

SECTION 1000.

ADMINISTRATION, ENFORCEMENT AND AMENDMENT

1001. Building official.

This ordinance shall be enforced by the building official acting in the name and on behalf of the City of Warwick. It shall be the duty of the building official to interpret and enforce the provisions of this ordinance in the manner and form and with the powers provided in the laws of the state and in the Charter and ordinances of the city. The building official shall refer all applications for variances, special use permits and other appeals to the zoning board of review. The building official shall make a determination in writing, within 15 days, to any written complaint received, regarding a violation of this ordinance. In order to provide guidance or clarification, the building official shall, upon written request, issue a zoning certificate or provide information to the requesting party within 15 days of the written request. Any determination of the building official may be appealed to the board in accordance with section 906.4 of this ordinance.

1001A. Identification of inspectors.

Inspectors of the building department shall wear such badges or insignia as may be prescribed by the ordinances of the city and shall, upon request, exhibit clear identification whenever it shall be their duty to visit private residences, buildings, or premises for the purposes of making any survey, examination or inspection. (Ord. No. O-95-1, § I, 2-13-95)

Editors Note: For purposes of classification, provisions designated as § 114.0 in Ord. No. O-95-1 have been redesignated by the editor as § 1001A.

1002. Building permits.

No building shall hereafter be erected, moved or structurally altered until a permit authorizing the same shall be issued by the building official.

- (A) The application for a permit for any building to be erected in an AE or VE zone of the flood hazard overlay district shall state the elevation of the first floor of the proposed building above the finished grade of the lot. In accordance with the Rhode Island State Building Code, the application shall also be accompanied by a Federal Emergency Management Agency (FEMA) National Flood Insurance Program (NFIP) elevation certificate prior to the issuance of a certificate of occupancy by the building official.
- (B) The building official may require the submission both of plans of any proposed machinery, operations, and products and of specifications for the mechanisms and techniques to be used in restricting the emission of dangerous and objectionable elements referred to in subsection 604. No applicant will be required to reveal any confidential processes and any information submitted will be treated as confidential if requested.

1003. Site plan/certificate of occupancy.

Before a building permit or certificate of occupancy is issued for the construction, reconstruction, alteration, repair, demolition, removal, enlargement or occupancy of any building or structure or use of

premises, a site plan shall be submitted to the building official indicating the intended use and its conformity in all respects to the provisions of this ordinance.

- (A) *Site plan.* An application (three copies) for a building permit for an addition, erection or enlargement, under the provisions of the Rhode Island State Building Code and all applicable state regulations, shall be accompanied by a site plan, drawn to scale, showing the accurate dimensions of the lot; the building site; the location and size of existing buildings on the lot; all proposed construction; all front, side and rear yard dimensions; proposed parking areas; and such other information as may be necessary to enforce the provisions of this ordinance. A site plan shall not be required with an application for a permit involving the alteration of an existing building(s), where the use and exterior dimensions of the buildings are not changed or enlarged in any manner.

- (B) *Certificate of occupancy.* A certificate of occupancy as required by the Rhode Island State Building Code shall be required for any of the following:
 - (1) Occupancy and use of a building hereafter erected or enlarged;
 - (2) Change in use of an existing building to a different use;
 - (3) Intensification of an existing use of either a building or land;
 - (4) Occupancy and use of vacant land except for the raising of crops;
 - (5) Change in the use of land to different use except for the raising of crops; or
 - (6) Any change in use of a nonconforming use.

- (C) [*Certificate of occupancy required prior to use or change of use.*] The occupancy, use or change of use shall not take place until a certificate of occupancy has been issued by the building official in accordance with the requirements for the issuance of a certificate of occupancy as stated in the Rhode Island Building Code.

1004. Interpretation.

In interpreting and applying the provisions of this ordinance, they shall be held to the minimum requirements adopted for the promotion of health, safety, comfort, convenience, or the general welfare.

1005. Conflicts of law.

All departments, officials and public employees of the city which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this ordinance and shall issue no permit or license for any use, building or purpose if the same would be in conflict with the provisions of this ordinance. Any permit or license, issued in conflict with the provisions of this ordinance, shall be null and void.

1006. Penalties and enforcement.

Any person or corporation, whether as principal, agent, employee or otherwise, who violates or is the owner of property in violation of any of the provisions of this ordinance shall be fined up to \$500.00 for each offense, such fine to inure to the city. Each day of the existence of any violation shall be deemed a separate offense. The erection, construction, enlargement, intensification, conversion, moving or maintenance of any building or structure and the use of any land or building or structure which is continued, operated or maintained contrary to any of the provisions of this ordinance is hereby declared to be a violation of this ordinance and unlawful. The building official shall be empowered to levy such fines, with appeal thereupon to the district court or the municipal housing court if so authorized. The city solicitor shall also be empowered to institute injunction, abatement or any other appropriate action in any appropriate court to prevent, enjoin, abate or remove such violation, or compel compliance with the provisions of this ordinance. The city solicitor may consolidate an action for injunctive relief and/or fines under this ordinance in the superior court for Kent County. The remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

1007. Adoption, amendment and administration of zoning ordinance.

1007.1. *Procedure.* Other than for proposals originated by the city council, the building official shall be the officer to receive a proposal for adoption, amendment, or repeal of a zoning ordinance or zoning map(s). Immediately upon receipt of such proposal, the building official shall refer such proposal to the city council, the director and the planning board for study and recommendation. If the proposal originates with the city council, the city council shall refer such proposal to the building official, the director and the planning board. The planning board shall report to the city council within 45 days after receipt of the proposal, giving its findings and recommendations. The city council shall hold a public hearing within 65 days of receipt of proposal, giving proper notice as prescribed herein. The city council shall render a decision on any such proposal within 45 days after the date of completion of the public hearing. The provisions of this subsection pertaining to deadlines shall not be construed to apply to any extension consented to by the applicant.

1007.2. *Review by planning board.* Among its findings and recommendations to the amendment or repeal of this ordinance or zoning map, the planning board shall:

- (A) Include a statement on the general consistency of the proposal with the comprehensive plan of the city, including the goals and policies statement, the implementation program, and all other applicable elements of the comprehensive plan; and
- (B) Include a demonstration of recognition and consideration of each of the applicable purposes of zoning as presented in section 100 of this ordinance.

1007.3. *Notice and hearing requirements.*

- (A) No zoning ordinance shall be adopted, repealed, or amended until after a public hearing has been held upon the question before the city council. The city council shall first give notice of such public hearing by publication of notice in a newspaper of general circulation within the city at least once each week for three consecutive weeks prior to the date of such hearing, which may include the week in which the hearing is to be held, at which hearing opportunity shall be given to all persons interested to be heard upon the matter to the proposed ordinance. Written notice,

which may be a copy of said newspaper notice, shall be mailed to the associate director of the division of planning of the Rhode Island department of administration, and, where applicable, to the parties specified in subsections (B), (C), (D) and (E) of this section, at least two weeks prior to the hearing. Such newspaper notice shall be published as a display advertisement, using a type size at least as large as the normal type size used by the newspaper in its news articles, and shall:

- (1) Specify the place of said hearing and the date and time of its commencement;
 - (2) Indicate that adoption, amendment or repeal of a zoning ordinance is under consideration;
 - (3) Contain a statement of the proposed amendments to the ordinance that may be printed once in its entirety, or summarize or describe the matter under consideration;
 - (4) Advise those interested where and when a copy of the matter under consideration may be obtained or examined and copied; and
 - (5) State that the proposal shown thereon may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any such alteration or amendment must be presented for comment in the course of said hearing.
- (B) Where a proposed general amendment to an existing zoning ordinance includes changes in an existing zoning map, public notice shall be given as required by subsection (1) [(A)] of this section.
- (C) Where a proposed amendment to an existing ordinance includes a specific change in a zoning district map but does not affect districts generally, public notice shall be given as required in subsection (1) [(A)] of this section, with the additional requirements that:
- (1) Notice shall include a map showing the existing and proposed boundaries, zoning district boundaries, and existing streets and roads and their names, and city boundaries where appropriate; and
 - (2) Written notice of the date, time and place of the public hearing and the nature and purpose thereof shall be sent to all owners of real property whose property is located within 200 feet of the perimeter of the area proposed for change, whether within the city or within an adjacent city of [or] town in which the property is located; provided however, if the subject property is zoned Residential A-40 or if more than 50 percent of the number of parcels which are residentially zoned land within the 200 foot radius of the subject property are zoned Residential A-40, then notice shall be sent to all property owners of record within 400 feet of the subject property.
- (D) Notice of a public hearing shall be sent by first class mail to the city or town council of any city or town to which one or more of the following pertain:
- (1) Which is located within 200 feet of the boundary of the area proposed for change; or

- (2) Where there is a public or quasipublic water source, or private water source that is used or is suitable for use as a public water source, within 2,000 feet of any real property that is the subject of a proposed zoning change, regardless of municipal boundaries.
- (E) Notice of a public hearing shall be sent to the governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water resource and/or surface watershed that is used, or is suitable for use, as a public water source and that is within 2,000 feet of any real property which is the subject of a proposed zoning change, provided, however, that the governing body of any state or municipal water company has filed with the building inspector in the city a map survey, which shall be kept as a public record, showing areas of surface water resources and/or watersheds and parcels of land within 2,000 feet thereof.
- (F) No defect in the form of any notice under this section shall render any ordinance or amendment invalid, unless such defect is found to be intentional or misleading.
- (G) Costs of any notice required under this section shall be borne by the applicant.
- (H) In granting a zoning ordinance amendment, the city council may limit the change to one or more of the permitted uses in the zone to which the subject land is rezoned, and impose such limitations, conditions and restrictions, including without limitation:
 - (1) Requiring the petitioner to obtain a permit or approval from any and all federal, state or local governmental agencies having jurisdiction over the land and use which are subject to the zoning change;
 - (2) Relating to the effectiveness or continued effectiveness of the zoning change; and/or
 - (3) Relating to the use of the land as it deems necessary.

1007.4. *Conditions and limitations.* The building official and the city clerk shall cause the limitations and conditions so imposed to be clearly noted on the zoning map and recorded in the land evidence records, provided, however, in the case of a conditional zone change, the limitations, restrictions, and conditions shall not be noted on the zoning map until the zone change has become effective. If the permitted use for which the land has been rezoned is abandoned or if the land is not used for the requested purpose for a period of two years or more after the zone change becomes effective, the city council may, after a public hearing as hereinbefore set forth, change the land to its original zoning use before such petition was filed. If any limitation, condition, or restriction in an ordinance amendment is held to be invalid by a court in any action, that holding shall not cause the remainder of the ordinance to be invalid.

1007.5. *Maintenance of zoning ordinance.* The city clerk shall be the custodian of this zoning ordinance and zoning map or maps created thereunder. The building official shall be responsible for maintenance and update of the text and zoning map comprising this ordinance. Changes which impact the zoning map shall be depicted on the map within 90 days of such authorized change(s). The planning department shall be responsible for review of this ordinance annually, and whenever changes are made to the comprehensive plan of the city, to

identify any changes necessary and forward these changes to the city council.

1007.6. *Publication and availability of zoning ordinance.* Printed copies of this ordinance and map(s) shall be available to the general public through the city clerk and the building official, and shall be revised to include all amendments. A reasonable charge may be made for copies to reflect printing and distribution costs.

1007.7. *Sending of copies of zoning ordinance.* Upon publication of this ordinance and map(s), and any amendments thereto, the city clerk shall send a copy, without charge, to the associate director of the division of planning of the department of administration of the State of Rhode Island, and to the state law library.
(Ord. No. O-00-36, § I, 9-26-00)

1008. Appeal of enactment of or amendment to zoning ordinance.

An appeal of the enactment of or an amendment to this ordinance may be taken to the superior court for Kent County by filing a complaint within 30 days after such enactment or amendment has become effective. The complaint shall set forth with specificity the area or areas in which the enactment or amendment does not conform with the comprehensive plan and/or the manner in which it constitutes a taking of private property without just compensation. Such appeal may be taken by an aggrieved party or by any legal resident or landowner of the city, or by any association of residents or landowners of the city. This appeal shall not stay the enforcement of the zoning ordinance, as enacted or amended, but the court may, in its discretion, grant a stay on appropriate terms, which may include the filing of a bond, and make such other orders as it deems necessary for an equitable disposition of the appeal.

1009. Vested rights.

(A) Any application for development under this ordinance, including an application for a building permit, special use permit, variance, planned development, or cluster development, shall be deemed substantially complete when all required documents, including plans, together with required fees, are received by the official designated herein to receive such applications. Required documents shall include only those documents specified either by this ordinance or by rules adopted and published by the permitting authority prior to the time the application is filed.

(B) Any application for development under this ordinance that is substantially complete prior to the enactment or amendment of this ordinance shall be reviewed according to the regulations applicable in the zoning ordinance in force at the time the application was submitted. If such application is approved, the applicant must begin construction, or exercise the right granted in the application if no construction is involved, not more than one year after the date of such approval. All construction must be completed not more than two years after the date of such approval, unless specifically set forth to the contrary in the original approval.

(C) Any building permit issued prior to the effective date of this ordinance or any amendment thereto may be activated within one year from the date of issuance. Any such permit for a use which by virtue of the adoption of this ordinance or any amendment thereto would become nonconforming may not be renewed if not activated within one year from the date of issuance.

1010. Effective date.

This ordinance is effective as of December 31, 1994.

1011. Severability.

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