

ORDINANCE NO. 23-__
Town of Portsmouth
AN ORDINANCE AMENDING
CHAPTER 405 ZONING

ARTICLE V USE REGULATIONS

Principal Use District	R10	R20	R30	R40	R60	C-1	I-L	I-H	WD	TC
A. RESIDENTIAL										
(Note: Please also refer to definitions of 'dwelling unit', 'family', and 'household'.)										
1. One detached dwelling unit on a separate lot occupied by not more than one household.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. One two-family or one duplex structure on a separate lot.	Y	Y	Y	Y	Y	N	Y	Y	Y	Y
3. Motels and Hotels (See Article VII.)	N	N	N	N	N	Y	Y	Y	Y	Y
4. Renting of rooms in an existing dwelling unit to not more than four (4) persons provided there are no separate cooking facilities and no separate means of ingress or egress.	Y	Y	Y	Y	Y	N*	N	N	S	N
5. Renting rooms in an existing dwelling unit to more than four (4) persons.	N	N	N	N	N	S	N	N	S	N

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5. Public utilities, limited to electrical, telephone, water, gas, cable television and sewer.	S	S	S	S	S	S	S	S	S	N
6. Private non-profit libraries or museums.	S	S	S	S	N	Y	S	S	S	Y
7. Private non-profit community center building, settlement house, adult education center or other similar facility.	S	S	S	S	S	S	N	N	N	Y
8. Hospital, clinic, infirmary, nursing home, convalescent home, institutional residence group homes or other congregate care facility not qualifying as a community residence.	S	S	S	S	N	S	S	N	N	S
9. Day Care Center: provided any outdoor play area is screened by fence, wall, or planting line from any neighboring residential structure and is not detrimental to the neighborhood by reason of noise. (Formerly Day nursery.) [Amended 3-13-2017 by Ord. No. 2017-03-13]	S	S	S	S	N	S	S	S	S	S
9a. Family Day Care Home	Y	Y	Y	Y	Y	Y	N	N	Y	N
10. Trade, professional or other for profit school for gain.	N	N	N	N	N	Y	Y	Y	Y	S
11. Private non-profit membership or social club or lodge.	N	N	N	N	N	Y	N	N	N	N

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6. Farm Brewery [Added 10-9-2018 by Ord. No. 2018-10-09]	S	S	S	S	S	S	S	S	S	S
D. OFFICES AND LABORATORY USES										
1. Business, financial or professional offices with no retail, manufacturing or processing.	N	N	N	N	N	Y	Y	Y	Y	Y
2. Offices and clinics for medical, psychiatric, or other health services for the examination or treatment of persons as out-patient, including laboratories that are part of such office or clinic.	N	N	N	N	N	Y	Y	Y	N	Y
3. Laboratory or research facility.	N	N	N	N	N	Y	Y	Y	Y	N
4. Radio, television or recording studio.	N	N	N	N	N	Y	Y	Y	Y	Y
E. RETAIL AND CONSUMER SERVICES										
1. Store for retail sale of merchandise, provided all display storage and sales for materials are conducted within a building and there is no manufacturing or assembly on the premises.	N	N	N	N	N	Y	Y	Y	Y	Y
2. Store for retail sale or merchandise, with outside display storage of wares and merchandise, provided there is no manufacturing or assembly on the premises.	N	N	N	N	N	S	S	S	S	S

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3. Eating places serving food and beverages to be consumed within the building.	N	N	N	N	N	Y	Y	Y	Y	Y
4. Stores for sale of marine supplies and associated items including boats and trailers.	N	N	N	N	N	Y	Y	Y	Y	N
5. Service business serving needs of local residents.	N	N	N	N	N	Y	Y	Y	Y	Y
6. Marinas including sales and repair of boats and related supplies.	N	N	N	N	N	S	S	S	Y	N
7.1. Mortuary or funeral establishment (crematorium not permitted on the premises). [Amended 4-9-1996]	N	N	N	N	N	Y	Y	Y	N	N
7.2. Mortuary or funeral establishment (crematorium permitted on the premises). [Amended 4-9-1996]	N	N	N	N	N	Y	Y	Y	N	N
8. Veterinary establishment, kennel or similar establishment.	N	N	N	N	N	Y	Y	Y	N	N
9. Store for retail sale of merchandise such as, but not limited to, lumber yards and building supply yards, wherein merchandise is stored in the open provided that all merchandise so stored is screened from ground level view from any abutting street or property at the property line where such materials are stored.	N	N	N	N	N	S	S	S	S	N

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10. Dispatch facility for transportation company providing bus transportation services to Town of Portsmouth schools with associated parking of buses but no repair facilities.	N	N	N	N	N	N	Y	Y	N	N
11. Telephone exchanges, but not including service or storage yards, or microwave transmission facilities.	N	N	N	N	N	Y	Y	Y	Y	N
12. "Outdoor Trade Shows" which includes those events in which manufacturers, wholesalers and/or retailers shall assemble to display their wares and merchandise for promotion and sale to the general public, including but not limited to Art Shows, Boat Shows, Antique Shows and the like.	N	N	N	N	N	N	N	N	Y	N
13a. Itinerant vendors as defined by Rhode Island Statutes.	N	N	N	N	N	N	N	N	N	Y
13b. All other vendors from temporary fixed locations except as otherwise allowed by this Ordinance.	N	N	N	N	N	N	N	N	N	N
14. New retail business, office or consumer service development of over 5,000 gross square feet of floor area or over 20,000. (See Article VII. Section G.)	N	N	N	N	N	S	S	S	S	S

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<p>14.1. Addition to new retail business, office or consumer service complex, as in 14, provided the additions increase the size of the buildings by no more than 30% over the size of the buildings as constructed under the first application approved under Section 14. Such additions need not be constructed at the same time. [Added 10-15-1996]</p>	N	N	N	N	N	Y	Y	Y	Y	SY
<p>14.2 Addition to existing retail business, office or consumer service complex provided the addition increases the existing buildings by no more than 30% over the size of the buildings as existing at the time of the enactment of this amendment. Such additions need not be constructed at the same time. [Added 10-15-1996]</p>	N	N	N	N	N	Y	Y	Y	Y	Y
<p>14.3 Addition to new or existing retail business, office or consumer service complex of more than 30% over the size of the buildings as existing at the time of the enactment of this amendment, or a Substantial Improvement, as defined in Article II. Such additions need not be constructed at the same time. [Added 1-21-2004]</p>	N	N	N	N	N	Y	Y	Y	Y	Y

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F. AUTOMOTIVE AND DRIVE IN RETAIL										
1 Automobile fuel service stations.	N	N	N	N	N	Y	N	Y	Y	N
2. Sale or rental of boats and rental of other motor vehicles and accessory storage.	N	N	N	N	N	Y	Y	Y	Y	N
2a. Sale or rental of automobiles.	N	N	N	N	N	Y	N	N	N	N
3 Automobile repair shops, provided all work is carried out within the building.	N	N	N	N	N	Y	Y	N	N	N
4. Boat Repair Shops.	N	N	N	N	N	S	S	S	Y	N
5. Car washing establishments	N	N	N	N	N	Y	Y	Y	N	N
6. Paint and body shops, provided all work is carried out within the building.	N	N	N	N	N	S	S	S	S	N
7. Free standing drive-in or drive- through facility, whether attended by an employee or unattended.	N	N	N	N	N	S	N	N	N	N
G. INDUSTRIAL, WHOLESALE AND TRANSPORTATION USES										
1. Laundries and dry cleaning plants.	N	N	N	N	N	S	S	S	Y	N
2. Printing, binding, publishing and related arts and trades.	N	N	N	N	N	Y	Y	Y	N	N
3. Bottling of beverages.	N	N	N	N	N	N	Y	Y	N	N
4 Plumbing, electrical or carpentry shop or other similar service or repair	N	N	N	N	N	Y	Y	Y	Y	N

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5. Place of manufacturing, assembly or packaging of goods, provided that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke and vapor be effectively confined to the premises or be disposed of in a manner that does not create a nuisance or hazard to safety or health, provided that food or animal waste processing is not less than fifty feet (50') from the property boundary. [Amended 9-9-1997[7]]	N	N	N	N	N	N	Y	Y	Y	N
6. Place of manufacturing, assembly or packaging of goods, provided that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke and vapor be effectively confined to the premises or be disposed of in a manner that does not create a nuisance or hazard to safety or health with no outside storage of goods or materials.	N	N	N	N	N	N	Y	Y	Y	N
7. Wholesale business and storage in an enclosed and roofed structure.	N	N	N	N	N	N	Y	Y	Y	N
8. Wholesale business, including outdoor storage.	N	N	N	N	N	N	Y	Y	Y	N
9. Trucking terminals.	N	N	N	N	N	N	Y	Y	N	N
10. Extractive industries and earth removal. (See Ordinance No. 107.[8])	N	N	N	N	N	N	S	S	N	N

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11. Planned Corporate Development as approved by the Planning Board. [9]	N	N	N	N	N	N	Y	Y	Y	N
12. Planned Industrial Development as approved by the Planning Board. [10]	N	N	N	N	N	N	N	Y	N	N
13. Mass Storage of fuel in tanks exceeding 50,000 gallons. [Added 6-17-2002]	N	N	N	N	N	N	N	N	N	N
14. Mass Storage of fuel in tanks not exceeding 50,000 gallons. [Added 6-17-2002]	N	N	N	N	N	N	S	S	N	N
H. Other Principal Uses										
1. Any use that is hazardous, offensive or noxious by reason of potential of fire, noise or vibration, dust, gas, fumes, odor, smoke, cinders, flashing or excessively bright light, refuse matter or electromagnetic radiation.	N	N	N	N	N	N	N	N	N	N
2. Open lot storage, including unused vehicles not held for sale.	N	N	N	N	N	N	N	N	N	N
3. Sale of junk or salvage materials.	N	N	N	N	N	N	N	N	N	N
4. Any use hazardous to health because of danger of flooding, inadequacy of drainage or inaccessibility to fire fighting apparatus or other protective service or any use which creates excessive noise beyond the property line.	N	N	N	N	N	N	N	N	N	N
I. ACCESSORY USES										

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<p>7. Home occupation of a resident provided that not more than three (3) persons shall practice or be employed on the premises at any one time and further provided that not more than 20% of the floor area is so used. (See Definition of Home Occupations)</p>	<p>Y</p>
<p>8. Restaurants inside a building for the use of the primary occupants of the building provided there is no exterior evidence of same.</p>	<p>Y</p>
<p>9. Restaurants primarily for the use of residents of an apartment building or group of apartment buildings provided there is no exterior evidence of same and further provided the apartment building or group of buildings is under one management and contains not less than one hundred (100) dwelling units. (Leasing of the restaurant is permitted.)</p>	<p>S</p>
<p>10. The storage of one (1) recreational vehicle and one (1) boat and trailer, meeting the Yard requirements as set forth in the Land Space Requirements Table, except that in R-10 the yard requirements for this use shall be fifty percent (50%) of those</p>	<p>N</p>

Section B

1. Adaptive Reuse Projects.

- a. Permitted Use. Adaptive reuse for the conversion of any commercial building, including offices, schools, religious facilities, medical buildings, and malls into residential units or mixed-use developments is a permitted use, under the criteria described below under Eligibility.
- b. Eligibility.
 1. Adaptive reuse development must include at least 50% of existing gross floor area developed into residential units.
 2. There are no environmental land use restrictions recorded on the property preventing the conversion to residential use by RIDEM or the US EPA.
- c. Density calculations.
 1. For projects that meet the following criteria, the residential density shall be no less than fifteen (15) dwelling units per acre:
 - i. Where the project is limited to the existing footprint, except that the footprint is allowed to be expanded to accommodate upgrades related to the building fire code, and utility requirements.
 - ii. The development includes at least twenty percent (20%) low- and moderate-income housing.
 - iii. The development has access to public sewer and water service or has access to adequate private water, such as well and/or wastewater treatment systems approved by the relevant state agency for the entire development as applicable.
 2. For all other adaptive reuse projects, the residential density permitted in the converted structure shall be the maximum allowed that otherwise meets all standards of minimum housing and has access to public sewer and water services or has access to adequate private water, such as well and wastewater treatment systems approved by the relevant state agency for the entire development, as applicable.

3. The density proposed for any adaptive reuse project shall be determined to meet all public health and safety standards.
- d. Dimensional requirements.
1. Notwithstanding any other provisions of this section, existing building setbacks shall remain and are considered legal nonconforming.
 2. No additional encroachments shall be permitted into any nonconforming setback unless relief is granted by the permitting authority.
 3. Notwithstanding other provisions of this section, the height of the structure shall be considered legal nonconforming if it exceeds the maximum height of the zoning district in which the structure is located.
 - i. Any rooftop construction necessary for building or fire code compliance, or utility infrastructure is included in the height exemption.
- e. Parking requirements.
1. Adaptive reuse developments shall provide one parking space per dwelling unit. The applicant may propose additional parking in excess of one space per dwelling unit.
 2. The parking requirements and design standards in Chapter 405 Section A Off-Street Parking and Loading shall apply to all uses proposed as part of the project unless otherwise approved by the applicable authority. The number of parking spaces required shall apply for uses other than residential.
- f. Allowed uses within an adaptive reuse project.
1. Residential dwelling units are a permitted use in an adaptive reuse project regardless of the zoning district in which the structure is located, in accordance with the provisions of this section.
 2. Any nonresidential uses proposed as part of an adaptive reuse project must comply with the provisions of Chapter 405 Article V Use Regulations for the zoning district in which the structure is located.
2. Development and Design Standards. Site design shall be in accordance with the Chapter 236 Article X Design and Improvement Standards.

3. Procedural requirements.

- a. Adaptive reuse project shall be subject to the procedural requirements of Article VIII Land Development Projects and undergo review as determined in that section.
- b. In addition to the checklist requirements for the applicable review process, the applicant shall provide the following information:
 1. The proposed residential density and the square footage of nonresidential uses.
 2. A floor plan to scale for each building indicating, as applicable, the use of floor space, number of units, number of bedrooms, and the square footage of each unit.
- c. Specific and objective provisions
 1. Applications for adaptive reuse projects shall be subject to the specific and objective criteria for projects in accordance with Article VII Special Use Permits, Section C Criteria for Special Use Permits.