

**ORDINANCE NO. 23-\_\_**  
**Town of Portsmouth**  
**AN ORDINANCE AMENDING**  
**CHAPTER 405 ZONING**

Note: Words set as ~~strikeover~~ are to be **deleted** from the ordinance; words set in underline are to be **added** to the ordinance.

**ARTICLE VII Special Use Permits**

Section A. General.

1. ~~A Special Use Permit is required for~~ The following uses may require a special use permit from the Zoning Board of Review if designated by the letter "S" in the Tables of Use Regulations or, if applicable pursuant to unified development review, the Planning Board. Applications for special use permits must meet the specific and objective criteria specified herein as to each use:
  - a) Uses in Flood Hazard Areas designated by the letter "R" in Article III, Section E.
  - b) Uses designated by the letter "S" in the Tables of Use Regulations, Article V, Section B.
  - c) Enlargement of a structure on a substandard lot of record according to the provisions of Article VI, Section A.
  - d) Alterations to or change in use of non-conforming uses according to the provisions of Article VI, Section B and C.
  - e) Signs requiring a Special Use Permit as specified in Article IX, Section B.
  - f) ~~Apartments, condominiums, cluster development or townhouses, as further defined in Section C. herein.~~
  - g) ~~Hotels and Motels, as further defined in Section D. herein.~~
  - h) Antennas, as further defined in Section E. herein.
  - i) Light Industry, as further defined in Section F. herein.
  - j) ~~Retail, Office or Consumer services Complex, as further defined in Section G. herein.~~
  - k) All proposed uses in the Town Center District that are not prohibited per Article V, Section B. **[Added 10-27-2004 ]**
  - l) ~~Agriculture special events. [Added 6-8-2015 by Ord. No. 2015-06-08 ]~~
  - m) ~~Solar energy systems, as specified in Article V, Section J. [Added 12-14-2020 by Ord. No. 2020-12-14 ]~~
2. Applicants for special use permits shall meet all federal, state, and local requirements including, but not limited to, licensing, health, safety, noise, and building code requirements. Residence/facility shall be appropriately licensed by the state.
3. Uses not listed in Table of Uses. To the extent a proposed land use is not specifically listed

in Article V Table of Use Regulations, the property owner may submit a written request to the Zoning Board of Review for an evaluation and determination of whether the proposed use is of a similar type, character, and intensity as a listed use requiring a special-use permit. The Zoning Board of Review shall have sixty (60) days to provide a written evaluation to the property owner. Upon such determination, the proposed use may be considered to be a use requiring a special-use permit.

4. Upon receipt of a completed application for a special use permit, the Zoning Board of Review, or the authorized permitting authority under Article XI Development Plan Review and Unified Development Review as applicable, may request that the Planning Director prepare a written report of findings and recommendations to be submitted to the appropriate review body.
5. ~~2.~~ Designation as a special use permit does not constitute an authorization or an assurance that such use will be permitted. Rather, each application for a special use permit shall be evaluated as to its probable effect on the adjacent property, the neighborhood and on the community and may be approved or denied as the findings indicate appropriate.
6. ~~3.~~ Nothing herein contained shall preclude the Zoning Board of Review from granting multiple special use permits for a single project or proposal or to condition the granting of one (1) or more special use permits upon the implementation or completion of one (1) portion of a project, a master plan for which is submitted at the time of the application for special use permits. (See also Article X, Special Conditions.)
7. ~~4.~~ In granting a special-use permit, the Zoning Board of Review may grant one (1) or more dimensional variances, per the provisions of Article VI, Section D. Variances. **[Added 2-4-2008 ]**
  - a) Dimensional variances granted in conjunction with a special-use permit shall be supported by independent evidence on the record satisfying each of the requirements for a dimensional variance, and the Board shall vote on each dimensional variance before voting on the special-use permit.

~~5. Items to be considered when granting a special use permit include, but are not limited to, the following:~~

- ~~b) The desired use will not be detrimental to the surrounding area;~~
- ~~c) It will be compatible with neighboring land uses.~~
- ~~d) It will not create a nuisance or a hazard in the neighborhood.~~
- ~~e) Adequate protection is afforded to the surrounding property by the use of open space and planting;~~
- ~~f) Safe vehicular access and adequate parking are provided;~~
- ~~g) Control of noise, smoke, odors, lighting and any other objectionable feature is provided;~~
- ~~h) Solar rights of the abutters are provided for;~~

~~h) The proposed special use will be in conformance with the purposes and intent of the comprehensive plan and the zoning ordinance of the Town of Portsmouth; and~~

~~i) The health, safety and welfare of the community are protected.~~

~~i) It is consistent with the Purpose of Design Standards set forth in Article IX, Section D, and, for developments within the Town Center District, the purpose of that district as expressed in Article III. [Added 10-27-2004]~~

~~6. The Zoning Board of Review may, at its option, impose special conditions on any Special Use Permit, as further defined in Article X, Special Conditions.~~

8. ~~7.~~ Where these regulations may conflict with other regulations, the more stringent regulation shall prevail.

9. ~~8. Expiration.~~ Any special use permit which is not utilized within a period of one (1) year from the date of the signing of the decision granting said Special Use Permit<sup>1</sup> shall be void unless, upon written request of the applicant and good cause shown, the Zoning Board of Review, following a public hearing thereon, grants an extension of not more than one (1) year. Not more than a single, one (1) year extension may be granted following any one public hearing. The Zoning Board of Review shall not grant successive extensions which total more than two

(2) years on any project, (excluding any extensions granted prior to enactment of this amendment).

a) If written proof from the Portsmouth Water and Fire District is provided showing that the applicant is unable to secure a tie-in to the Portsmouth Water and Fire District's water supply, then the Zoning Board of Review shall grant an extension for a period of one (1) year, provided that the applicant demonstrates reasonable diligence in attempting to secure such tie-in.

b) In the event an application for extension is filed prior to the passage of one (1) year from date the signing of the decision granting said Special Use Permit, or the end of any subsequent extension term thereof, the special use permit shall remain in force and effect until the Zoning Board of Review has acted on said application for extension. **[Amended 8-10-2004]**

#### Section B. Procedures.

1. The applicant shall, on a form prescribed by the Zoning Enforcement Officer together with a proposed site plan, as required for the pertinent types of special use permits in this article, submit an application describing the request, supported by such data and evidence as may be required by the Zoning Board of Review or by the terms of this ordinance, the need and justification for the requested Special Use Permit.

2. The Zoning Enforcement Officer shall immediately transmit said completed application to the Zoning Board of Review and, if required by the provisions of this Article, shall transmit a copy of each application to the Planning Board and the Design Review Board. Planning Board and Design Review Board review and procedures for this purpose are further defined in Article XI. Development Plan Review.

a) This provision shall apply to all non-residential developments and multi-family developments designated with an "S" (Special Use Permit) in Article V herein. **[Amended 10-27-2004 ; 12-14-2020 by Ord. No. 2020-12-14]**

3. The Zoning Board of Review shall hold a public hearing on any application for Special Use Permit in an expeditious manner, after receipt, in proper form, of an application, and shall

give public notice pursuant to the provisions of Article XIII.) In its decision, the Zoning Board of Review shall provide, in writing, findings of fact and decisions, and conclusions of law.

4. Appeals from the decision of the Zoning Board of Review may be taken pursuant to Article XVII.
5. For each proposed development the applicant shall submit a filing fee payable to the Town of Portsmouth per the Town of Portsmouth Ordinance on fees.
6. Preliminary plans may be submitted to the Planning Board and the Design Review Board, as applicable, for informal discussion for the following types of Special Use Permits only. Any tentative advisory opinion on a preliminary plan by the Planning Board or the Design Review Board shall not be binding upon the Planning Board, Design Review Board or Zoning Board of Review:
  - a) Apartments, Condominiums, Cluster or Town Houses.
  - b) Retail Business, Office or Consumer Service Complex: New, Substantial Alteration or Substantial Improvement.
  - c) All uses designated as a special use permit within the Town Center District. **[Added 10-27-2004 ]**

### Section C. Criteria for Special Use Permits

#### 1. Residential

- a. 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.
  1. The landlord abides by the requirements of R.I. Gen. Laws § 34-18-22.
  2. There shall be one parking space for every adult occupant with a car.
  3. There shall be no more occupants in the dwelling unit than the total number of rooms.
  4. The dwelling unit must meet the requirements of the Rhode Island Property Maintenance Code.
- b. Renting rooms in an existing dwelling unit to more than four (4) persons.
  1. The landlord abides by the requirements of R.I. Gen. Laws § 34-18-22.
  2. There shall be one parking space for every adult occupant with a car.
  3. There shall be no more occupants in the dwelling unit than the total number of rooms.
  4. The dwelling unit must meet the requirements of the Rhode Island Property Maintenance Code.
- c. Conversion of an existing dwelling unit to accommodate not more than two (2) households provided there is no external evidence of occupancy by more than one (1) household and provided the dimensional requirements for a two-family dwelling are met.

1. There shall be one parking space for every adult occupant with a car.
  2. There shall be no more occupants in the dwelling unit than the total number of rooms.
  3. The dwelling unit must meet the requirements of the Rhode Island Property Maintenance Code.
- d. Conversion of an existing dwelling unit to accommodate more than two (2) families.
1. A dwelling shall have a primary entrance either on the façade facing the front lot line or visible from the public right of way.
  2. Windows, entrances, porches, or other architectural features are required on any facades to avoid the appearance of blank walls.

**f) b) Section C. Apartments, condominiums, cluster or town houses.**

1. An apartment, condominium, cluster or town house may be permitted as a special use permit in districts as specified in Article V. Permitted Uses, provided that the Zoning Board of Review, in accordance with this Ordinance, finds that the establishment of the same meets the standards and requirements of this section.
2. The purpose of these regulations is to encourage the appropriate use of land for the development of multi-family housing taking into consideration the natural amenities of the site. No multi-family structure or structures or apartment houses or group of apartment houses shall be erected unless in accordance with the standards set forth in this section.
3. In granting any such special use permit or in permitting any modification of the regulations set forth herein, the Zoning Board of Review may prescribe such conditions and safeguards, as further described in Article X. Special Conditions, as it may deem necessary to prevent nuisance to and promote harmony with nearby property.
4. The disregarding of any such condition or safeguard, when made a part of the terms under which a special use permit is granted, shall be deemed a violation of this Ordinance.
5. A Performance Bond or cash surety in the name of the Town of Portsmouth and in the amount of five percent (5%) of the estimated cost of development shall be submitted to the Zoning Enforcement Officer prior to the start of construction. Such Performance Bond or cash surety must be maintained in effect until a Certificate of Occupancy is issued.
6. No proposed development shall be approved by the Zoning Board of Review unless it is served by an adequate sewerage treatment system, as certified by RIDEM, or public sewer, when the same becomes available, and that the sewer line(s) to which it shall be connected, have adequate capacity to carry the additional effluent created by the development. Should the line(s) be determined to be inadequate, only such portion of the development as can be accepted by the sewer line(s) shall be approved for development, provided it meets all other requirements of this Zoning Ordinance.
  - a) In the event a private sewage treatment plant is to be constructed, it shall be approved by the State of Rhode Island Department of Environmental Management and it shall meet the standards of any federal or state legislation regarding water pollution control before a building permit may be issued.

7. In granting a special use permit for a development under this section the Zoning Board of Review shall, immediately upon receipt of an application hereunder, refer the site plan and related documents to the Portsmouth Planning Board for review and advice, per the stipulations of Article XI. Development Plan Review. Plans for apartment, Condominium and Town House developments within or adjacent to commercial zones shall also be referred to the Design Review Board review and advice, per the stipulations of Article XI. Development Plan Review.
8. The Zoning Board of Review shall require that the developer provide affidavits or statements prior to final approval signed by the Department of Environmental Management and the Coastal Resources Management Council that the proposed site does not violate any portion of the Wetlands Act or CRMC regulations, plus permits for curb cuts and connections to State road drainage systems, if applicable.
9. Application shall include eleven (11) full sets of building and site drawings including, but not limited to, sewerage, other utilities, topographical plans, plumbing, heating and electrical plans, etc., as set forth below, and shall, as a condition precedent to the granting of said special use permit, require full adherence to said plans without deviation at any later construction date. The site plan shall conform to the development standards set forth in paragraph 10 below and shall contain the following:
  - a) A location map showing the location of the proposed site in relation to the Town of Portsmouth.
  - b) A plot plan showing the entire area to be developed as well as any abutting land under control of the applicant or owner of the land shown on the plan.
  - c) The site plan shall:
    - (1) Be drawn at a scale of one inch equals forty feet (1" = 40') and be thirty-two inches (32") long and twenty-two inches (22") wide and contain a North arrow in the upper left corner (A master plan may be of other scale).
    - (2) Contain a title block in the lower right corner including the name of the surveyor, designer and engineer, the name of the development, owner and applicant if other than owner, the date and scale, the acreage and the number of efficiency or one (1) bedroom units, the number of two (2) bedroom units and the number of units containing three (3) or more bedrooms.
    - (3) Show both existing and proposed contours at two foot (2') intervals, by the use of solid and dotted lines.
    - (4) Show size and location of all underground utilities within and abutting the site.
    - (5) Show location and width of all proposed vehicular and pedestrian interior ways.
    - (6) Show location and number of spaces of proposed parking.
    - (7) Show location of all proposed buildings by type (i.e. Apartment, townhouse, recreation, etc.) with the number of units by bedroom distribution.
    - (8) Show location and size of all proposed utilities, as approved by the installing authority.

(9) Show location and type of retention/erosion control areas if necessary to meet drainage requirement.

(10) Show location of all monuments.

(11) Show the names of all abutters as determined from the most recent tax list.

(12) Show the proposed treatment of all open spaces.

(13) Show on a separate sheet building elevations.

(14) Show on a separate sheet preliminary layout of building interiors.

d) Submittal shall also include items required in Article IX Section D. Design Review Standards, as applicable.

(1) The above elements may be shown on separate sheets.

10. Development standards. All developments proposed under this Section shall conform to the following standards:

a) Minimum Frontage: one hundred ten feet (110').

b) Minimum Front Yard: thirty feet (30').

c) Minimum Side Yard: twenty-five feet (25').

(1) Driveways may not be counted as side yards.

d) Minimum Rear Yard: twenty-five percent (25%) or thirty feet (30') whichever is lesser.

e) Maximum Lot Coverage by Buildings: twenty-five percent (25%)\*\*.

\*\* Does include accessory structures such as swimming pools, cabanas, recreational buildings, etc. used exclusively for the residents of the development.

f) Maximum building and parking area coverage: forty percent (40%).

g) The following are the minimum required buildable land area per unit in square feet. In determining buildable land area, not more than ten percent (10%) of the area that is subject to periodic or seasonal flooding, per the most recent FEMA maps, shall be counted. (Example: total land area twenty (20) acres of which five (5) acres are subject to flooding net buildable land for determining density is fifteen point five (15.5) acres.) The provisions of this Subparagraph shall supersede the provisions of Article IV, Section B. Land Space Requirements Table.

(1) If served by an on site sewer system with effluent being discharged into an on site absorption field, the minimum buildable land area per unit in square feet is as follows:

<u>ZONE</u>	<u>1 BEDROOM</u>	<u>2 BEDROOM</u>	<u>3 BEDROOM</u>	<u>EACH ADDITIONAL BEDROOM</u>
R-10	5,000	8,000	10,000	3,000

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R-20 & WD	10,000	16,000	20,000	6,000
R-30	15,000	24,000	30,000	9,000
R-40	20,000	32,000	40,000	12,000

- (2) If served by sewer system plant or public sewer system with effluent being discharged into an offsite absorption field the minimum buildable land area per unit in square feet is as follows:

<u>ZONE</u>	<u>1 BEDROOM</u>	<u>2 BEDROOM</u>	<u>3 BEDROOM</u>	<u>EACH ADDITIONAL BEDROOM</u>
R-10	3,750	5,600	7,500	2,000
R-20 & WD	7,500	11,000	15,000	4,000
R-30	11,250	17,000	22,500	6,000
R-40	15,000	22,500	30,000	8,000

NOTE: Any room such as a den, playroom, etc. is to be considered as a bedroom for this purpose.

- h) Due to the wide range of soil content in the Town of Portsmouth, no on site sewerage system shall be considered completely adequate without attention being given to the existing soil analysis map as prepared by the U.S. Department of Agriculture Soil Conservation Service. No opinion pertaining to the adequacy of the proposed system can be given without written evidence of on-site soil exploration tests as required by the R.I. Department of Environmental Management. On site sewerage systems shall be approved by the Rhode Island Department of Environmental Management.
- i) Maximum Building Height: two and one-half (2 1/2) Stories, not to exceed thirty-five feet (35').
- j) Drainage.
  - (1) The developer shall provide for adequate drainage and shall further provide that the rate of runoff from the property shall not increase during construction or after completion of the development to the detriment of surrounding properties. If the retention of water is deemed necessary, then the retention areas shall be provided prior to construction of any buildings or the surfacing of any areas. The engineer shall submit on separate sheets all computations in determining rates of runoff and shall base all calculations on a ten (10) year storm frequency using the TR-55 method for determining total storm water runoff. These computations shall be prepared by an engineer registered in the State of Rhode Island and he shall affix his seal to the required documents.
- k) Sewage System.
  - (1) Public sanitary sewers shall be designed so as to ensure a self-cleaning velocity of not less than two-and-one-half feet (2.5') per second nor more than ten feet (10') per second. Computation of sewage and sewage flow calculation shall be submitted.
- l) Water.

- (1) Computation of water usage and a statement of water availability shall be submitted. Written evidence of permission to connect to a public water supply shall be delivered to the Building Inspector prior to issuance of a building permit.
  - m) Parking.<sup>i</sup>
  - ~~n) Open space.~~
    - ~~(1) Open space shall be provided in appropriate places and every effort shall be made to preserve wooded areas or other site amenities.~~
  - n) ~~o~~) Building design and location.
    - (1) Where more than one (1) building is erected on a lot it shall be separated from any other building by a minimum of one hundred feet (100') and all buildings shall be set back a minimum of fifty-five feet (55') from the centerline of any interior way and thirty feet (30') from any parking area.
    - (2) Town House or attached dwelling: No row of attached buildings shall contain less than three (3) nor more than eight (8) units and the minimum width between party walls shall be not less than eighteen feet (18').
    - (3) No apartment building shall be less than sixty feet (60') in length. No facade or any apartment building shall exceed one hundred sixty linear feet (160') without a building jog of at least forty-five degrees (45°) for a two (2) wing building or thirty degrees (30°) for a three (3) wing building.
    - (4) No one building shall contain more than twenty-four (24) units.
  - o) ~~p~~) All interior roadways and parking areas shall be constructed in accordance with the "Construction Standard for Streets" of the "Rules and Regulations Regarding the Platting or other Subdivision of Land" of the Town of Portsmouth.<sup>1</sup>
  - p) ~~q~~) Access and egress.
    - (1) For each lot there shall be not more than one (1) entrance and exit driveway for each five hundred feet (500') of the street on which the lot faces. Said entrance and exit shall meet the requirements of the State of Rhode Island Department of Roads and Bridges and the Portsmouth Police and Highway Departments.
  - q) ~~r~~) Acceptable engineering standards shall prevail where no standards are specified.
  - r) ~~s~~) Fire lanes shall be provided for and approved by the Fire Department.
11. ~~The foregoing Development Standards including but not limited to the parking, open space, building design and location and other standards set forth herein and in Article IX may be modified and/or varied by the Zoning Board of Review upon a finding that such modifications or variations comply with the requirements set forth in of Section A paragraph 4 herein.~~
12. Where these regulations may conflict with other regulations, the more stringent regulation shall prevail.

a) Motels and hotels. -Section D-

1. No motel or hotel shall be constructed on a lot having less than two hundred feet (200') frontage, nor less than forty thousand square feet (40,000 ft.<sup>2</sup>) of lot area.
2. On each lot used for motel or hotel purposes there shall be provided front, rear and side yards each not less than fifty feet (50') in depth.
3. A space not less than twenty feet (20') shall be maintained open with grass, bushes, flowers or trees all along each side yard, rear yard and front yard except for entrance and exit driveways and such open space shall not be built on, not paved nor used for parking.
4. No space within the required front yard depth shall be used for parking except as a temporary nature such as for registering.
5. Each motel or hotel site shall be provided with not more than two (2) motor vehicle driveways for each abutting street which shall intersect the abutting street or streets at ninety degrees (90°).
6. Each rental unit shall contain not less than two hundred ten square feet (210 ft.<sup>2</sup>) of habitable floor area.
7. Height restrictions as set forth in Article IV. may be varied subject to Zoning Board of Review for motels containing one hundred (100) or more units.
8. Subject to Zoning Board of Review approval, uses such as, but not limited, to restaurants, convention facilities, health clubs, retail shops, beauty and barber shops are permitted within motels containing one hundred (100) or more units.
9. In granting a special use permit for a development under this section the Zoning Board of Review shall, immediately upon receipt of an application hereunder, refer the site plan and related documents to the Portsmouth Planning Board for review and advice, per the stipulations of Article XI. Development Plan Review. Plans shall also be referred to the Design Review Board review and advice, per the stipulations of Article XI. Development Plan Review.

2. Institutional, Recreational and Educational Uses

a) Place of worship.

1. There shall be a ten (10)-foot landscaped buffer along any lot line abutting a street, excluding driveways, which shall include one shrub(s) per three (3) linear feet along said lot line a minimum of three (3) feet in height at time of planting, as well as one street trees for every five of linear feet along said lot line.
2. The site shall otherwise comply with the Town's landscaping requirements.
3. Parking shall be screened along interior side and rear lot lines with a solid fence or wall, a minimum of six (6) feet and a maximum of eight (8) feet in height.
4. Parking shall be located in the side and rear yards of the property, behind the building(s) and parking plans shall provide safe pedestrian circulation with clearly marked crosswalks from each parking area to the building entrance(s).

b) Private or public school not conducted as a private business for gain.

1. The applicant shall provide proof of state licensing.
  2. Hours of operation shall be between the hours of 6:00 a.m. and 6:00 p.m.
  3. The site shall otherwise comply with landscaping requirements of Article XI of the Land Development and Subdivision Regulations.
  4. There shall be a designated drop-off area near an entrance to the building with a queuing lane that does not block vehicle parking spaces.
  5. Parking shall be located in the side and rear yards of the property, behind the building(s), and parking plans shall provide safe pedestrian circulation with clearly marked crosswalks from each parking area to the building entrance(s).
- e. Cemeteries or mausoleums.
1. Cemetery uses require a minimum five (5)-acre lot area and a minimum twenty-five (25)-foot landscaped buffer from adjacent properties. Non-commercial, family cemeteries shall be allowed as a use by right and shall not require development review. A cemetery use on the same lot as or on a lot adjacent to a religious facility shall be allowed as a use by right.
- f. Public utilities, limited to electrical, telephone, water, gas, cable television and sewer.
1. For electrical or waterpower generation stations:
    - a) Lighting of power generation facilities shall be consistent with local, state, and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes and shall be shielded from abutting properties.
    - b) Noise levels generated by power generation facilities shall be consistent with federal and state law and shall comply with the ambient noise level thresholds prescribed by the Town Code of Ordinances.
    - c) Signage. Signs on power generation facilities shall comply with the Article IX, Section B. Signs. Signs shall display identification of the owner or operator of the facility and a twenty-four-hour emergency contact telephone number.
    - d) Security measures which are not inconsistent with the requirements prescribed by the Federal Energy Regulatory Commission shall be provided and approved by the Chief of Police or his/her designee.
    - e) All means of shutting down the facility shall be clearly marked. The facility owner or operator shall:
      - i. Provide a copy of the facility's emergency action plan to the local Fire Chief.
      - ii. Cooperate with federal, state, and local emergency services in developing emergency response actions.
    - f) Identify a responsible person for public inquiries throughout the life of the facility.
    - g) Clearing of natural vegetation shall be limited to what is necessary for the

construction, operation, and maintenance of the facility or otherwise prescribed by applicable laws, regulations, and bylaws/ordinances.

h) The facility owner or operator shall maintain the facility in accordance with the requirements of the federal power generation license issued by the Federal Energy Regulatory Commission. In addition, maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief, under the applicable Fire Code(s). The owner or operator shall be responsible for the cost of maintaining the facility and any access road(s), unless accepted as a public way.

i) The facility proponent shall be required to provide a form of surety, either through escrow account, bond, or otherwise, to cover the cost of decommissioning and removing the facility at the end of the federal power generation license term and for restoring the landscape, in an amount and form determined to be reasonable by the permitting authority and subject to review by the Town Treasurer.

2. For utility substations

a) The utility shall be enclosed by a perimeter fence of eight (8) feet in height and shall include a gated ingress and egress.

g. Private non-profit libraries or museums.

1. Hours of operation shall be between the hours of 7:00 a.m. and 10:00 p.m. Hours of operation may be extended for events that are specifically licensed by the Town Council. Such license shall state the agreed upon hours of operation for such event.
2. No amplified live music is permitted outdoors, unless licensed specifically licensed to do so by Town Council. Outdoor structures shall be temporary and removed when not in use for events.
3. Private non-profit community center building, settlement house, adult education center or other similar facility. Hours of operation shall be between the hours of 7:00 a.m. and 10:00 p.m. Hours of operation may be extended for events that are specifically licensed by the Town Council. Such license shall state the agreed upon hours of operation for such event.
4. Lodges/meeting halls are permitted to serve meals on the premises for members and their guests only.
5. No more than 30 percent of the gross floor area may be used as office space for the lodge/meeting hall.
6. Sleeping facilities are prohibited.

h. Private non-profit community center building, settlement house, adult education center or other similar facility.

7. Hours of operation shall be between the hours of 7:00 a.m. and 10:00 p.m. Hours of operation may be extended for events that are specifically licensed by the Town Council. Such license shall state the agreed upon hours of operation for such event.
8. No amplified live music is permitted outdoors, unless licensed specifically licensed to do so by Town Council. Outdoor structures shall be temporary and removed when not in use

9. Private non-profit community center building, settlement house, adult education center or other similar facility. Hours of operation shall be between the hours of 7:00 a.m. and 10:00 p.m. Hours of operation may be extended for events that are specifically licensed by the Town Council. Such license shall state the agreed upon hours of operation for such event.
  10. Lodges/meeting halls are permitted to serve meals on the premises for members and their guests only.
  11. No more than 30 percent of the gross floor area may be used as office space for the lodge/meeting hall.
  12. Sleeping facilities are prohibited.
- i. Hospital, clinic, infirmary, nursing home, convalescent home, institutional residence group homes or other congregate care facility not qualifying as a community residence.
    1. Public water must be available at the site. The applicant must provide written confirmation from the applicable water that there is adequate service available for connection.
    2. The parking plan shall provide safe pedestrian circulation with clearly marked crosswalks from each parking area to the building entrance(s).
    3. Traffic assessment shall be provided for hospitals and facilities serving 11 or more clients and patients in total.
  - j. 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 to the neighborhood by reason of noise. (Formerly Day nursery.) [Amended 3-13-2017 by Ord. No. 2017-03-13]
    1. The applicant shall provide proof of state licensing.
    2. There shall be a designated drop-off area near an entrance to the building with a queuing lane that does not block vehicle parking spaces as determined by the licensing authority.
    3. The parking plan shall provide safe pedestrian circulation with clearly marked crosswalks from each parking area to the building entrance(s).
  - k. Trade, professional or other for-profit school for gain
    1. The applicant shall provide proof of state licensing.
    2. Hours of operation shall be between the hours of 6:00 a.m. and 6:00 p.m.
    3. The site shall otherwise comply with the Town's landscaping requirements.
    4. There shall be a designated drop-off area near an entrance to the building with a queuing lane that does not block vehicle parking spaces.
    5. Parking shall be located in the side and rear yards of the property, behind the building(s), and parking plans shall provide safe pedestrian circulation with clearly marked crosswalks from each parking area to the building entrance(s).

1. Country club, golf, swimming, tennis or other outdoor recreational facility.

1. Facility must not violate the noise standards outlined in Chapter 257 Section 7.
2. Facility's exterior lighting must abide by standards of Chapter 148 Section VI.
3. Applicant must document that trips generated will not exceed capacity of existing roads, with consideration for current traffic.

3. Agricultural

a. Agricultural Promotion

1. Where the use abuts a residential use or zoning district, there shall be a one hundred (100) ft. setback from each such lot line abutting a residential use or zoning district.
2. All overnight boarding operations shall be located indoors.
3. All animal care and/or kennel facilities shall have a valid municipal license.

b. Agricultural Special Events

1. The operator must obtain a Special Events permit from Town Council no less than annually.
2. The operator must provide or make arrangements for medical and emergency assistance; protection of neighboring property; litter control and cleanup, including septic waste disposal; parking; and traffic control.

c. Farm Brewery.

1. Farm Breweries shall have a maximum capacity of five thousand (5,000) barrels (31 gallons each) per year.
2. Farm Breweries shall require development review pursuant to the requirements in the Land Development and Subdivision Regulations if they allow on-site consumption of beer or alcoholic beverages and/or if they are located within five hundred (500) feet of the property line of a lot in a residential zoning district or a lot containing a residential use.

3. Other Principal Uses

a ) Section E. Antennas.

1. Antennas proposed to extend over a height of thirty-five feet (35') from existing grade may be permitted by special use permit.
2. Each and every antenna proposed to be installed utilizing an individual support structure shall not be allowed within the confines of the designated front, side or rear yards and shall not be installed or erected without the prior approval of the Building Inspector and the acquisition of a lawfully issued building permit therefor.
3. Each such antenna shall be provided with a free-fall radius of one hundred twenty-five percent (125%) of its height, which radius shall be clear of any structure designed for residential use or commercial/industrial occupancy.

4. Section F. Industrial, Wholesale and Transportation Uses

a. Laundries and dry-cleaning plants.

1. Must have received applicable federal, state, and local permits prior to granting of a special-use permit.
2. Must not expand existing substandard or non-conforming operations.
3. May only use solvents which are nonflammable (i.e., will not support combustion) or nonflammable at ordinary temperatures and only moderately flammable at higher temperatures.

b. Extractive industries and earth removal.

1. Must have received applicable federal, state, and local permits prior to granting of a special-use permit.
2. Must not expand existing substandard or non-conforming operations.

c. Mass Storage of fuel in tanks not exceeding 50,000 gallons.

1. Must have received applicable federal, state, and local permits prior to granting of a special-use permit.
2. Must not expand existing substandard or non-conforming operations.
3. Storage of any kind is prohibited outside fences or walls. No items stored within ten feet of fences or walls may exceed the height of the fence or wall.
4. The storage area should be located in the rear of the lot. Any structures shall be located in front of the storage area to obscure the view of the storage from street(s), in compliance with the front yard of the underlying zoning district.

d. Limited light industry.

Map 38, Lots 5, 6, 7, 7B, 7C, 7D, 7E, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32 are to be considered "Limited Light Industry" and are, in addition to other provisions of this ordinance, subject to the following regulations:

1. All structures erected on these lots shall not exceed thirty feet (30') or one (1) story in height. Uses permitted hereunder must be so located that each part thereof is set back at least the following distances:
  - a) Fifty feet (50') from any street or road on which the structure in question fronts.
  - b) Fifty feet (50') from any other property line.
2. Permitted uses. No lot within the district shall be used or occupied at any time for other than the purpose of "Limited Light Industrial Uses," which is defined as follows:

- a) A limited light industrial use is one of such a nature and so designed, constructed and operated that there is no production of sound, heat or glare perceptible at any lot line, and which emits no vibration, smoke, dust, dirt, toxic or offensive odors or gases, electromagnetic or atomic radiation.
  - b) Without limiting the foregoing, uses specifically prohibited within these lots are residential and commercial usages of a retail nature, except facilities expressly designed for the use and benefit of the occupants of a site. In addition, no site shall be used for any industry whose primary business requires industrial sewage disposal facilities, unless the governing municipal and state bodies authorize the use of the available sewage disposal facilities. All liquid or solid wastes must be treated to conform with applicable standards of the Rhode Island Department of Health and any other regulations of any governing municipal or state agency.
3. All outside storage shall be screened from abutting properties by the erection and maintenance of an opaque fence, not less than six feet (6') in height or a double row of compact evergreen screen not less than six feet (6') in height.
  4. Any and all loading, unloading or deliveries shall be "off street" and the facilities therefor shall be located at the rear or sides of buildings which do not face the roadway. All loading and unloading areas shall have a minimum surfacing of asphaltic concrete with curbing. Curbing shall be installed in all loading and unloading areas.
  5. The area between buildings and property lines is to be used either for open landscape and green areas, or for off-street parking.

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1. **Note: Effective 10-15-1997, Article VII Section F.5. is deleted. All parking requirements related to limited light industrial development are in Article IX. Deleted wording was: "Any and all parking, including parking for visitors, employees, or customers shall be "off street" and there shall be no less than one parking space for each person to be employed on a lot. All roads and parking areas shall have a minimum surfacing of asphaltic concrete or approved equivalent. Curbing shall be installed in all parking areas."**

6. Fences, walls and hedges may be permitted in any required yard, not to exceed the maximum height as follows:

<u>LOCATION</u>	<u>MAXIMUM HEIGHT</u>
Front and side yards	6 feet
Rear yards	10 feet
Hedges	No restrictions

7. Signs for advertising purposes shall be prohibited, except that one (1) sign flush with an exterior wall or a structure on each building site shall be permitted, as stipulated in Article IX. Section B. Signs. This sign shall indicate no information other than the name of the industry occupying the building site. Sign illumination shall not flash, blink, vary in intensity, revolve or otherwise be or appear to be in motion. Free standing information and directional signs shall be permitted upon approval of the Zoning Board of Review as stipulated in Article IX. Section B. Signs.

8. An accessory use which is clearly incidental and secondary to the principal permitted use of the premises or structure shall be allowed provided that such accessory use shall be located on the premises to which it applies and shall not be detrimental to or impair adjacent properties.

~~1. Property and buildings to be used for light manufacturing purposes shall be designed and laid out as to minimize disturbance to adjacent property by such features as buffer fences, planting, suitably located points of traffic ingress and egress, and areas for loading and parking.~~

9. Structures permitted above height requirements on these lots include roof structures for housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, towers, steeples flagpoles, chimneys, smokestacks, wireless masts, antennas and water tanks, provided that no roof structure of any space above the height limit shall be allowed for the purpose of providing additional floor space.

5. Section G. Retail and Consumer Services

a. Store for retail sale or merchandise, with outside display storage of wares and merchandise, provided there is no manufacturing or assembly on the premises.

1. Drive-through facilities are prohibited.

2. All chemicals and/or hazardous substances must be properly stored within the primary or a legally permitted accessory structure.

b. Marinas including sales and repair of boats and related supplies.

1. All repair, service, and sales and/or leasing operations shall be performed within a fully enclosed building. All equipment and parts shall be stored indoors.

2. Boat services establishments shall be screened along interior side and rear lot lines with a solid wall or fence, a minimum of six (6) feet and a maximum of eight (8) feet in height.
  3. No boats shall be stored and no repair and/or service work shall be conducted in the public right-of-way.
  4. There shall be a ten (10)-foot landscaped buffer along any lot line abutting a street, excluding driveways, which shall include one shrub(s) per three (3) linear feet along said lot line a minimum of three (3) feet in height at time of planting, as well as one street trees for every five of linear feet along said lot line.
  5. The site shall otherwise comply with landscaping requirements of the Land Development and Subdivision Regulations.
  6. No access driveway may exceed 25 feet in width. For a corner lot, curb cuts are restricted to one curb cut per street frontage.
- c. 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.
1. All stored materials must be covered from weather and are stored on an impervious surface.
- d. New retail business, office or consumer service complex, alteration or substantial improvement.
1. A new retail business, office or consumer service complex use, or an addition of more than thirty percent (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., may be permitted as specified in Article V. Section B. Permitted Uses, provided that the Zoning Board of Review in accordance with this Ordinance, finds that the establishment of the same meets the standards and requirements of this section, and the intent of the use district in which it is located. [**Amended 10-27-2004** <sup>3</sup>]

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2. Note: "and the intent of the use district in which it is located" adopted 10-27-2004.

- a) Multiple principal and/or accessory buildings may be permitted within a single lot, subject to the provisions of Article VIII. Section D. Planned Unit Developments. **[Added 2-4-2008 ]**
2. ~~The purpose of these regulations is to encourage the appropriate use of land for the development of new commercial areas taking into consideration the natural amenities of the site. No structure or structures shall be erected, added to or substantially improved as above unless in accordance with the standards set forth in this section.~~
3. ~~In granting any such special use permit or in permitting any modification of the regulations set forth herein, the Zoning Board of Review may prescribe such conditions and safeguards, as further described in Article X. Special Conditions, as it may deem necessary to prevent nuisance to and promote harmony with nearby property. The disregarding of any such condition or safeguard, when made a part of the terms under which approval is granted shall be deemed a violation of this Ordinance.~~
4. A performance bond in the amount of one hundred percent (100%) of the cost of on-site improvements including roads, parking and travel areas, drainage and landscaping, but exclusive of buildings, and a certificate of occupancy shall be required.
5. A Performance Bond or cash surety in the name of the Town of Portsmouth and in the amount of five percent (5%) of the estimated cost of development shall be submitted to the Zoning Enforcement Officer prior to the start of construction. Such Performance Bond or cash surety must be maintained in effect until the requirements, in total or in phases, as determined by the Zoning Board of Review, are completed.
6. No proposed development shall be approved by the Zoning Board of Review unless it is served by an adequate sewerage system as approved by the R.I. Department of Environmental Management or public sewer, when the same becomes available, and that the sewer lines to which it shall be connected, have adequate capacity to carry the additional effluent created by the development. Should the lines be determined to be inadequate, only such portion of the development as can be accepted by the sewer lines, shall be approved for development provided it meets all other requirements of this Zoning Ordinance.
  - a) In the event that a private sewage treatment plant is to be constructed, it shall be of a type approved by the State of Rhode Island Department of Environmental Management, and it shall meet the standards of all Federal and State Legislation regarding water pollution control before a building permit may be issued.
7. In granting a special use permit for a development under this section the Zoning Board of Review shall, immediately upon receipt of an application hereunder, refer the site plan and related documents to the Portsmouth Planning Board for review and advice, per the stipulations of Article XI. Development Plan Review. Plans shall also be referred to the Design Review Board review and advice, per the stipulations of Article XI. Development Plan Review.
8. The Zoning Board of Review shall require that the developer provide affidavits or statements signed by the Department of Environmental Management and the Coastal Resources Management Council that the proposed site does not violate any portion of the Wetlands Act

or CRMC regulations prior to final approval, plus permits for curb cuts and connections into State road drainage systems, if applicable.

9. Application shall include eleven (11) full sets of building and site drawings including, but not limited to, sewerage, other utilities, topographical plans, plumbing, heating and electrical plans, etc., as set forth below, and shall, as a condition precedent to the granting of said special use permit, require full adherence to said plans without deviation at any later construction date. The site plan shall conform to the development standards set forth in paragraph 10 below and shall contain the following:
  - a) A location map showing the location of the proposed site in relation to the Town of Portsmouth.
  - b) A plot plan showing the entire area to be developed as well as any abutting land under control of the applicant or owner of the land shown on the plan, and all parcels within five hundred feet (500') of proposed development. [**Amended 10-27-2004** <sup>4</sup>]
  - c) The site plan shall:
    - (1) Be drawn at a scale of one inch equals forty feet (1" = 40') and be thirty-two inches (32") long and twenty-two inches (22") wide and contain a North arrow in the upper left corner (a Master Plan could be of other scale).
    - (2) Contain a title block in the lower right corner, including the name of the surveyor, designer, and engineer, the name of the development, owner and applicant if other than the owner, the date and scale, the acreage and square footage of the development.
    - (3) Show both existing and proposed contours at two foot (2') intervals, by the use of solid and dotted lines.
    - (4) Show size and location of all underground utilities within and abutting the site.
    - (5) Show location and width of all proposed vehicular and pedestrian interior ways.
    - (6) Show location and number of spaces of proposed parking.
    - (7) Show location of all proposed buildings by type.
    - (8) Show location and size of all proposed utilities, as approved by the installing authority.
    - (9) Show location and type of retention/erosion control areas if necessary to meet drainage requirement.
    - (10) Show location of all monuments.
    - (11) Show the names of all abutters as determined from the most recent tax list.
    - (12) Show the proposed treatment of all open spaces.

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3. Note: ", and all parcels within 500 feet of proposed development" adopted 10-27-2004.

- (13) Show on a separate sheet building elevations.
- (14) Show on a separate sheet preliminary layout of building interiors.
- d) Submittal shall also include items required in Article IX Section D. Design Review Standards, as applicable. [**Added 10-27-2004** ]

The above elements may be shown on separate sheets.

10. Development standards. All developments proposed under this Section shall conform to the following standards:

- a) Minimum frontage: one hundred ten feet (110').
- b) Minimum front yard: thirty feet (30').
- c) Minimum side yard: twenty-five feet (25').
  - (1) Driveways may not be counted as side yards.
- d) Minimum Rear Yard: thirty feet (30').
- e) Maximum lot coverage by buildings: twenty-five percent (25%).
- f) Maximum Building, parking and travelway coverage: seventy percent (70%); eighty-five percent (85%) in the Town Center District.<sup>5</sup>
- g) Due to the wide range of soil content in the Town of Portsmouth, no on site sewerage system shall be considered completely adequate without attention being given to the existing soil analysis map as prepared by the U.S. Department of Agriculture Soil Conservation Service. No opinion pertaining to the adequacy of the proposed system can be given without written evidence of on-site soil exploration tests as required by the R.I. Department of Environmental Management. On site sewerage systems shall be approved by the Rhode Island Department of Environmental Management.
- h) Maximum Building Height: two and one-half (2 1/2) Stories, not to exceed thirty-five feet (35').
- i) Drainage. The developer shall provide for adequate drainage and shall further provide that the rate of runoff from the property shall not increase during construction or after completion of the development to the detriment of surrounding properties. If the retention of water is deemed necessary, then the retention areas shall be provided prior to construction of any buildings or the surfacing of any areas. The engineer shall submit on separate sheets all computations in determining rates of runoff and shall base all calculations on a ten (10) year storm frequency using the TR-55 method for determining total storm water runoff. These computations shall be prepared by an engineer registered in the State of Rhode Island and he shall affix his seal to the required documents.

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4. Note: 85% in the Town Center District adopted 10-27-2004.

- j) Sewage system. Public sanitary sewers shall be designed so as to ensure a self-cleaning velocity of not less than two and one-half feet (2.5') per second nor more than ten feet (10') per second. Computation of sewage and sewage flow calculation shall be submitted.
- k) Water. Computation of water usage shall be submitted and a statement of water availability shall be submitted. Written evidence of permission to connect to a public water supply shall be delivered to the Building Inspector prior to issuance of a building permit.
- l) (Reserved)<sup>6</sup>
- ~~m) Open space shall be provided in appropriate places and every effort shall be made to preserve wooded areas or other site amenities.~~
- n) All interior roadways and parking areas shall be constructed in accordance with the "construction standards for streets" contained in Land Development and Subdivision Regulations of the Town of Portsmouth.<sup>7</sup> **[Added 10-27-2004 ]**
- o) Access and egress. There shall be not more than one (1) entrance and one exit for every five hundred feet (500') or less of frontage. Said entrance and exit shall meet the requirements of the State of Rhode Island Department of Roads and Bridges and the Portsmouth Police and Highway Departments.
- p) Acceptable engineering standards shall prevail where no standards are specified.
- q) Fire lanes shall be provided for and approved by the Fire Department.
- r) Outdoor display areas. Exterior display areas shall be permitted only where clearly depicted on the approved site plan. All exterior display areas shall be adequately separated from motor vehicle routes by a physical barrier visible to drivers and pedestrians. Display areas on building aprons must maintain an adequate minimum walkway width between the display items and any vehicle drives. **[Added 2-4-2008 ]**

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5. Note: Effective 10-15-1997, Article VII Section G.10.1) is deleted. All parking requirements related to retail development are in Article IX. Deleted wording was: "Parking shall be provided for in accordance with Article IX. Section A, Parking. There shall be no parking within 25' of any lot line. Cross-section of travel and parking areas shall be provided on the site plan."

6. Editor's Note: See Ch. 236, Land Development and Subdivision Regulations.

Merchandise may not be displayed or stored in parking areas or on sidewalks adjacent to facade walls, except in screened display, sales, and storage areas, except short term seasonal events as approved by the Building Inspector.

Display, sales, and storage areas, such as nursery departments, must be enclosed by screening with a solid base with a minimum height of three feet (3') under a wrought iron or tubular steel fence (black or green vinyl coated only) with a minimum height of five feet (5'). The screening may also be composed of materials and colors matching the main building. No merchandise other than trees may be visible above the screening from eye level at grade.

These provisions shall not be applicable where the sale of nursery and agricultural products are the principal use of the building.

11. The foregoing development standards including but not limited to parking, open space, building design and location and other standards set forth herein and in Article IX may be modified and/or varied by the Zoning Board of Review upon a finding that such modifications comply with the requirements set forth in Section A paragraph 4 herein.

e. Sales places for flowers, garden supplies, agricultural produce partly or wholly outdoors including commercial greenhouses.

1. The storage area(s) shall be completely enclosed by a solid fence or wall a minimum of 5 feet and a maximum of 30 feet in height, including ingress and egress. Fences or walls along the front or corner side lot line shall be set back a minimum of 20 feet.
2. Storage of any kind is prohibited outside the fence or wall.
3. The storage areas shall be located in the rear of the lot. Any structures shall be located in front of the storage area to obscure the view of the storage from street(s), in compliance with the front yard of the underlying zoning district.
4. Where the use abuts a residential use or zoning district, there shall be a 20 ft. setback from each such lot line abutting any residential use or zoning district.

6. Automotive and Drive-In Retail

a. Boat Repair Shops

1. All repair, service, and sales and/or leasing operations shall be performed within a fully enclosed building. All equipment and parts shall be stored indoors.
2. Boat services establishments shall be screened along interior side and rear lot lines with a solid wall or fence, a minimum of six feet and a maximum of eight feet in height.
3. No boats shall be stored and no repair and/or service work shall be conducted in the public right-of-way.
4. There shall be a ten (10)-foot landscaped buffer along any lot line abutting a street, excluding driveways, which shall include one shrub(s) per three (3) linear feet along said lot line a minimum of three (3) feet in height at time of planting, as well as one street trees for every five of linear feet along said lot line.

5. The site shall otherwise comply with landscaping requirements of the Land Development and Subdivision Regulations.
  6. No access driveway may exceed 25 feet in width. For a corner lot, curb cuts are restricted to one curb cut per street frontage.
- b. Paint and body shops, provided all work is carried out within the building.
1. All repair, service, and sales and/or leasing operations shall be performed within a fully enclosed building. All equipment and parts shall be stored indoors.
  2. Vehicle services establishments shall be screened along interior side and rear lot lines with a solid wall or fence, a minimum of six feet and a maximum of eight feet in height.
  3. No partially dismantled, wrecked, or unlicensed vehicles shall be stored outdoors on the premises. This standard does not apply to vehicles under repair and/or service.
  4. No motor vehicles shall be stored and no repair and/or service work shall be conducted in the public right-of-way.
  5. There shall be a 10-foot landscaped buffer along any lot line abutting a street, excluding driveways, which shall include one shrub(s) per three (3) linear feet along said lot line a minimum of three (3) feet in height at time of planting, as well as one (1) street tree for every five (5) linear feet along said lot line.
  6. The site shall otherwise comply with landscaping requirements of the Land Development and Subdivision Regulations.
- a. No access driveway may exceed twenty-five (25) feet in width. For a corner lot, curb cuts are restricted to one (1) curb cut per street frontage.

## 8. Accessory Uses

- a. 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.)
- b. Windmills and other wind power generating devices, whether commercial or otherwise.
  1. The applicant shall be required to provide evidence of liability insurance in an amount, and for a duration, sufficient to cover loss or damage to persons and property occasioned by the failure of the facility.
  2. No site plan for the installation of a wind energy facility shall be approved until evidence has been given that the electric utility company that operates the electrical grid where the facility is to be located has been informed of the customer's intent to install an interconnected customer-owned generator, and copies of site plans showing the proposed location have been submitted to the utility for review.
  3. Off-grid systems shall be exempt from this requirement, unless they are proposed to be located within setback distance from the sideline of an existing utility ROW.
  4. A wind energy facility that is no more than 36 feet tall and that generates no more than 100

kw of electricity and where said electricity is used exclusively for the power needs of the individual homeowner shall be allowed, provided that:

1. The facility may not produce more than 40 dB of noise during the day (as measured from 6:00 a.m. to 6:00 p.m.) and no more than 35 dB of noise during the evening (as measured from 6:00 p.m. to 6:00 a.m.).
  2. Small-unit turbines that exceed 36 feet in height shall be evaluated at the preapplication meeting with consultation from the Zoning Board of Review.
5. All windmills and wind turbines requiring a special use permit shall be in conformance with the following standards and requirements:
  - ii. Fall zone. The minimum fall zone shall be 200% of the height of the tower, plus one rotor length, or the manufacturer's recommendation, whichever is greater. The minimum fall zone and safety setback shall be contained within the applicant's property and/or property under control of applicant which is dedicated to the exclusive use of a fall zone by easement or other property interest which said property interest has a duration of least 20 years after the installation of the turbine. Easements and other instruments evidencing property interests are subject to the approval of the Town Solicitor.
  - iii. Noise and sound level. Noise levels shall not exceed a five dB increase over the ambient levels at the applicant's property boundary lines. The ambient sound shall be determined with preapplication acoustical testing of said sound levels at the property boundary lines, said testing to account for day and evening levels. If additional turbines are proposed on the same property in the future, the previously installed turbine noise levels shall not be included to raise the background and ambient noise levels for the new turbine evaluation. Said testing shall be at the applicant's expense.
  - iv. Shadow flicker. During the time of shadow flicker, the wind energy facility shall be shut down so as to eliminate any shadow flicker issues. The presence of shadow flicker effect shall be measured at the property boundary lines and at locations within 2,500 feet of the wind energy facility. Wind energy facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect will not have significant adverse impact on neighboring or adjacent uses.
  - v. Overspeed controls, brakes, ice detection. All wind turbines shall be equipped with an overspeed control system, braking mechanism, and ice detection sensors (or heated blades, as the case may be). These systems shall be of the latest proven technology available.
  - vi. Wildlife, bird migratory patterns to remain significantly unaffected. The wind energy facility shall not have an unreasonable adverse effect on birds, migratory patterns, rare, threatened, or endangered wildlife, significant wildlife habitat, rare, threatened, or endangered plants and rare and exemplary plant communities.
  - vii. Electrical components and interconnections. All electrical components of the wind energy facility shall conform to relevant and applicable local, state, and national codes, laws and regulations.
  - viii. Access. All ground-mounted electrical and control equipment and all access doors

to a wind turbine shall be labeled and secured to prevent unauthorized access. A wind tower shall not be climbable up to a minimum of 15 feet above the ground surface.

- ix. Co-location of external cellular and wireless equipment prohibited. To the extent that wind energy facility shall co-locate cellular or wireless communication equipment, said equipment shall be enclosed within the tower and not mounted externally. The applications for such uses shall be submitted as two separate and independent projects.
- x. Incorporation of latest technology in testing parameters and studies. The applicant shall incorporate the latest technology, testing parameters, and best management practices, including preapplication testing, that meet or exceed accepted industry standards into all studies and technical submissions provided in the application process.
- xi. Developer must provide calculations of potential hazards such as ice throw and blade throw in the event that such was to occur. These calculations shall be based on maximum governed speed of the blades releasing at the optimum angle for maximum distance.

c. Drive-in or drive-through facility, whether attended or unattended by an employee, that is accessory to the primary commercial use.

- 1. All drive-through facilities shall provide on-site stacking/queuing spaces. Stacking spaces provided for drive-through uses shall begin behind the vehicle parked at a final point of service, such as a service window or car wash bay (and does not include a menu board). Spaces shall be placed in a single line behind each lane or bay.
- 2. All drive-through lanes shall be located and designed to ensure that they do not adversely affect traffic circulation on adjoining streets. Drive-through lanes on corner lots shall not route exiting traffic into adjacent residential neighborhoods.
- 3. Drive-through facilities shall be:
  - a) screened along interior side and rear lot lines with a solid wall or fence, a minimum of six feet and a maximum of eight feet in height.
  - b) There shall be a ten (10)-foot landscaped buffer along any lot line abutting a street, excluding driveways, which shall include one shrub(s) per three (3) linear feet along said lot line a minimum of three (3) feet in height at time of planting. This standard does not apply to drive-through facilities within multi-tenant retail centers where the drive-through use does not abut lot lines.
- 4. An additional buffer of twenty (20) feet shall be provided along lot line adjacent to residential uses and zoning districts.
- 5. Speakers used for ordering and other service shall be located so as not to disturb or interfere with the use of neighboring properties, considering such property's type of use and Town standards for noise.

d. Solar

Portsmouth, RI 05/29/24  
Zoning Amendment Proposed for Adoption

1. See requirements in Article XX, Section E.