

## SECTION 200.

### DEFINITIONS

In this ordinance words used in the present tense include the future, the singular includes the plural and the plural the singular. The word "used" includes "designed, intended or arranged to be used." The following terms for the purposes of this ordinance are defined as follows:

200.1. *Abutter*. One whose property abuts, that is, adjoins at a border, boundary, or point with no intervening land.

200.2. *Accessory family dwelling unit*. An accessory dwelling unit for the sole use of one or more members of the family of the occupant or occupants of the principal residence, and shall not have a separate means of ingress and egress.

200.3. *Accessory use*. A use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building. An accessory use may be restricted to the same lot as the principal use. An accessory use shall not be permitted without the principal use to which it is related.

200.4. *Actual use*. The specific use to which a building or property is put. This term shall not be taken as referring to the category of uses allowed in any zone (i.e., all residential, commercial or industrial uses), but rather to a single type of such use listed in the same numerical subcategory within table 1, Use Regulations.

200.5. *Adjacent lots*. Two or more lots of record which have one or more common boundary on the same side of the street.

200.6. *Adult entertainment*.

- (A) Any commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. This shall also include any commercial establishment which regularly features persons who appear in a state of nudity or seminude, or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.
- (B) Any bookstore, novelty store, video store, or any commercial establishment in which more than 25 percent of the in-store inventory contains, for sale or rental only, for any form of consideration, any one or more of the following:
  - (1) Books, magazines, periodicals, or other printed material, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

- (2) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.
- (C) Specified anatomical areas:
  - (1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
  - (2) Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the areola.
- (D) "Specified sexual activities" means any of the following:
  - (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
  - (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy.

An adult entertainment business may have other principal purposes that do not involve the activities or materials described above. However, such purposes shall not have the effect of exempting the commercial businesses from being categorized as adult entertainment so long as the depiction or description of specified sexual activities or specified anatomical areas remains one of the principal purposes.

200.7. *Aggrieved party.* An aggrieved party, for purposes of this subsection, shall be:

- (a) Any person or persons or entity or entities who can demonstrate that their property will be injured by a decision of the building official; or
- (b) Anyone requiring notice pursuant to this ordinance.

200.8. *Airport.* Theodore Francis Green Airport, located in the City of Warwick, Rhode Island.

200.9. *Airport hazard.* Any overhead power line which interferes with radio communication between the airport and aircraft approaching or leaving same, or any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at the airport or is otherwise hazardous to the landing or taking off of aircraft.

200.10. *Airport hazard area.* Any area of land or water upon which an airport hazard might be established if not prevented as provided in G.L. 1956, ch. 3 (Airport Zoning Act), as amended.

200.11. *Antenna.* Equipment designed to transmit or receive electronic signals.

200.12. *Apartment hotel.* A building or portion thereof used for or containing both rooming units and dwelling units and where additional services such as restaurants, meeting rooms and recreational facilities may be provided.

200.13. *Applicant.* An owner or authorized agent of the owner submitting an application or appealing an action of any official, board or agency of the city.

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

200.15. *Auto body shop.* A building or portion of a building in which repairs, including body repair, painting or priming, are performed on automobile, truck or motorcycle bodies or chassis.

200.16. *Basement.* That portion of a building which is partly or completely below grade.

200.17. *Block frontage.* All the property fronting on one side of a street between intersecting or intercepting streets or between a street and right-of-way, waterway, end of dead-end street or city boundary measured along the street line.

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

200.19. *Building.* Any structure used or intended for supporting or sheltering any use or occupancy.

200.20. *Building, accessory.* A subordinate building that is located on the same lot as a principal building and that is used incidentally to a principal building or that houses an accessory use. Where a substantial part of the wall of an accessory building is part of the wall of the principal building or where an accessory building is attached to the principal building in a substantial manner as by a roof, such accessory building shall be counted as part of the principal building.

200.21. *Building, detached.* A building having no party wall in common with another building.

200.22. *Building, principal.* The primary building on a lot or a building that houses a principal use.

200.23. *Building, semi-detached.* A building having one party wall in common with an adjoining building.

200.24. *Building envelope.* The three-dimensional space within which a structure is

permitted to be built on a lot and which is defined by regulations governing building setbacks, maximum height, and bulk; by other regulations; and/or any combination thereof.

200.25. *Building frontage*. The width of a building abutting or parallel to the street line.

200.26. *Building height*. The vertical distance from grade, as determined by the municipality, to the top of the highest point of the roof or structure. The distance may exclude spires, chimneys, flagpoles, and the like.

200.27. *Building official*. The building inspector of the City of Warwick, who is also the zoning enforcement officer.

200.28. *Carport*. A shelter for one or more vehicles which is not fully enclosed by walls and one or more doors.

200.29. *Carwash*. A lot on which motor vehicles are washed or waxed, either by the patron or by others, using machinery specially designed for such purpose.

200.30. *Cemetery*. Land used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

200.31. *Certificate of completeness*. A notice issued by the building official informing an applicant that the application is complete and meets the requirements of the city's regulations, and that the applicant may proceed with the approval process.

200.32. *Cesspool company*. A business enterprise engaged in pumping out or removal of sewage and sewage effluent from septic tanks, cesspools and other underground storage of liquid wastes for disposal at a sewage treatment plant, using trucks designed for that purpose.

200.33. *City*. The City of Warwick, Rhode Island.

200.34. *Cluster*. A site planning technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space, and/or preservation of environmentally, historically, culturally, or other sensitive features and/or structures. The techniques used to concentrate buildings shall be specified in the ordinance and may include, but are not limited to, reduction in lot areas, setback requirements, and/or bulk requirements, with the resultant open land being devoted by deed restrictions for one or more uses. Under cluster development there is no increase in the number of lots that would be permitted under conventional development except where ordinance provisions include incentive bonuses for certain types or conditions of development.

200.35. *Clinic*. A place where medical or dental care is furnished to persons on an outpatient basis by doctors, clinical psychologists, dentists, physician's assistants, nurses and such other medical professionals licensed or regulated by the State of Rhode Island.

200.36. *Coastal features.* Coastal features that encompass the entire shoreline and consist of beaches and dunes, barrier beaches, coastal wetlands, coastal cliffs, bluffs and banks, rocky shores and manmade shorelines the prerequisites and classifications of which are defined within the State of Rhode Island Coastal Resources Management Program, as amended.

200.37. *Coin-operated amusement devices.* Any machine, which upon the insertion of a coin, slug, token, plate or disc may be operated by the public generally for use as a game of amusement, whether or not registering a score and whether its operation demands skill or chance or both. It shall include such devices as marble machines, mechanical grab machines, video or computer-type games, air games and all games, operations or transactions similar thereto under whatever name they may be called.

200.38. *Common ownership.* Either:

- (1) Ownership by one or more individuals or entities in any form of ownership of two or more contiguous lots; or
- (2) Ownership by any association (such ownership may also include a municipality) of one or more lots under specific development techniques.

200.39. *Community center.* A building or group of buildings whose sole purpose is to house a nonprofit service, fraternal, or sectarian organization including administrative offices, child and elderly programs, recreation and assembly.

200.40. *Community residence.* A home or residential facility where children and/or adults reside in a family setting and may or may not receive supervised care. This shall not include halfway houses or substance abuse treatment facilities. This shall include, but not be limited to the following:

- (a) Whenever six or fewer retarded children or adults reside in any type of residence in the community, as licensed by the state pursuant to G.L. 1956, § 40.1-24-1 et seq. All requirements pertaining to local zoning are waived for these community residences;
- (b) A group home providing care or supervision, or both, to not more than eight mentally disabled or mentally handicapped or physically handicapped persons, and licensed by the state pursuant to G.L. 1956, § 40.1-24-1 et seq.;
- (c) A residence for children providing care or supervision, or both, to not more than eight children including those of the caregiver and licensed by the state pursuant to G.L. 1956, § 42-72.1-1 et seq.;
- (d) A community transitional residence providing care or assistance, or both, to no more than six unrelated persons or no more than three families, not to exceed a total of eight persons, requiring temporary financial assistance, and/or to persons who are victims of crimes, abuse, or neglect, and who are expected to reside in

that residence not less than 60 days nor more than two years. Residents will have access to and use of all common areas, including eating areas and living rooms, and will receive appropriate social services for the purpose of fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

200.41. *Comprehensive plan.* The comprehensive community plan of the City of Warwick, adopted and approved pursuant to G.L. 1956, § 45-22.2-1 et seq., and to which this ordinance shall be in compliance.

200.42. *Council.* The city council of the City of Warwick, Rhode Island.

200.43. *Congregate elderly housing.* A form of elderly housing in which each individual or two person family is provided with separate quarters which contain living and sleeping space and which may contain kitchen and bath facilities. Each such living space shall be considered the equivalent of one dwelling unit. Such housing may also contain common dining, kitchen and limited support facilities.

200.44. *Day care--Day care center.* Any other day care center which is not a family day care home.

200.45. *Day care--Family day care home.* Any home other than the individual's home in which day care in lieu of parental care or supervision is offered at the same time to six or less individuals who are not relatives of the caregiver, but may not contain more than a total of eight individuals receiving day care.

200.46. *Days.* Calendar days.

200.47. *Density, residential.* The number of dwelling units per unit of land.

200.48. *Development.* The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance; any change in use, or alteration or extension of the use, of land.

200.49. *Development plan review.* The process whereby authorized local officials review the site plans, maps, and other documentation of a development to determine the compliance with the stated purposes and standards of the ordinance.

200.50. *Development regulation.* Zoning, subdivision, land development plan, development plan review, historic district, official map, floodplain regulation, soil erosion control or any other governmental regulation of the use and development of land.

200.51. *Director.* Director of the department of city plan of the City of Warwick.

200.52. *District.* See Zoning use district.

200.53. *Dormitory*. A building used as rooming units for a student body or religious order as an accessory use for a college, university, boarding school, orphanage, convent, monastery, or other similar institution.

200.54. *Drainage system*. A system for the removal of water from land by drains, grading, or other appropriate means. These techniques may include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving surface [waters] and groundwaters, and the prevention and/or alleviation of flooding.

200.55. *Driveway*. That portion of a lot that consists of a travel lane used to access a parking area or garage and which is bounded on either side by an area that is not part of the parking area.

200.56. *Dwelling unit*. A structure or portion thereof providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and containing a separate means of ingress and egress.

200.57. *Dwelling, multi-household*. A building or portion thereof used for occupancy by three or more households living independently of each other.

200.58. *Dwelling, one-household*. A building used exclusively for one household and containing only one dwelling unit.

200.59. *Dwelling, two-household*. A building used exclusively for occupancy by two households living independently of each other.

200.60. *Elderly housing*. A residential building where dwelling units are limited to families of not more than two persons where at least one person is 55 years of age or older, or where at least one person is handicapped or disabled.

200.61. *Extractive industry*. The extraction of minerals, including: solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity.

200.62. *Family*. A person or persons related by blood, marriage, or other legal means. See also Household.

200.63. *Fast food restaurant*. That type of retail restaurant refreshment stand, and/or commercial establishment, self-service or otherwise, designed or used, in whole or in part, to cater to and/or accommodate, in whole or in part, the consumption of food, frozen dessert or beverages anywhere upon the premises, both inside and outside the building from which it is sold and/or dispensed, whether or not the owner of such restaurant or commercial establishment grants active permission for customers to do so, including, but not limited to, that type of retail establishment which includes substantially stand-up, counter, and/or drive-in service and primarily serves or dispenses food, frozen dessert or beverages in or with disposable or

nonreusable containers and/or utensils.

200.64. *Floating zone*. An unmapped zoning district adopted within the ordinance which is established on the zoning map only when an application for development, meeting the zone requirements, is approved.

200.65. *Floodplains or flood hazard area*. As defined in G.L. 1956, § 45-22.2-4, as amended. An area that has a one percent or greater chance of inundation in any given year, as delineated by the federal emergency agency pursuant to the National Flood Insurance Act of 1968, as amended (PL 90-448) (42 USC 4011 et seq.).

200.66. *Floor area, gross (GFA)*. The sum of the gross horizontal area of the several floors of a building measured from the exterior face of exterior walls, but not including interior parking spaces, loading spaces for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

200.67. *Floor area, net (NFA)*. Floor area of all floors, as measured from the inside surfaces of the walls enclosing the part of a building occupied by a single occupant or shared by a distinct group of occupants, excluding therefrom common halls, stairwells, sanitary facilities and storage and other areas to which patrons or occupants do not have regular access.

200.68. *Garage, parking*. Any building, except those herein defined as a private garage, used for parking of vehicles. Such buildings may include stores and other commercial establishments, providing they conform to all regulations of the zone in which they are located.

200.69. *Garage, private*. A detached accessory building or portion of a principal building used for storage of vehicles, and provided that, if more than two vehicles are stored therein, the capacity does not exceed one vehicle for each 2,500 square feet of lot area.

200.70. *Grade*. A reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line, or when the lot line is more than six feet from the building, between the building and a point six feet from the building.

200.71. *Groundwater*. Water found underground which completely fills the open spaces between particles of sand, gravel, clay, silt, and consolidated rock fractures.

200.72. *Group quarters*. A dwelling unit in which individuals requiring supervision are provided living, sleeping, cooking, eating and sanitation facilities.

200.73. *Gravel pit*. A lot or parcel of land or portion thereof, which is used for the primary or principal purpose of extracting stone, sand, gravel or other earth material.

200.74. *Halfway houses*. A residential facility for adults or children who have been institutionalized for criminal conduct and who require a group setting to facilitate the transition

to a functional member of society.

200.75. *Hazardous waste.* Any waste, not including precious metal bearing wastes, or combination of wastes of a solid, liquid, contained gaseous or semisolid form which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

- (A) Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or
- (B) Pose a substantial present or potential hazard to human health or the environment.

Such wastes include, but are not limited to, those which are toxic, corrosive, flammable, irritants, strong sensitizers, substances which are assimilated or concentrated in and are detrimental to tissue, or which generate pressure through decomposition or chemical reaction.

"Hazardous waste" shall also mean any hazardous waste defined in G.L. 1956, § 23-19.1-1 et seq., as amended, and the rules and regulations of the department of environmental management for "Hazardous Waste Generation, Transportation, Treatment, Storage and Disposal," including any amendments thereto.

200.76. *Hazardous waste management facility.* A facility, excluding vehicles, for collection, source separation, storage, processing, treatment, recovery or disposal of hazardous wastes, or a transfer station for hazardous waste, and may include a facility at which such activities occur and where waste has been generated.

200.77. *Historic overlay district definitions.*

- (A) *Alteration.* An act that changes one or more of the exterior architectural features or its appurtenances, including but not limited to the erection, construction, reconstruction, or removal of any structure or appurtenance.
- (B) *Appurtenances.* Features other than primary or secondary structures which contribute to the exterior appearance of a property, including but not limited to paving, doors, windows, signs, materials, decorative accessories, fences, and landscape features.
- (C) *Certificates of appropriateness.* A certificate issued by the city's historic district commission indicating approval of plans for alteration, construction, repair, removal, or demolition of a structure or appurtenances of a structure within a historic overlay district. Appropriate for the purpose of passing upon an application for a certificate of appropriateness means not incongruous with those aspects of the structure, appurtenances, or the district which the commission has determined to be historically or architecturally significant.
- (D) *Construction.* The act of adding to an existing structure or erecting a new principal or accessory structure or appurtenances to a structure, including but not

limited to buildings, extensions, outbuildings, fire escapes, and retaining walls.

- (E) *Demolition.* An act or process that destroys a structure or its appurtenances in part or in whole.
- (F) *Historic overlay district.* A specific division of the city as designated by ordinance. A historic overlay district may include one or more structures. "Historic district" also means one or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites, and [which] has been registered, or is deemed eligible to be included, on the state register of historical places pursuant to G.L. 1956, § 42-45-5, as amended. "Historic site" means any real property, manmade structure, natural object, or configuration or any portion or group of the foregoing which has been registered, or is deemed eligible to be included, on the state register of historic places pursuant to G.L. 1956, § 42-45-5, as amended.
- (G) *Removal.* A change meant to remedy damage or deterioration of a structure or its appearances.

200.78. *Home occupation.* Any activity customarily carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit.

200.79. *Hospital.* An institution licensed by the State of Rhode Island to provide primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities.

200.80. *Household.* One or more persons living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit. The term "household unit" shall be synonymous with the term "dwelling unit" for determining the number of such units allowed within any structure on any lot in a zoning district. An individual household shall consist of any one of the following:

- (a) A family, which may also include servants and employees living with the family;  
or
- (b) A person or group of up to and including four unrelated persons living together.

200.81. *Hotel or motel.* A structure designed, used or offered for residential occupancy for any period less than one month, including motels but not including hospitals or nursing homes.

200.82. *Incentive zoning.* The process whereby the city may grant additional development capacity in exchange for the developer's provision of a public benefit or amenity as specified in

this ordinance.

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

200.84. *Junk*. Any scrap, waste, reclaimable material, or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or other use or disposition.

200.85. *Junkyard, including auto wrecking*. A lot or structure or part thereof used for the storage, keeping, abandonment, collection, processing, purchasing, salvage, disposal or sale of junk, including scrap metal or other scrap material, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

200.86. *Kennel*. A use involving the permanent or temporary keeping or treatment of animals for commercial purposes. Maintaining pets as part of residential occupancy, breeding pedigree animals by a single owner (either as a hobby or for profit making), and raising of livestock for farming purposes are not within this definition of "kennel."

200.87. *Land development project*. A project in which one or more lots, tracts, or parcels of land are to be developed or redeveloped as a coordinated site for a complex of uses, units, or structures, including, but not limited to, planned development and/or cluster development for residential, commercial, institutional, recreational, open space, and/or mixed uses as may be provided for in this ordinance.

200.88. *Laundromat*. A place where patrons wash, dry or dry clean clothing and other fabrics in machines operated by the patron.

200.89. *Less restrictive zone*. The order of zones from less restrictive to more restrictive is: GI, LI, GB, WB, O, A-7, A-10, A-15, A-40, OS.

200.90. *Lodging*. The provision of a rooming unit or units rented or leased for compensation.

200.91. *Lot*. Either:

- (1) The basic development unit for determination of lot area, depth, and other dimensional regulations; or
- (2) A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

200.92. *Lot area*. The total area within the boundaries of a lot, excluding any street right-of-way, usually reported in acres or square feet. However, for any planned district residential (PDR) overlay district, subsection 308; planned unit development (PUD) overlay district,

subsection 309; single-family cluster development, subsection 501; [and] two-family and multiple-family dwelling approval by the zoning board of review, subsection 502; calculation of such lot area shall exclude any part under water or containing coastal or freshwater wetlands as defined by subsections 200.36 and 200.146.

200.93. *Lot building coverage.* That portion of the lot that is or may be covered by buildings, accessory buildings, and other created improvements on the ground that are more impervious than the natural surface, such as paving, patios, pools, and driveways. Impervious surfaces shall mean to include any material that prevents absorption of stormwater into the ground.

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

200.95. *Lot frontage.* That portion of a lot abutting a street. Noncontiguous frontage shall not be less than minimum frontage requirements for the zone in question.

200.96. *Lot line.* A line of record, bounding a lot, which divides one lot from another lot or from a public or private street or any other public or private space and shall include:

- (a) *Front.* The lot line separating a lot from a street right-of-way. Any lots fronting on more than one street, for example, corner and through lots, shall have a front lot line on each street, resulting in more than one front lot line;
- (b) *Rear.* The lot line opposite and most distant from the front lot line, or in the case of triangular or otherwise irregularly shaped lots, an assumed line at least ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line; and
- (c) *Side.* Any lot line other than a front or rear lot line.

200.97. *Lot width.* The required horizontal distance between the two side lot lines measured at right angles to its depth along a straight line parallel to the front lot line at the minimum front setback line.

200.98. *Lot, corner.* A lot at the junction of and fronting on two or more intersecting streets.

200.99. *Lot, through.* A lot which fronts upon two parallel or approximately parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

200.100. *Minimum landscaped open space.* The percentage or portion of lot area which shall be designed, developed, and maintained in grass, ground covers, shrubs, trees, and/or other living vegetation and natural features; walks, terraces, or other open areas accessible to the occupants of the lot, but excluding driveways, parking, buildings, and all other hard and impervious surfaces. Any minimum landscaped open area shall be at least ten feet measured in

any direction on the lot.

200.101. *Mixed use.* A mixture of land uses within a single development, building, or tract.

200.102. *Modification.* Permission granted and administered by the building official, and pursuant to the provisions of this ordinance contained herein to grant a dimensional variance other than lot area requirements from this ordinance, not to exceed 25 percent of each of the applicable dimensional requirements.

200.103. *Mobile home.* A structure designed or used for residential occupancy built upon or having a frame or chassis to which wheels may be attached by which it may be moved upon a highway, whether or not such structure actually has, at any given time, such wheels attached, or is jacked up or skirted, or attached to a permanent slab foundation.

200.104. *More restrictive zone.* The order of zones from more restrictive to less restrictive is: OS, A-40, A-15, A-10, A-7, O, WB, GB, LI, GI.

200.105. *Nightclub.* A retail establishment that stays open late at night and provides food, beverages and entertainment, but shall not include adult entertainment.

200.106. *Nonconformance.* A building, structure, or parcel of land, or use thereof, lawfully existing at the time of the adoption or amendment of this zoning ordinance and not in conformity with the provisions of such ordinance or amendment. Nonconformance shall be of only two types:

- (a) *Nonconforming by use.* A lawfully established use of land, building, or structure which is not a permitted use in that zoning district. A building or structure containing more dwelling units than are permitted by the use regulations of a zoning ordinance shall be nonconforming by use; or
- (b) *Nonconforming by dimension.* A building, structure, or parcel of land not in compliance with the dimensional regulations of the zoning ordinance. Dimensional regulations include all regulations of the zoning ordinance, other than those pertaining to the permitted uses. A building or structure containing more dwelling units than are permitted by the use regulations of a zoning ordinance shall be nonconforming by use; a building or structure containing a permitted number of dwelling units by the use regulations of the zoning ordinance, but not meeting the lot area per dwelling unit regulations, shall be nonconforming by dimension.

200.107. *Nursing and convalescent home.* A structure designed or used for residential occupancy and providing medical or nursing care on the premises for occupants, but not including a hospital or clinic.

200.108. *Open space.* Any parcel or area of land or water set aside, dedicated, designated,

or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that the area may be improved with only those buildings, structures, streets, and off-street parks and other improvements that are designated to be incidental to the natural openness of the land.

(A) *Usable open space*: Space which is effectively separated from automobile traffic and parking and is an integral part of the cluster development. The term shall not include:

1. Space devoted to streets, driveways, parking, walkways, sidewalks, accessory uses or structures, wetlands, wetland buffers, water bodies, or rock outcroppings.
2. Any land area required to be left unaltered by reason of a preexisting legally enforceable covenant, easement, or restriction which runs with the land.

200.109. *Overlay district*. A district that is superimposed on one or more districts or parts of districts and that imposes specified requirements in addition to, but not less, than those otherwise applicable for the underlying zone.

200.110. *Owner*. Any person, agent, firm or corporation who, alone, jointly, or severally with others: (a) shall have legal or record title to any property; or (b) shall have charge, care or control of any property as agent, executor, administrator, trustee or guardian.

200.111. *Parking area aisles*. An area consisting of lanes providing access to parking spaces.

200.112. *Parking space*. An area set aside for the parking of one vehicle.

200.113. *Parking, accessory use*. Off-street parking of automobiles on the same or contiguous lot as a principal use where said parking is established or required in conjunction with the principal use.

200.114. *Parking, principal use*. Off-street parking of automobiles on one or more lots where parking spaces for more than four automobiles are available for public use whether free, for compensation, or to satisfy parking requirements of a principal use on separate and noncontiguous lots.

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

200.116. *Permitted use*. A use by right which is specifically authorized in a particular zoning district.

200.117. *Planned development*. A "land development project", as defined herein, and

developed according to plan as a single entity and containing one or more structures and/or uses with appurtenant common areas.

200.118. *Preapplication conference.* A review meeting of a proposed development held between applicants and the department of city plan, before formal submission of an application for a permit or for development approval.

200.119. *Repair.* A change meant only to remedy damage or deterioration of a structure or its appurtenances.

200.120. *Rest home.* Group lodging for convalescing people, including elderly, where basic services are provided.

200.121. *Residential occupancy.* Those activities customarily conducted in living quarters in an urban and/or suburban setting, and excludes such activities as the keeping of livestock or fowl, activities resulting in noise which constitutes a nuisance in a residential area and activities which involve the storage of motor vehicle parts, machinery or parts, junk or scrap materials, and excludes the keeping on any lot of more than three household pets per family.

200.122. *Restaurant.* A retail establishment where food or beverages are cooked or prepared and offered for sale and where consumption is permitted on the premises including establishments commonly known as bars, grilles, cafes, and taverns, permitting consumption on the premises, but excludes fast food restaurants.

200.123. *Right-of-way.* Any easement in or property acquired by the City of Warwick or State of Rhode Island for the purpose of establishing streets or highways, including pedestrian sidewalks, bicycle paths, safety rest areas, landscaping or any other purpose incidental to highway travel.

200.124. *Roominghouse.* A dwelling or portion thereof in which lodging is provided to more than two but no more than ten individual boarders in rooms without separate kitchen facilities, including boardinghouses, lodginghouses, tourist homes, bed and breakfast establishments and the like.

200.125. *Satellite dish antenna.* A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn or parabola. Such device shall be used to transmit and/or receive radio or electromagnetic waves between earth and/or orbitally based uses which include but are not limited to satellite earth stations, television-reception-only satellite dish antennas, and satellite microwave antennas.

200.126. *Service station.* An automobile service station that performs automotive repairs or service, and which may supply fuel, oil, and automobile accessories to motor vehicles, include grease racks or elevators, [and] provide minor tire and battery services, but excluding the storage of junk cars.

200.127. *Setback line or lines.* A line or lines parallel to a lot line at the minimum

distance of the required setback for the zoning district in which the lot is located that establishes the area within which the principal structure must be erected or placed.

200.128. *Sign.* Any permanent or temporary device or structure which is:

- (A) Freestanding, attached to a building or structure or erected, painted, represented or reproduced inside or outside any building or structure or any natural object such as a tree, rock, [or] bush including the ground itself; or
- (B) Which displays, reproduces or includes any letter, word, name, number, model, symbol, insignia, design, device, representation or trademark, or flag (including banner or pennant); or
- (C) Which is used to identify the premises or occupant or owner of the premises; to advertise any trade, business, profession, industry, service or other activity; to advertise any product or item; to advertise the sale or rental or use of all or part of any premises, including that upon which it is displayed; to direct vehicular or pedestrian traffic other than state, county or municipal highway and roadway markers; and shall include any announcement, declaration, demonstration, display, illustration, insignia, or any representation used to advertise or promote the interests of any person.

In no event shall the word "sign" be construed to mean any sign in the interior of any structure unless it is specifically set forth in this ordinance or displayed within the view of persons passing on a street.

200.128.1. *Signs: Described by location.*

- (A) *Ground.* A detached sign erected upon or supported by the ground.
- (B) *Roof.* A sign erected upon the roof of any building.
- (C) *Wall.* A sign erected against the wall of any building with the exposed face thereof in a plane parallel to the plane of said wall, and which sign is mounted at a distance, measured perpendicular to said wall, no greater than 12 inches. A wall sign shall include a sign suspended from the ceiling of a marquee, canopy or vestibule and a sign attached to any fence, screen, or freestanding wall.
- (D) *Projecting.* A sign erected approximately perpendicular to the wall of a building, including a sign erected at the corner of a building, projecting into an open space or yard but not projecting into the right-of-way of any street, sidewalk, alley or other public thoroughfare.
- (E) *Marquee.* A sign other than a projecting sign mounted on the marquee of any building.

(F) *Canopy or awning.* A sign other than a projecting sign designated on a canopy or awning and identifying the name or address of a building or an establishment contained therein.

(G) *Face signs.* Signed painted on the wall of a building.

200.128.2. *Signs: Described by message conveyed.*

(A) *Real estate.* A sign advertising the sale, rental or lease of the premises on which it is maintained, including a subdivision sign.

(B) *Job site or improvement.* Temporary signs, announcing the erection of buildings or other construction work, either freestanding or attached to the premises.

(C) *Business.* A sign directing attention to a business, commodity, service or entertainment conducted, sold or offered upon the same premises as those upon which the sign is maintained.

(D) *Bulletin board; change board.* A sign of permanent character, but with movable letters, words or numerals, or changeable copy, not by any mechanical or electronic means, indicating the names of persons associated with the events conducted upon or products or services offered upon the premises upon which such sign is maintained.

(E) *Professional.* A sign indicating the name and occupation of a professional person or group of associated professional persons.

(F) *Nameplate.* A sign indicating the name and address of an occupant.

(G) *Instructional or directional.* A sign conveying instructions with respect to the premises on which it is maintained, such as a sign designating the entrance to or exit from a parking area, a trespassing sign, a danger sign, and similar signs.

(H) *Temporary promotional.* A display sign, banner or other advertising device constructed of cloth, canvas, fabric, plywood or other light temporary material, with or without a structural frame, intended to promote special sales, free gifts, openings, or campaigns.

(I) *Billboard.* An outdoor advertising structure displaying a sign or signs not pertinent to a use on the premises.

(J) *Off-site directional signs.* Official signs erected by the City of Warwick, the State of Rhode Island or federal government, indicating the route to major public facilities, shopping areas and the like and such signs erected by service clubs and churches.

(K) *Political signs.* Signs designating candidates for elective office.

(L) *Yard sale signs.* Signs designating the location or items for sale of a yard sale.

200.129. *Single-household cluster development.* A detached single-household residential development of a tract of land which is sensitive to topography and natural site features, providing more open space for common use through the reduction of lot size requirements.

200.130. *Single-household dwelling.* A structure, except a mobile home, designed or used for residential occupancy by one family.

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

200.132. *Special use.* A regulated use which is permitted pursuant to the special use permit issued by the board, pursuant to section 906. Formerly referred to as a special exception.

200.133. *Solid waste.* As defined by G.L. 1956, § 23-19-5(9), or any amendments thereto, including any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials, including solid, liquid, semisolid, or contained gaseous material generated by residential, institutional, commercial, industrial and agricultural sources, but does not include solids or dissolved materials in domestic sewage.

200.134. *Story.* That portion of a building between the upper surface of any floor and the upper surface of the floor next above, having more than one-half of its height above the average elevation of the finished lot grade adjoining the building and any portion of a building, used for human occupancy between the topmost floor and the roof. In any building not divided into customary stories, each ten feet of building height shall be counted as one story.

200.135. *Story above grade.* Any story having its finished floor surface entirely above grade except that a basement shall be considered as a story above grade when the finished surface of the floor above the basement is:

(A) More than six feet above the grade plane;

(B) More than six feet above the finished ground level for more than 50 percent of the total building perimeter; or

(C) More than 12 feet above the finished ground level at any point.

200.136. *Public street.* A public right-of-way or highway established, accepted, and/or maintained under public authority.

200.137. *Street line.* The dividing line between a street and an adjacent lot.

200.138. *Street, cul-de-sac.* A local street with only one outlet and having an appropriate

vehicular turnaround, either temporary or permanent, at the closed end.

200.139. *Structure*. A combination of materials to form a construction for use, occupancy, or ornamentation, whether installed on, above, or below, the surface of land or water.

200.140. *Substandard lot of record*. Any lot lawfully existing at the time of adoption or amendment of this zoning ordinance and not in conformance with the dimensional and/or area provisions of this ordinance.

200.141. *Swimming pool*. Any receptacle of two or more feet in depth and with a surface area of more than 100 square feet, which is constructed, erected or installed, and which is used, designed for use or intended for use as a swimming pool, so called, in connection with a residential use.

200.141.1. *Telecommunication facilities definitions*.

- (A) *American National Standards Institute (ANSI)*: Collaborative body composed of academic, industry, and governmental representatives who establish consensus standards for safe human exposure to radio frequency electromagnetic fields.
- (B) *Building antennas*: Building-mounted telecommunications antennas and/or dishes which can be architecturally integrated into a building so that they are visually unobtrusive.
- (C) *Co-location*: Locating wireless communications equipment for more than one provider on a single site.
- (D) *Development plan review*: The process whereby the planning board reviews the site plans and other documentation of a development to determine the compliance with the stated purpose and standards of the ordinance.
- (E) *Personal Communication Services (PCS)*: Wireless voice communication that is an extension of existing telephone use utilizing digital technology and land-based lines.
- (F) *Telecommunications Act*: The Federal Telecommunications Act of 1996, as defined by P.L. 104-104 Section 704, or any amendments thereto.
- (G) *Telecommunication facilities*: A facility that sends and/or receives radio frequency signals. Telecommunication facilities include structures, telecommunications towers, antennas, microwave dishes, and accessory buildings relating to telecommunication services but excludes building antennas and accessory buildings located on the roof of a building.
- (H) *Telecommunication towers*: Towers intended to support equipment used to transmit and/or receive telecommunications signals, including latticed and

monopoles for the provision of wireless services.

- (I) *Tower height.* The vertical distance from grade, as determined by the municipality, to the top of the highest point of the structure.
- (J) *Wireless communications equipment.* Equipment used to transmit or receive telecommunications signals.

200.142. *Temporary structure.* A structure having the same requirements as a permanent structure except that it does not require a foundation.

200.143. *Use.* The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.

200.144. *Variance.* Permission to depart from the literal requirements of this ordinance. An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land, which is prohibited by this ordinance. There shall be only two categories of variance, a use variance or a dimensional variance.

- (a) *Use variance.* Permission to depart from the use requirements of this ordinance where the applicant for the requested variance has shown by evidence upon the record that the subject land or structure cannot yield any beneficial use if it is to conform to the provisions of this ordinance.
- (b) *Dimensional variance.* Permission to depart from the dimensional requirements of this ordinance, where the applicant for the requested relief has shown, by evidence upon the record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use of the subject property unless granted the requested relief from the dimensional regulations. However, the fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

200.145. *Vested rights.* The right to initiate or continue the development of an approved project for a specified period of time, under the regulations that were in effect at the time of approval, even if, after the approval, the regulations change prior to the completion of the project.

200.146. *Wetland, freshwater.* A marsh, swamp, bog, pond, river or stream floodplain or bank, area subject to flooding or storm flowage; emergent or submergent plant community in any body of freshwater; or area within 50 feet of the edge of a bog, marsh, swamp, or pond; or the land area within 200 feet of the edge of a flowing water body having a width of ten feet or more and that area within 100 feet of the edge of any flowing body having a width of less than ten feet during normal flow.

200.147. *Yard.* The required space on a lot, open, unoccupied and unobstructed by structures, located between any lot line and the setback required therefrom, except as otherwise

specified in this ordinance.

200.148. *Yard, front.* A yard extending across the width of the lot, bounded by the required side yards, the building frontage and the street, and which is open, unoccupied and unobstructed by buildings or structures from the ground to the sky, except as otherwise provided in this ordinance.

200.149. *Yard, rear.* A yard extending across the width of the lot, bounded by the required side yards, the rear of the building and the rear lot line.

200.150. *Yard, side.* A yard extending from the side of the building to the side lot line, the length of which is measured from the front lot line to the rear lot line.

200.151. *Yard sale.* Any interior or exterior market at which antiques, curios, jewelry, dishes, glassware, books, furniture, tools, new or secondhand household goods, clothing or other similar articles are sold or traded.

200.152. *Zoning certificate.* A document signed by the building official, as required herein, which acknowledges that a use, structure, building or lot either complies with or is legally nonconforming to the provisions of the municipal zoning ordinance or is an authorized variance or modification therefrom.

200.153. *Zoning map.* The map or maps which are a part of the zoning ordinance and which delineate the boundaries of all mapped zoning districts within the physical boundary of the city.

200.154. *Zoning use districts.* The basic unit in zoning, either mapped or unmapped, to which a uniform set of regulations applies, or a uniform set of regulations for a specified use. The districts include, but are not limited to: agricultural, commercial, industrial, institutional, open space, and residential. Each district may include subdistricts. Districts may be combined. (Ord. No. O-97-18, § I, 8-12-97; Ord. No. O-97-20, § I, 9-8-97; Ord. No. O-06-2, § I, 1-18-06)