinance shall apply.

Approved A M E N D M E N T S

EXETER ZONING ORDINANCE

ARTICLE XII. - MEDICAL MARIJUANA

Sec. 12.1. - Definitions.

Compassion center means, as defined in Rhode Island General Laws § 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, possess, 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.

Marijuana cultivation center means any entity that, under state law, may acquire, possess, cultivate, manufacture, deliver, transfer, transport, or supply marijuana, to a registered compassion center, or other entity authorized to dispense marijuana.

Marijuana store means any retail establishment at which the sale or use of marijuana, medical or otherwise, takes place. This shall not include compassion centers regulated and licensed by the State of Rhode Island, as defined herein.

Medical marijuana cultivation center means any entity that, under state law, may acquire, possess, cultivate, manufacture, deliver, transfer, transport, or supply marijuana, for medical purposes, to a registered compassion center, or other entity authorized to dispense medical marijuana.

Non-residential cooperative cultivation means a use of land located in a non-residential zone, or of a building, or a portion thereof, located in a non-residential zone for the cultivation of marijuana by two or more cardholders, as defined in Rhode Island General Laws § 21-28.6-3.

Residential cooperative cultivation means use of land located in a residential zone, or of a building, or portion thereof, located in a residential zone, for the cultivation of marijuana by two or more cardholders, as defined in Rhode Island General Laws § 21-28.6-3.

Patient cultivation means marijuana cultivation by a single registered cardholder, as defined in Rhode Island General Laws § 21-28.6-3, 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.

Sec. 12.2. - Compassion centers.

A. Compassion centers shall be permitted according to Table 2.4 and shall be subject to all applicable provisions of the zoning ordinance. ~~All applicants for a A~~ compassion center ~~shall be subject to Development Plan Review or~~ requires Major Land Development ~~with approval by~~ the Planning Board and must meet all of the following requirements:

1. Evidence that the requested use at the proposed location is not within 1000 feet of any property used for school, public or private, playground, play field, youth center, licensed day-care center or any location where groups of minors regularly congregate.
2. The requested use at the proposed location will be sufficiently buffered in relation to any residential area in the immediate vicinity so as not to adversely affect said area.
3. The exterior appearance of the structure must be consistent with the exterior appearance of existing structures within the immediate neighborhood.
4. The proposed compassion center shall implement the appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and shall ensure that each location has an operational security/alarm system.
5. All compassion center uses shall comply with all licensing and permitting requirements of the Town of Exeter and the laws of the State of Rhode Island.
6. The use of butane for the purposes of marijuana extraction shall be prohibited in all districts.
7. The proposed compassion center shall provide detailed plans to the Planning Board regarding the disposal of their wastewater from the growing operations, hours of operation, number of employees, parking requirements, signage, lighting and any other items deemed necessary by the Town Planner or the Planning Board as part of the application review process.
8. See section X 12.8 of this article, Building requirements. ~~of this chapter~~

Sec. 12.3. - Medical marijuana cultivation center.

A. Marijuana cultivation centers shall be permitted according to Table 2.4 and shall be subject to all applicable provisions of the zoning ordinance. ~~All applicants for a A~~ marijuana cultivation center ~~shall be subject to Development Plan Review or~~ require Major Land Development ~~with approval by~~ the Planning Board and must meet all of the following requirements:

1. Evidence that the requested use at the proposed location is not within 1000 feet of property used for school, public or private, playground, play field, youth center,

licensed day care center or any location where groups of minors regularly congregate.

2. The requested use at the proposed location will be sufficiently buffered in relation to any residential area in the immediate vicinity so as not to adversely affect said area.
3. The exterior appearance of the structure must be consistent with the exterior appearance of existing structures within the immediate neighborhood.
4. The proposed cultivation center shall implement the appropriate security measures to deter and prevent unauthorized entrance into the facility and shall ensure that the facility has an operational security/alarm system.
5. The use of butane for the purposes of marijuana extraction shall be prohibited in all districts.
6. The proposed cultivation center shall provide detailed plans to the Planning Board regarding the disposal of their wastewater or waste products from the growing or manufacturing operations, hours of operation, number of employees, parking requirements, signage, lighting and any other items deemed necessary by the Town Planner or the Planning Board as part of the application review process.
7. See section 12.8 of this article. Building requirements. ~~of this chapter~~

Sec. 12.4. - Marijuana cultivation center.

Reserved.

Sec. 12.5. - Marijuana store.

Reserved.

Sec. 12.6. - Non-residential cooperative cultivation.

- A. Non-residential cooperative cultivation shall be permitted according to Table 2.4 and shall be subject to all applicable provisions of the zoning ordinance. ~~In the case of a special use permit requirement all documentation shall be submitted with an application for such permit. A non-resident cooperative cultivation allowed as a special use shall require approval as a minor land development as well as approval of a special use permit. The Planning Board will consider the applications together under unified development review. The documentation required by this ordinance shall be included in the joint application for both approvals.~~ In the case where a non-residential cooperative cultivation is permitted by right, all required documentation shall be submitted to the zoning official inspector upon with the request of for a zoning certificate. All non-residential cooperative cultivations shall be subject to the following requirements:

1. A cardholder shall only cooperatively cultivate in one location.
2. No single location shall 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 acknowledgment of the limitation of the right to use and possess marijuana for medical purposes in Rhode Island, that is signed by each cardholder, shall be prominently displayed on the premises.
5. The use of butane for the purposes of marijuana extraction shall be prohibited in all districts.6. See section 12.8 Building requirements of this chapter.

Sec. 12.7. - Residential cooperative cultivation.

- A. Residential cooperative cultivation shall be permitted according to Table 2.4 and shall be subject to all applicable provisions of the zoning ordinance. ~~In the case of a special use permit requirement all documentation shall be submitted with an application for such permit.~~ A resident cooperative cultivation allowed as a special use shall require approval as a minor land development as well as approval of a special use permit. The Planning Board will consider the applications together under unified development review. The documentation required by this ordinance shall be included in the joint application for both approvals. In the case where a ~~non~~-residential cooperative cultivation is permitted by right, all required documentation shall be submitted to the zoning ~~official~~ inspector upon with the request of for a zoning certificate. All ~~non~~-residential cooperative cultivations shall be subject to the following requirements:

1. A cardholder shall only cooperatively cultivate in one location.
2. No single location shall 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 acknowledgment of the limitation of the right to use and possess marijuana for medical purposes in Rhode Island, that is signed by each cardholder, shall be prominently displayed on the premises.
5. The use of butane for the purposes of marijuana extraction shall be prohibited in all districts.6. See section 12.8 Building requirements of this chapter.

Sec. 12.8. - Building requirements.

- A. All licensed cultivators, retail stores and compassion centers shall apply for all appropriate building, electrical, mechanical and plumbing permits as required by the building official. The building official may grant the application for permits pursuant to ~~RIGL § 23-27.3-100.1 et seq.~~ the R.I. building code. All licensed cultivators, retail stores and compassion centers shall apply for all ~~appropriate~~ required approval approvals and inspections by the local fire marshal. The fire marshal may grant the application for permits pursuant to ~~RIGL § 23-28.1-1 et seq.~~ the R.I. fire safety code.
- B. Additional Requirements. In addition to the requirements above, the building official or Planning Board shall require the following:
1. The area used for growing shall be secured by locked doors and an alarm system.
 2. The area used for growing shall have two means of ingress and egress.
 3. The area used for growing shall not be within ten feet of any heating source.
 4. The area used for growing shall have proper ventilation to mitigate the risk of mold.
 5. The area used for growing shall have carbon filters (or equivalent) installed to reduce odors.
 6. No single non-residential location may have more than one medical marijuana facility. For the purposes of this section, location means one structural non-residential building, not units within a structural building.
 7. No equipment or process shall be used that creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the property boundary.
 8. Storage and disposal of processing waste, fertilizers and any other hazardous chemical associated with the activities of the growing or processing of medical marijuana or medical marijuana products shall comply with all local, state and federal requirements.

Sec. 12.9. - Licensing requirements.

All applications for medical marijuana cultivation centers, marijuana cultivation centers, marijuana stores and/or compassion centers are required to obtain an annual business license from the Town Council. The cost of such license shall be \$400.00.

Sec. 12.10. - Confidentiality.

Any application for a permit, any inspection reports, approvals, certificates of occupancy or any other document prepared or created pursuant to this chapter shall not include the term marijuana, cardholder, caregiver, cooperative cultivation or any other term that may indicate that such document is or has been prepared or created pursuant to this chapter.

Sec. 12.11. - Violations.

The building official, fire marshal, zoning official and/or other designated official shall be required to report a violation of any of the provisions of this section to the Rhode Island Department of Business Regulation.