

THE CITY OF CRANSTON

ORDINANCE OF THE CITY COUNCIL

IN AMENDMENT OF CHAPTER 17 OF THE CODE OF THE CITY OF CRANSTON,
AS AMENDED, ENTITLED, "ZONING"

No. _____

Passed:

/s/ Daniel R. Wall, Council President

Approved:

/s/ Kenneth J. Hopkins, Mayor

It is ordained by the City Council of the City of Cranston as follows:

SECTION 1. Chapter 17 of the Code of the City of Cranston, as amended, entitled "Zoning" (the "Zoning Ordinance"), is hereby amended as follows with deletions in ~~red strikethrough~~ and insertions in underlined italics:

§ 17.04.030 Definitions.

"Buildable Lot"

means a lot meeting the requirements under the Zoning Ordinance, or having obtained relief therefrom, as well as the requirements of applicable federal, state, and local regulations.

"Critical facility"

means a structure or other improvement that; because of its function, size, service area, or uniqueness; has the potential to cause serious bodily harm, extensive property damage or disruption of vital socioeconomic activities if it is destroyed or damaged or if its functionality is impaired. Critical facilities include the following categories:

1. Structures or facilities that produce, use or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.
2. Hospitals, nursing homes and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood.
3. Police and fire stations, vehicle and equipment storage facilities and emergency operations centers that are needed for flood response activities.
4. Utility facilities that are vital to maintaining or restoring normal services ~~to flood areas~~.
5. Facilities which, if flooded, would cause loss of irreplaceable public records.

"Family day-care home"

means 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~~ four (4) or more individuals who are not relatives of the care giver, but may not contain more than a total of ~~eight~~ twelve (12) individuals receiving day care. This definition includes "group family daycare home" as defined in RIGL § 42-12.5-2. These programs shall be subject to yearly licensing as addressed in RIGL Chapter 42-12.5 and shall comply with all applicable state and local fire, health, and zoning regulations.

"Substandard lot of record"

means any lot lawfully existing at the time of adoption of the zoning ordinance of January 1, 1966 or any amendment thereof, or at the time it was lawfully created, and not in conformance with the dimensional and/or area provisions of that ordinance.

§ 17.04.070 Enforcement.

- A. Inspector of Buildings. The provisions of this chapter shall be enforced by the inspector of buildings. Qualifications of the inspector of buildings are defined in Section 9.07 of the charter. No application, permit, plan, specifications or intended use which is not in accordance with the provisions of this chapter shall be approved by the inspector of buildings.
- B. The zoning enforcement officer or agency shall, upon written request from the record owner of a lot or other person with a bona fide legal or equitable interest in a lot, issue a zoning certificate or provide information to the requesting party as to the determination by the official or agency within 20 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 pursuant to Chapter 17.116.

The requesting party has the right to appeal the determination made in the zoning certificate pursuant to Chapter 17.116.

§ 17.08.010. Zoning districts.

This zoning chapter divides the city into zoning use districts, which include overlay districts and floating zone districts. Regulations and standards are set forth for each land use, type of development or type of building or structure within each district. Zoning use districts are depicted by type and location on the zoning map.

For the purposes of this chapter, the city is divided into the following districts:

<u>Base Zoning Districts</u>	
Districts	Intended Primarily for the Use of
Residential A-80	Single-family dwellings on lots of minimum areas of 80,000 square feet.
Residential A-20	Single-family dwellings on lots of minimum areas of 20,000 square feet.

Residential A-12	Single-family dwellings on lots of minimum areas of 12,000 square feet.
Residential A-8	Single-family dwellings on lots of minimum areas of 8,000 square feet.
Residential A-6	Single-family dwellings on lots of minimum areas of 6,000 square feet.
Residential B-1	Single-family dwellings on lots of minimum areas of 6,000 square feet and two-family dwellings on lots of minimum areas of 8,000 square feet.
Residential B-2	Single-family dwellings on lots of minimum areas of 6,000 square feet, two-family dwellings on lots of minimum areas of 8,000 square feet, and multi-family dwellings (see formula in Section 17.20.090).
Commercial C-1	Office business.
Commercial C-2	Neighborhood business.
Commercial C-3	General business.
Commercial C-4	Highway business.
Commercial C-5	Heavy business, industry.
Industrial M-1	Restricted industry.
Industrial M-2	General industry.
Open space S-1	Uses containing high proportion of open space or natural character.
Educational Institution EI	Educational institutions and schools.
Government G	Government building or institution.
Planned districts	Uses in buildings arranged in an efficient, harmonious and convenient manner.

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<u>Planned Districts</u>	
<u>Districts</u>	<u>Intended Primarily for the Use of</u>
<u>Mixed-Use Planned district MPD</u>	<u>Development of special projects with a mix of commercial and residential uses</u>
<u>Residential Planned District RPD</u>	<u>Residential cluster development</u>

89

<u>Overlay Districts</u>	
<u>Districts</u>	<u>Intended Primarily for the Use of</u>

<u>Local Historic Overlay District (HOD)</u>	<u>Preservation of structures of historic or architectural value</u>
<u>Special Flood Hazard District (SFHA)</u>	<u>Development in special flood hazard areas</u>
<u>Transit Hub Overlay District (THOD)</u>	<u>Parking reduction for multifamily development near mobility hubs and frequent transit stops</u>

The descriptions above of the primary uses within each district are intended for the purposes of summary only. Reference should be made to the detailed use provisions hereinafter set forth. For the purposes of reference, the above districts may be referred to by symbols, excluding the terms "residential", "commercial," "industrial" or "open space." For the purposes of reference, the above districts may be referred to in this chapter as members of a class of districts in the following manner:

Residential districts refer to all of the following districts	A-80, A-20, A-12, A-8, A-6, B-1 and B-2
Commercial districts refer to all of the following districts	C-1, C-2, C-3, C-4 and C-5
Industrial districts refer to all the following districts	M-1 and M-2
Open space district	S-1
Institutional districts refer to all the following districts	EI and G
<u>Planned districts refer to all the following districts</u>	<u>MPD and RPD</u>
<u>Overlay districts refer to</u>	<u>HOD, SFHA, and THOD</u>

§ 17.08.020. District boundaries.

- A. Zoning Maps. The boundaries of zoning use districts are hereby established in a spatial database as part of Cranston's geographic information system (GIS) and shown on the maps entitled, "Zoning, City of Cranston, Rhode Island", adopted on [DATE OF ADOPTION BY CITY COUNCIL TO BE INSERTED] and as most recently amended (ZONING MAP), which are adopted as part of this chapter and which are on file in the office of the city clerk. All explanatory matter thereon is made part of this chapter.
- B. Amendments to Zoning Map.
 1. The zoning map and GIS database shall be updated within thirty (30) days of the following activities:

-
- 112
- 113 a. City council adoption of an amendment to zoning in accordance with Chapter
- 114 17.120. The GIS database shall contain the latest ordinance number of the
- 115 approved change.
- 116
- 117 b. Discovery of errors in the GIS zoning data, after notification to the city council.
- 118
- 119 2. Updated zoning map shall be electronically created in a widely accepted digital format
- 120 and a paper copy shall be printed. Said documents shall be stored in the office of the
- 121 city clerk.
- 122
- 123 C. Annual Zoning Map.
- 124
- 125 1. At the time the annual assessor maps are issued, an updated zoning map and GIS
- 126 database shall be electronically created in a widely accepted digital format and a paper
- 127 copy shall be printed. Said documents shall be stored in the office of the city clerk.
- 128
- 129 2. Each annual issuance of the zoning map shall reflect changes originating from:
- 130
- 131 a. City council adoption of an amendment to zoning in accordance with Chapter
- 132 17.120.
- 133
- 134 b. Discovery of errors in the GIS zoning data.
- 135
- 136 c. Parcel configuration changes or error corrections that have occurred on the
- 137 assessor maps, including subdivisions and merges.
- 138
- 139 3. A listing of the corrections and amendments required by subsection (a) and (b) above
- 140 shall be submitted to the city clerk annually with the zoning map. Notable error
- 141 corrections required by subsection c above shall also be included.
- 142
- 143 D. Public Rights-of-Way. Public rights-of-way and streets shall not have a zone and shall be
- 144 attributed in the GIS database with a zone of "none". Whenever any public right-of-way or
- 145 street is abandoned by official action, the zoning district adjoining the said right-of-way or
- 146 street shall be automatically extended to the new property line resulting from such
- 147 abandonment. All area included in the abandonment shall thereafter be subject to all
- 148 appropriate regulations of the extended district.
- 149
- 150 E. Property Lines. When the boundary lines are shown approximately on the location of the
- 151 existing property or lot lines and the exact location of the zoning boundaries is not indicated
- 152 by means of figures, distance or otherwise, the property or lot lines shall be the zoning
- 153 boundary line.
- 154
- 155 F. Shorelines and Center Lines. Boundaries indicated as following shorelines shall be
- 156 construed to follow the boundary lines of the jurisdiction of the city; boundaries indicated
- 157 as approximately following the center line of a creek, river, public utility or railroad right-
- 158 of-way shall be construed to follow such center lines.
- 159

- G. Other Boundaries. Boundaries indicated as parallel to or extensions of features indicated in subsections D and E above shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.
- H. Determination. Where the exact location of a boundary line cannot be determined under the subsections D, E and F above, the location of such line shall be determined by the inspector of buildings.
- I. To verify the zoning status of a property, an individual may obtain a certified copy of a hard copy of the zoning map from the city clerk. Certified copies shall be signed by the city clerk, shall include the date on which the copy was issued and shall be provided with a graphic scale, measurable when printed.
- J. Uncertified copies of the digital zoning layer may be provided for informational purposes only.

§ 17.08.030. Overlay Districts.

A. Local Historic Overlay District (HOD). See (Chapter 17.12)

B. Special Flood Hazard District. (SFHA) See (Chapter 17.16)

C. Transit Hub Overlay District (THOD)

1. District Boundaries

a. The boundaries of this overlay district shall be:

i. All lots within one-quarter ($\frac{1}{4}$) mile radius of an existing regional mobility hub; and

ii. All lots within one-eighth ($\frac{1}{8}$) mile radius of an existing frequent transit stop as such terms are defined in the 2020 Rhode Island transit master plan or its successor document.

b. These boundaries shall be measured using map data provided by the Rhode Island Geographic Information Systems and depicted on the zoning map.

2. District Standards

a. A minimum of one (1) off-street parking space per dwelling unit shall be required for multifamily dwellings in this district.

b. All other standards of the base zoning district and general development standards shall apply to lots in this district.

§ 17.20.020. Conditions for permitted uses.

- 208 A. The uses authorized in Section 17.20.030 are subject to all the applicable requirements in this
209 chapter. Certain categories of uses in Section 17.20.030 are permitted only in compliance
210 with additional performance standards articulated elsewhere in this chapter.
211
- 212 B. The following uses shall be permitted uses within all residential zoning use districts of a
213 municipality and all commercial zoning use districts except where residential use is
214 prohibited for public health or safety reasons:
215
- 216 1. Households.
217 2. Community residences.
218 3. Family day care homes.
219
- 220 C. Any time a building or other structure used for residential purposes, or a portion of a building
221 containing residential units, is rendered uninhabitable by virtue of a casualty such as fire or
222 flood, the owner of the property is allowed to park, temporarily, mobile and manufactured
223 homes, as the need may be, elsewhere upon the land, for use and occupancy of the former
224 occupants for a period of up to 12 months, or until the building or structure is rehabilitated
225 and otherwise made fit for occupancy. The property owner, or a properly designated agent of
226 the owner, is only allowed to cause the mobile and manufactured home, or homes, to remain
227 temporarily upon the land by making timely application to the local building official for the
228 purposes of obtaining the necessary permits to repair or rebuild the structure.
229
- 230 D. Appropriate access for people with disabilities to residential structures is allowed as a
231 reasonable accommodation for any person(s) residing, or intending to reside, in the residential
232 structure.
233
- 234 E. When used in this section, the terms "people with disabilities" or "member, or members, with
235 disabilities" means a person(s) who has a physical or mental impairment that substantially
236 limits one or more major life activities, as defined in RIGL § 42-87-1(5).
237
- 238 F. Adaptive Reuse.
239
- 240 1. Adaptive reuse for the conversion of any commercial building, including offices,
241 schools, religious facilities, medical buildings, mills, and malls into residential units or
242 mixed-use developments which include the development of at least 50% of the existing
243 gross floor area into residential units, shall be a permitted use.
244
- 245 2. Prohibitions. Adaptive reuse under this section shall not be allowed where:
246
- 247 a. Residential use is prohibited by environmental land use restrictions recorded on
248 the property by the state of Rhode Island Department of Environmental
249 Management or the United States Environmental Protection Agency;
250
- 251 b. In the M-1 and M-2 zoning districts, or a portion thereof, where residential
252 use is prohibited for public health and safety reasons which are based on
253 specific and detailed findings;
254
- 255 c. In any building previously used for industrial or manufacturing use(s),

which has not been vacant of an industrial use for less than one year prior to the submission of the permit or application for adaptive reuse.

3. Density.

- a. Provided that all minimum building, rehabilitation, and fire code requirements are met for all residential units, as applicable; and provided that, for projects with more than four residential units, not less than 10% of low- or moderate-income housing is provided, then no maximum density of residential units shall be prescribed.
- b. If less than 10% of low- or moderate-income housing is provided, then the allowable maximum density shall be less than 15 units per acre.

4. Dimensional Requirements.

- a. Building Envelope. The development shall be limited to the existing building envelope, except that the envelope is allowed to be expanded to accommodate upgrades of non-occupiable space related to the building and fire codes and utilities such as HVAC equipment, stairs, and elevators.
- b. Parking. A minimum of one off-street parking space for the first two bedrooms of any dwelling unit shall be provided and one additional parking space per additional bedroom.
- c. Existing Setbacks. Existing building setbacks shall remain and shall be considered legal nonconforming, but no additional encroachments shall be permitted into any nonconforming setback, unless relief is granted by the applicable authority.
- d. Height. For adaptive reuse projects, the height of the existing structure, if it exceeds the maximum height of the zoning district, may remain and shall be considered legal nonconforming, and any non-occupiable rooftop construction such as HVAC equipment and stairs or elevator towers, but excluding rooftop decks, shall be included within the height exemption.

- 5. Water and Sewer. The development shall have access to public water and sewer services or shall have access to adequate private water, such as a well(s) and and/or on-site wastewater treatment system(s) approved by the relevant state agency.

- G. Manufactured homes, as defined in Section 17.04.030, that comply with RIGL § 23-27.3-109.1.3 shall be allowed as a type of single-family home on any lot zoned for single-family use. Such home shall comply with all dimensional requirements of a single-family home in the district.

§ 17.20.040. Conformance to district regulations required.

A. Subdivision of Land.

1. Minor and major subdivisions of land, as defined by the city of Cranston Subdivision Regulations, as amended, shall not be approved unless all buildable lots are in conformity with the minimum lot area and minimum lot width and frontage as per Section 17.20.120, Schedule of intensity regulations.
2. Administrative subdivisions of land, as defined by the city of Cranston Subdivision Regulations, as amended, shall not be approved unless all buildable lots are in conformity with the minimum lot area and minimum lot width and frontage as per Section 17.20.120, Schedule of intensity regulations, unless the proposal results in the reduction of existing nonconformities and/or does not create or intensify any nonconformity.

~~B. Development Proposals:~~

- ~~1. Primary structures shall be permitted on substandard lots of record unless said lot is merged to form a conforming lot per Section 17.88.010 (Substandard lots of records and lot mergers), and provided that the lot has sufficient accommodations for vehicular access including that required for emergency vehicles as determined by the fire chief or his/her designee. Such proposals shall not require conformance with minimum lot area, lot width, lot depth, or lot frontage of the zoning district the lot is located in. Instead, the following applies:~~
 - ~~a.~~
 - ~~i. If there is a zoning district in which the subject lot conforms to the minimum lot size requirements listed in Section 17.20.120, the lot shall comply with the building setback, lot frontage, and lot width requirements for said zoning district.~~
 - ~~ii. If the subject lot is not conforming as to lot area in any zoning district, the setback, frontage, and/or lot width requirements for a structure subject to this section and Section 17.88.010 shall be reduced by the same proportion as the lot area of the substandard lot is to the minimum lot requirement of the zoning district in which the lot is located.~~
 - ~~b. Maximum lot building coverage for lots that are nonconforming in area shall be increased by the inverse proportion that the area of such substandard lot meets the minimum area requirements in the district in which the lot is located.~~
- ~~2. All proposals exceeding such reduced requirement shall proceed with a modification request under Section 17.20.130, or a dimensional variance request under Section 17.92.010, whichever is applicable.~~
- ~~3. Accessory structures may be permitted on substandard lots of record, in accordance with Chapter 17.60, Accessory Uses, and shall not require conformance with minimum lot area and lot width and frontage.~~
- ~~4. Additions, expansions or renovations to existing structures on substandard lots of record that do not result in a required increase of minimum lot area per Sections 17.20.090, Specific requirements and 17.20.120, Schedule of intensity regulations may be permitted and shall not require conformance with minimum lot area and lot width and frontage. Additions, expansions or renovations which result in a required increase in the minimum lot area per Section 17.20.090, Specific requirements and Section 17.20.120, Schedule of intensity regulations shall require conformance with minimum lot area and lot width and~~

frontage.

~~E.~~ B. Changes of Use.

1. Changes of use which result in a required increase in minimum lot area per Sections 17.20.090, Specific requirements and 17.20.120, Schedule of intensity regulations shall require conformance with minimum lot area and lot width and frontage.
2. Changes of use which do not result in a required increase in minimum lot area per Sections 17.20.090, Specific requirements and 17.20.120, Schedule of intensity regulations shall not require conformance with minimum lot area and lot width and frontage.

No exemption in this section shall be meant to provide relief from any other section of the zoning code.

§ 17.20.130. Modifications.

A. The building official is empowered to hear and grant modifications. Submission requirements for applications for such modifications shall be in accordance with Section 17.20.120 provided that references to the zoning board shall refer to the building official.

B. Dimensional Modifications:

1. A dimensional modification may be requested for adjustments or deviations not exceeding 25% of any of the dimensional requirements specified herein.
2. A dimensional modification of 5% or less shall be permitted by the building official, subject to the criteria of subsection ~~E~~ B.5. of this section, without requiring any notice as detailed in subsection ~~E~~ B.3. of this section.
3. Prior to ruling on a dimensional modification of more than 5% and less than 25% of any dimensional or quantitative requirements of this chapter, the building official shall give notice in the same manner as would be given for a variance application, pursuant to the Section 17.108.070 requirements, by first class mail, to all property owners within a 400-foot radius and publish in a newspaper having local circulation in the city of Cranston that he or she is considering such modification, the location of property in question, the nature of the proposed modification, a statement that such modification may be granted by the building official if no objection by anyone who is entitled to notice under this section is received within 14 days, and an invitation to allow any member of the public to inspect plot plans and application forms during normal working hours at the city hall.
4. If one or more written and duly signed objections are received by the building official within 14 days of the date of such public notice, the modification shall forthwith be filed with the zoning board of review, or, where unified development review is enabled, the City Plan Commission, if the applicant so desires, as a request for a dimensional variance in accordance with the provisions of Sections 17.108.070 and 17.108.080 or Chapter 17.86, as applicable, and the building official shall have no further role in deciding the case.

5. If there are no objections within the specified time period as provided in subsection ~~C~~
B.3 above, the building official shall render a decision no later than 14 days after the
date of the public notice. The following determination shall be made by the building
official.

- a. The modification requested is ~~s~~ minimal to a reasonable enjoyment of the permitted
use to which the property is supposed to be devoted;
- b. If the modification is granted, neighboring property will neither be substantially
injured nor its appropriate use substantially impaired;
- c. The modification requested is in harmony with the purposes and intent of the
comprehensive plan and zoning ordinance of the city; and
- d. The modification requested does not require a variance of a flood hazard
requirement.
- e. The modification requested does not violate any rules or regulations with respect
to freshwater or coastal wetlands.

6. If the petitioner is aggrieved by a decision of the building official said petitioner may
file an application for dimensional variance to the zoning board ~~of~~ of review in
accordance with Section 17.108.080.

C. Neighborhood character-based modifications (“NCBM”).

1. The zoning enforcement officer is authorized to grant NCBM on any parcel with a public
water and sewer connection, and for purposes of residential use, provided that:

a. Such modifications shall only be granted for dimensional relief from frontage, lot
width, and lot depth, up to the average dimensions of the comparable existing built
environment;

b. The average dimensions of the comparable existing built environment shall be
calculated as follows:

i. Comparable existing parcels shall mean all parcels that are:

- 1) Within two hundred feet (200') of the subject property; and
- 2) In the same base zone; and
- 3) Used for residential purposes.

ii. The average dimensions shall be confirmed by a professional land surveyor.

- 447 iii. The average dimensions are to be determined without any additional review of
448 zoning or building code analysis of the legality of the existing dimensions of the
449 comparable existing parcels.
- 450
- 451 2. Within ten (10) days of the receipt of a request for NCBM, the zoning enforcement officer
452 shall make a decision as to the suitability of the requested modification based on the same
453 determinations set forth in subsection B.5 of this section.
- 454
- 455 3. Upon an affirmative determination, in the case of an NCBM modification of equal to or
456 less than thirty percent (30%) of the requirements of the zoning district, the zoning
457 enforcement officer shall have the authority to issue a permit approving the modification,
458 without any public notice requirements.
- 459
- 460 4. In the case of an NCBM modification of greater than thirty percent (30%), the zoning
461 enforcement officer shall notify, by first class mail, all property owners abutting the
462 property which is the subject of the NCBM modification request, and shall indicate the
463 street address of the subject property in the notice, and shall publish in a newspaper of
464 local circulation that the modification will be granted unless written objection is received
465 within fourteen (14) days of the public notice.
- 466
- 467 5. If written objection is received from any party entitled to notice under this section within
468 fourteen (14) days, the request for a modification shall be scheduled for the next available
469 hearing before the zoning board of review, or, where unified development review is
470 enabled, the City Plan Commission, on application for a dimensional variance following
471 the standard procedures for such variances, including notice requirements provided for
472 under the applicable provisions of the Zoning Ordinance or Subdivision and Land
473 Development Regulations.
- 474
- 475 6. If no written objections are received within fourteen (14) days, the zoning enforcement
476 officer shall grant the modification. The zoning enforcement officer may apply any special
477 conditions to the permit as may, in the opinion of the officer, be required to conform to the
478 intent and purposes of the zoning ordinance.
- 479
- 480 D. The zoning enforcement officer shall keep public records of all requests for modifications, and
481 of findings, determinations, special conditions, and any objections received.
- 482
- 483 E. Costs of any notice required under this section shall be borne by the applicant requesting the
484 modification.
- 485

486 **§ 17.60.010. Accessory uses.**

487

- 488 A. Permitted Residential Accessory Uses. Accessory uses, including private garages and private
489 marinas in a residential district are permitted which:
- 490
- 491 1. Are clearly incidental and subordinate to and customarily associated with the principal
492 residential use;
- 493
- 494 2. Are operated and maintained under the same ownership and on the same lot as the

principal use;

3. Do not include residential occupancy, except as an accessory dwelling unit conforming with Section 17.24.010;
4. Specifically include but are not limited to the sale at retail of farm, garden or nursery products raised on the premises;
5. Home occupations and professional home office or studio in accordance with Section 17.24.010.

B. Location of Residential Accessory Building. A building accessory to a dwelling, including an attached or detached garage or carport, shall not be located in any required front or corner side yard, shall not be located within 10 feet of any rear lot line in A-80, A-20 and A-12 zoning districts and shall not be located within five feet of any rear lot line in A-8, A-6, B-1 and B-2 zoning districts. Accessory buildings may be located within a required side yard as follows:

1. In residential district A-80 to within 15 feet of a side lot line;
2. In residential district A-20 to within 10 feet of a side lot line;
3. In residential district A-12 to within eight feet of a side lot line;
4. In residential district A-8 to within five feet of a side lot line;
5. In residential district A-6 to within five feet of a side lot line;
6. In residential district B-1 to within five feet of a side lot line;
7. In residential district B-2 to within five feet of a side lot line.

C. Private Garages and Parking Spaces in Residential Districts. Any private garage or parking space in a residential district when used for boat or vehicle storage shall be occupied only by boats or vehicles owned and operated by the residents of the dwelling on the same lot except that one private garage may be occupied by the boat or vehicle of a nonresident owner. Vehicles other than passenger vehicles and school buses having a capacity of more than one ton or having three or more axles, shall be prohibited from being stored or garaged in residential districts.

D. Swimming Pools. A private swimming pool is declared to be an accessory use in a residential district and shall conform to the appropriate side, front and rear yard requirements of the particular residential district in which it is located; provided, however, that any filter and pump shall be located not less than 15 feet from the side yard line.

E. Open Space District Accessory Uses. Any single-family dwelling unit located on an undivided tract of land used for any purpose permitted within an S-1 district shall be considered an accessory use to the permitted use. It shall comply with intensity regulations provided for

single-family dwellings in the A-80 district, as provided in Section 17.20.030 and the building accessory to such residential use shall comply with this section.

- F. Marinas. Marinas shall be considered as an accessory use. When no other use is associated with a marina, the principal use shall be considered to be a sales room for the display of vehicles, trailers, boats and machinery.
- G. Temporary Uses Permitted. A temporary building or yard for construction materials or equipment and a temporary office for the sale or rental of real property, if in connection with an incidental and necessary to a real estate development, shall be permitted in any district; provided, that any building permit issued for any such use shall be valid for not more than six months and may not be extended more than three consecutive times.
- H. Sheds. Sheds shall be considered accessory uses. Sheds may be free-standing or attached to another structure, containing no utilities except electricity. Sheds shall be one level, the maximum area being 192 square feet, with no dimension greater than 16 feet.

Accessory Buildings and Structures Setbacks			
Zoning District	Maximum Lot Coverage (%) [*]	Minimum Side Yard Setback (ft.)	Minimum Rear Yard Setback (ft.)
S-1, A-80	10%	15	10
A-20	20%	10	10
A-12	30%	8	10
A-8	30%	5	5
A-6	30%	5	5
B-1	35%	5	5
B-2	35%	5	5
B-2 (multi-family)	50%	5	5

~~* Maximum lot coverage includes primary and accessory buildings. Uncovered structures such as pools and decks are not included.~~

Septic System Minimum Setbacks		
	General Building Sewer, Grease Tank, Distribution Box, Pump Tank, Septic Tank, Septic Tank Effluent Pipe (ft.)	Leach-field (ft.)
Swimming Pools		
In-Ground:	10	25
Above Ground:	10	10

563
564 **§ 17.86.020. Application process.**
565

- 566 A. An applicant shall file with the city plan commission's administrative officer an application
567 for variance(s) and/or special-use permit(s) along with an application for the following project
568 categories:
569

570 1. Administrative Subdivision: As part of the application materials.
571

572 2. Minor Subdivision or Land Development Project. As part of the application materials
573 for the preliminary plan stage of review, or if combined, the first stage of review.
574

575 3. Development Plan Review. As part of the application materials for the preliminary plan
576 stage of review.
577

578 4. Major Subdivision or Land Development Project. As part of the application materials
579 for the master plan stage of review, or if combined, the first stage of review.
580

- 581 B. The administrative officer shall review the UDR application for completeness and for
582 compliance with this section. The time period for the administrative officer to certify as
583 complete or incomplete a UDR application shall be the same as the time period for certifying
584 the accompanying application for a subdivision, development plan review, or land
585 development project. The administrative officer's decision on a UDR application is
586 appealable in the same manner as an appeal from any other decision of the administrative
587 officer application.
588

589 **§ 17.86.040. Decision.**
590

- 591 A. The city plan commission shall approve, approve with conditions, or deny the request(s) for
592 variance(s) and/or special-use permit(s) before considering the project category application.
593 Approval of the variance(s) and/or special-use permit(s) shall be conditioned upon approval
594 of the final plan of the project category.
595

- 596 B. The city plan commission shall address the same findings of fact required to be addressed by
597 the zoning board of review and shall produce and record a written decision in the same manner
598 as the zoning board of review except that for subdivisions submitted under this section, if an
599 applicant seeks relief from the dimensional requirements as part of its proposed subdivision,
600 the standard in RIGL § 45-24-41(d)(2) shall not apply to prohibit the granting of the relief.
601

- 602 C. The time periods by which the city plan commission shall render a decision for variance(s)
603 and/or special-use permit(s) shall be the same as the time periods by which the city plan
604 commission shall render a decision on the applicable stage of review of the underlying type
605 of project under review.
606

607 **§ 17.88.010. Substandard lots of record and lot mergers.**
608

- 609 A. ~~"Substandard Lots of Record" Defined. A "substandard lot of record" is a lot which does not~~
610 ~~satisfy one or more dimensional requirements set forth in Section 17.20.120, but which was~~

~~shown on a plat or deed recorded prior to January 1, 1966 or an approved plat recorded after January 1, 1966 which has otherwise been legally created and which has not been altered to become more nonconforming since its creation, except by approval of the city plan commission.~~ Development on substandard lots of record.

1. Primary structures shall be permitted on substandard lots of record unless said lot is merged to form a conforming lot per subsection B of this section, and provided that the lot has sufficient accommodations for vehicular access including that required for emergency vehicles as determined by the fire chief or his/her designee. Such proposals shall not require conformance with minimum lot area, lot width, lot depth, or lot frontage of the zoning district the lot is located in. Instead, the following applies:

a. If there is a zoning district in which the subject lot conforms to the minimum lot size requirements listed in Section 17.20.120, the lot shall comply with the building setback, lot frontage, and lot width requirements for said zoning district.

b. If the subject lot is not conforming as to lot area in any zoning district, the setback, frontage, and/or lot width requirements for a structure subject to this section shall be reduced by the same proportion as the lot area of the substandard lot is to the minimum lot requirement of the zoning district in which the lot is located.

c. Maximum lot building coverage for lots that are nonconforming in area shall be increased by the inverse proportion that the area of such substandard lot meets the minimum area requirements in the zoning district in which the lot is located.

d. All proposals exceeding such reduced requirements shall proceed with a modification request under Section 17.20.130, or a dimensional variance request under Section 17.92.010, whichever is applicable.

2. Accessory structures may be permitted on substandard lots of record, in accordance with Chapter 17.60, Accessory Uses, and shall not require conformance with minimum lot area and lot width and frontage.

3. Additions, expansions or renovations to existing structures on substandard lots of record that do not result in a required increase of minimum lot area per Sections 17.20.090, Specific requirements and 17.20.120, Schedule of intensity regulations may be permitted and shall not require conformance with minimum lot area and lot width and frontage. Additions, expansions or renovations which result in a required increase in the minimum lot area per Section 17.20.090, Specific requirements and Section 17.20.120, Schedule of intensity regulations shall require conformance with minimum lot area and lot width and frontage.

B. Lot Mergers.

1. If two or more contiguous substandard unimproved or improved and unimproved lots of record are owned by the same person or entity as of January 1, 1966, or if one of any two abutting lots under common ownership by the same person or entity as of the same date is less than required for the district, such lots shall be considered to be combined and merged

to form conforming lots or to reduce the extent of dimensional nonconformance, unless the lot meets the exemption as outlined in subsection B.3 below. Contiguous substandard lots of record in the same ownership may be required to merge only to the extent necessary to create a lot that conforms to the dimensional requirements of the applicable zoning district. Once a conforming lot has been created through such merger, any remaining lot or lots shall not be deemed merged and shall retain their status as separate substandard lots of record.

2. In the event that there are multiple contiguous substandard lots of record with more than one way the lots could be merged, upon request of a zoning certificate, the zoning official shall determine which lots are merged. The determination shall be based upon factors including but not limited to the existing improvements on site, natural conditions, and/or the sum of the area and frontage of the substandard lots (those lots whose sum is closest to the minimum required in the underlying zoning district would be combined before lots with larger sums, all other conditions being equal).
 3. Lots having an area equal to or greater than 50% ~~parcels~~ of the lots of record within 200 feet of the subject lot, unless such lots have been formally and legally merged by way of a recorded plan or plat, need not be so combined, as confirmed by a compilation plan signed by a professional land surveyor and submitted to the zoning enforcement officer for confirmation through a request for a zoning certificate. Substandard lots of record that are merged shall be considered merged for the purposes of calculation of this provision. Non-buildable lots of record and lots with zoning designations other than the subject lot shall not be included in the calculation. Side corner lots and double frontage lots may qualify for this exemption by measuring from any of its available frontages, so long as that frontage becomes the primary front for the subsequent development of the lot. The zoning enforcement officer may require an applicant to submit proof of ownership, title and subdivision history of the subject lot and surrounding lots to make a proper determination.
- C. Where two or more lots are combined in accordance with this section, they may be regulated in accordance with Section 17.20.040, Conformance to district regulations required.
- D. Any substandard lot of record which is not merged to a contiguous substandard lot of record under common ownership to form a conforming lot shall be regulated in accordance with Section 17.20.040, Conformance to district regulations required.

§ 17.92.010. Variances.

- A. An application for relief from the literal requirements of a zoning ordinance because of hardship may be made by any person, group, agency or corporation by filing with the zoning enforcement officer or agency an application describing the request and supported by such data and evidence as may be required by the zoning board of review or by the terms of the ordinance. The zoning enforcement officer or agency shall immediately transmit each application received to the zoning board of review and shall transmit a copy of each application to the planning commission for their review and recommendation. For applications requiring zoning relief under unified development review, the administrative officer shall transmit a copy of the application to the City Plan Commission for review.

- 707 B. Applications for dimensional or use variances for properties undergoing review by the city
708 plan commission as a land development or subdivision project pursuant to Chapter 17.86 shall
709 be made through Unified Development Review process.
710
- 711 C. In granting a variance, the zoning board of review, or, where unified development review is
712 enabled, the City Plan Commission, shall require that evidence to the satisfaction of the
713 following standards be entered into the record of the proceedings:
714
- 715 1. That the hardship from which the applicant seeks relief is due to the unique characteristics
716 of the subject land or structure and not to the general characteristics of the surrounding
717 area; and is not due to a physical or economic disability of the applicant;
718
 - 719 2. That the hardship is not the result of any prior action of the applicant; and
720
 - 721 3. That the granting of the relief requested ~~variance~~ will not alter the general character of the
722 surrounding area or impair the intent or purpose of the zoning ordinance codified in this
723 title or the comprehensive plan upon which the ordinance is based.
724
- 725 D. The zoning board of review, or, where unified development review is enabled, the City Plan
726 Commission, shall, in addition to the above standards, require that evidence be entered into the
727 record of the proceedings showing that:
728
- 729 1. In granting a use variance the subject land or structure cannot yield any beneficial use if it
730 is required to conform to the provisions of the zoning ordinance. Nonconforming use of
731 neighboring land or structures in the same district and permitted use of lands or structures
732 in an adjacent district shall not be considered in granting a use variance; and
733
 - 734 2. In granting a dimensional variance, that the hardship that will be suffered by the owner of
735 the subject property if the dimensional variance is not granted shall amount to more than a
736 mere inconvenience, which shall mean that the relief sought is minimal to the reasonable
737 enjoyment of the permitted use to which the proposed property is devoted. The fact that a
738 use may be more valuable after the relief is granted shall not be grounds for relief. The
739 zoning board of review, or the city plan commission under unified development review
740 pursuant to RIGL §§ 45-24-46.4 and 45-23-50.1, shall have the power to grant dimensional
741 variances where the use is permitted by special-use permit.
742
- 743 E. In granting a variance relating exclusively to the construction of wireless service towers on
744 sites located in historic districts, the zoning board of review shall consider all of the following
745 criteria in addition to the other applicable criteria set forth in Sections 17.24.010 through
746 17.84.130.
747
- 748 1. Evidence of the lack of space on suitable existing towers, buildings or other structures to
749 co-locate the proposed antenna, cells, micro cells and the lack of space on existing tower
750 sites to construct a tower for the proposed antenna within the service area;
751
 - 752 2. Whether the wireless service provider will be unable to provide wireless services without
753 the tower site;
754

3. Whether the application represents a request for multiple use of a tower or site or use on a site contiguous to an existing tower site;
4. Whether the application contains a report that other potential uses of the site and tower have been contacted, and they have been contacted and they have no current plans, to the best of their ability to determine, that could be fulfilled by joint use;
5. Whether the application shows how the tower or site will be designated or laid out to accommodate future multiple users. Specific design features evaluated shall include but not be limited to height, wind loading and coaxial cable capacity.
6. Whether the proposed tower is to be located in an area where it would be unobtrusive and would not substantially detract from aesthetic or neighborhood character or property values, due either to location, shape of the tower (such as an imitation pine tree tower) or to the nature of surrounding uses (such as industrial use) or to lack of visibility caused by natural growth, landscaping or other factors.
7. Anything in the "hardship clause" to the contrary notwithstanding, for purposes of wireless service towers only, hardship sufficient for the granting of a variance shall include the effect upon the applicant's ability to provide wireless service.
8. The applicant shall have the duty of presenting evidence relating to the criteria set forth herein.

F. Any application submitted for a variance relating to the installation of signage that exceeds the maximum allowed area regulated by Section 17.72.010 signs; shall include as part of the submittal, an architectural elevation of the building drawn to scale with the proposed signage located on the building also correctly drawn to scale. Freestanding signs shall also be drawn to scale and accurately located on a scaled perspective drawing of the building and site. Photographs with superimposed photo shop images of the signs, or renderings with no scale, shall not be accepted in lieu of perspective drawings. Photographs of the site with superimposed photo shop images of the signs that are of an accurate scale, may be submitted in addition to the scaled perspective drawings.

G. Notwithstanding the provisions of subsections C and D of this section, the zoning board of review, or, where unified development review is enabled, the City Plan Commission, may also grant a variance or other form of zoning relief for the protection of a critical facility upon the finding that the property has been subject to or is at a reasonably foreseeable risk of vandalism, trespass, theft, or damage by extreme weather or climate change related disaster.

§ 17.92.030. Special conditions.

In granting a variance or in making any determination ~~upon which it is required to pass after a public hearing under a zoning ordinance~~ on appeal, the zoning board of review, or, where unified development review is enabled, the City Plan Commission, may apply such special conditions that may, in the opinion of the board, be required to promote the intent and purposes of the comprehensive plan and the zoning ordinance of the city, as codified in this title. Failure to abide by any special conditions attached to a grant shall constitute a zoning violation. Those 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. For a use variance only: Minimizing adverse impact of the development upon other land, including the type, intensity, design and performance of activities;
- B. Controlling the sequence of development, including when it must be commenced and completed;
- C. Controlling the duration of use or development and the time within which any temporary structure must be removed;
- D. Assuring satisfactory installation and maintenance of required public improvements;
- ~~E. Designating the exact location and nature of development; and~~
- ~~E.~~ E. Establishing detailed records by submission of drawings, maps, plate or specifications.

SECTION 2. This Ordinance shall take effect upon its final adoption.

Positive Endorsement:

Negative Endorsement: (Attach reasons)

Christopher T. Millea

Date

Christopher T. Millea

Date

City Solicitor

City Solicitor

Petition filed by:

Referred to Ordinance Committee: