

**January 30, 2012 Town Council Meeting draft**

**ORDINANCE NO. 12-xx**

*Commentary: The revisions to the ordinance provided below are limited to the body of the CVD ordinance and address the recommendations within the Horsley Witten Group Interim Report to Town Council. Changes to the document are included in "track changes" format. The recommendations addressed here include:*

- 1. Removal of the Yield Plan approach to determine allowable residential units so that districts such as GB, PB and NB could more effectively benefit from a rezoning to CVD.*
- 2. Removal of requirements for open space and limitations on impervious cover in favor of a more performance-based approach that relies on standards for nutrient loading, stormwater management, and pedestrian amenities.*
- 3. Exemptions for historical structures from building footprint limitations.*
- 4. Removal of reference to the NB district dimensional requirements in favor of dimensional requirements placed directly into the body of the ordinance, which also more effectively allow for village design.*

Note: Where existing subsections remain mostly intact, but are amended, words set as ~~strikeover~~ are to be deleted from those subsections and underlined text is to be added to those subsections. Where a section of the ordinance may be completely replaced and the use of strikeover or underlined text is not practical (see Section 3 below), this material is provided in plain text.

**AN ORDINANCE IN AMENDMENT OF CHAPTER 21 OF THE CODE OF ORDINANCES, TOWN OF NORTH KINGSTOWN, ENTITLED, "ZONING"**

**SECTION 1. ARTICLE I. PURPOSES & ADMINISTRATION**, Section 21-22 of the Code of Ordinances, Town of North Kingstown, entitled, "Definitions" is hereby amended by adding or amending the following:

*Bedroom*, for the purpose of establishing a yield plan, means any room in a residential structure that is used to calculate wastewater design flow pursuant to the Rhode Island Department of Environmental Management's (RIDEM) most recent version of *Rules Establishing Minimum Standards Relating to Location, Design, Construction and Maintenance of Onsite Wastewater Treatment Systems*.

*Compact Village Development (CVD)* means a land development project ~~that is authorized pursuant to Section 21-325(17)~~ 21-95 of this Ordinance and incorporates ~~ing residential or a mix of residential and nonresidential uses in a compact, walkable environment, authorized pursuant to the provisions set forth in Section 21-325(17)~~ 21-95 of this Ordinance.

**SECTION 2. ARTICLE XII. MISCELLANEOUS PROVISIONS**, Section 21-325(17) of the Code of Ordinances, Town of North Kingstown, entitled "Development standards for certain uses" is hereby deleted.

**SECTION 3. ARTICLE II**, Section 21-95 of the Code of Ordinances, Town of North Kingstown, entitled "Compact Village Development" is hereby amended by adding the following:

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21-95 *Compact Village Development (CVD)*. The intent of the compact village development provisions are to create opportunities for land development projects consistent with the CVD ordinance and to create or reinforce the character and function of village centers through compact arrangement of residential and nonresidential uses which are well related to community needs.

- a. *Establishment of CVD District.* Applications for a CVD may be submitted to the North Kingstown Planning Commission for land within an existing CVD District or as part of a proposed Future Land Use Map amendment (if necessary) and a Zoning Map amendment consistent with the requirements in Section 21-95. Where a change to the Zoning Map is required, applicants shall follow the procedures of Section 21-19 of the Zoning Ordinance. Applicants for a Zoning Map amendment shall accompany the submittal of application materials to the Planning Commission with a site plan that meets the requirements of a master plan submittal for Major Land Development projects. A CVD must include both residential and nonresidential uses as allowed in 21-95(d).
- b. *Eligibility.* Locations eligible for CVD shall meet all of the following criteria:
  1. At least one lot within a proposed CVD shall have adequate frontage on and access to an arterial or collector street as defined in Section 21-22 of the Zoning Ordinance.
  2. The entirety of a conforming lot that is zoned as a planned business district, general business district, neighborhood business district or multifamily residential district must be included in any land proposed to be rezoned as a CVD. Any additional lots that are proposed to be included in the CVD may be any other business, industrial or residential district, excluding the Wickford ~~Business District~~ Village Center district and the Post Road District.
  3. For newly proposed CVD districts located in an existing village as identified in the Comprehensive Plan, the minimum total land area of the district shall be two (2) acres. For newly proposed CVD districts that are not located within an existing village area as identified by the Comprehensive Plan, the minimum total land area shall be ten (10) acres.
  4. Land that abuts an existing CVD district and has a business, industrial, multi-family or Village/VR20 designation may be considered for a CVD zone change where the property will be integrated by design into the existing CVD. Where abutting property may be added to an existing CVD, there shall be no minimum area requirement for the additional property.
- c. *Permit Procedures.* Review of development proposals within an existing or proposed CVD district shall be as follows:
  1. Any application for CVD that requires a change to the Zoning Map shall be reviewed as a Major Land Development project.
  2. Where a CVD district is already established on the Zoning Map, but the development proposed as part of the initial Zoning Map change was not

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constructed per the conditions of the approved master plan within the required timeframe allowed by state law, new proposals or revisions to master plan that first proposal shall require review as a new Major Land Development project.

3. Any change to restrictions or conditions per the original Zoning Map amendment including, but not limited to, deed restrictions, covenants, maintenance agreements, design standards and limits on commercial square footage, shall require a change to the master plan and a zone change application. Notification to abutters shall be the same as outlined in Section 21-95(e)6.
4. Where a CVD zoning district is already established and the plans reviewed as part of the initial Zoning Map change are substantially complete, applications for additional development or changes within the district shall be reviewed in accordance with Section 21-133 of the Zoning Ordinance and the requirements of a Major Land Development project in accordance with the North Kingstown Subdivisions and Land Development Regulations.
5. The applicant must demonstrate that the proposed development would have an adequate water supply.
6. If the CVD is proposed to be built in phases, phasing requirements shall be determined at the discretion of the Planning Commission.
7. The Planning Commission shall consider how the proposed percentage of nonresidential and residential development promotes the development of a walkable village as contemplated by the CVD ordinance. In determining the appropriate amount of residential and nonresidential uses or the ratio between the residential and nonresidential uses, the Planning Commission shall consider the following, without limitation:
  - a. The amount and type of nonresidential use on nearby properties.
  - b. The amount of residential use in close proximity to the CVD and the degree to which that residential use is readily connected to the proposed CVD through vehicular, pedestrian or bicycle connections.
  - c. The degree to which the proposal may be compatible with historic or otherwise notable structures in or near the proposed CVD.
  - d. The degree to which the proposed CVD may represent historic development patterns in the area or otherwise model traditional New England village types.
  - e. The capacity for roadways to effectively handle anticipated volumes of traffic.
  - f. The capacity for existing or proposed utilities to effectively provide service to the proposed mix of uses.
  - g. The carrying capacity of the site, the watershed(s) within which the site lies or the underlying groundwater.
  - h. The need for commercial or residential uses in the area.
  - i. The current zoning of the proposed CVD District.
  - j. The current future land use map designation in the Comprehensive Plan.

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- k. The percentage of proposed protected open space or recreation land.
  
- d. *Allowable uses.* A CVD project must include both a residential use and a nonresidential use. Use allowances within a CVD District shall follow the use allowances specified for the Neighborhood Business District with the exceptions, additions or alterations provided below.
  - 1. The following residential uses shall be allowed by right:
    - a. Single-family dwellings
    - b. Two-family dwellings
    - c. Multi-family dwellings including townhouses
    - d. Dwelling units above nonresidential use
    - e. Home occupation within a dwelling in accordance with Section 21-320 of the Zoning Ordinance
    - f. Nursing home or convalescent home
    - ~~f.g.~~ Accessory dwelling units
  - 2. Farm markets shall be allowed by right.
  - 3. The following recreational uses shall be allowed by right:
    - a. Golf courses with associated facilities
    - b. Health and fitness facilities.
  - 4. Accessory dwelling units shall be allowed but must be incorporated into the bedroom count of subsection j.2.

*Commentary: The bedroom count reference is removed to be consistent with using the nitrogen loading approach (in conjunction with the 5,000 square feet per unit standard) to regulate development. See discussion beginning on page 41 of HW Interim Report.*

- 5. All additional restrictions on use provided for in the groundwater or other overlay districts shall apply if the parcel is located in said overlay districts.
  
- e. *Dimensional Requirements.* The dimensional regulations of Table 2B Business Districts for the Neighborhood Business District shall apply for all uses within the CVD District, with the following exceptions, additions, or alterations for the CVD are provided herein:

<u>Dimension</u>	<u>Minimum</u>
<u>Lot area</u>	<u>4,000 square feet</u>
<u>Lot width</u>	<u>40 feet</u>
<u>Lot frontage</u>	<u>40 feet</u>
<u>Building setbacks</u>	
<u>Front</u>	<u>0 feet</u>
<u>Side</u>	<u>0 feet</u>
<u>Corner side</u>	<u>0 feet</u>
<u>Rear</u>	<u>20 feet</u>
<u>Side and rear from adjacent residential district</u>	<u>30 feet</u>

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	<b>Maximum</b>
<u>Building stories</u>	<u>3</u>
<u>Building height</u>	<u>40 feet</u>

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*Commentary: The dimensional table is provided to address the issue related to lot setbacks as discussed on page 43 of HW Interim Report.*

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1. The proposed lot(s) included in any development plan, regardless of use, must contain at least 5,000 square feet of lot area per dwelling unit proposed.
2. The average number of bedrooms per dwelling unit for all residential units located within the CVD District shall not exceed two (2).
3. Subject to the limits of the other sections of the ordinance, the footprint of any individual commercial building shall not exceed 10,000 square feet; provided, however, that one 15,000 square foot commercial building shall be allowed for properties containing more than 10 acres of buildable land. TDR may be used to exceed this allowance pursuant to in the CVD except as provided in Section 21-95.k. Historic structures shall be exempt from this subsection.

*Commentary: The change to the above language is "editorial" in nature. It is only meant to clarify the subsection and does not change the intent of the ordinance.*

4. The side and rear setback and the setback from residential use minimums shall apply only to lots abutting the boundary of the CVD District. ~~Impervious coverage for the entirety of the CVD District shall not exceed sixty percent (60%), shall take into account the impervious coverage in the watershed, and shall indicate the potential impacts to the watershed. In addition, stormwater treatments such as pervious pavement, bioswales and other innovative stormwater mitigation methods shall be utilized to minimize the impacts from increased impervious coverage on the site and in the watershed. Individual lots within a CVD need not comply with the impervious lot coverage requirements provided that those requirements are met by the district as a whole and the individual lot complies with the approved land development~~

*Commentary: The limitations on impervious cover are removed pursuant to the discussion beginning on page 42 of HW Interim Report.*

- f. *Inclusionary Zoning.* All housing which is included in the CVD shall be subject to the provisions of Article XXII. Inclusionary Zoning.
- g. *Architectural and Lot Layout Design Specifications.* Section 21-269 Village Character Design Guidelines of this ordinance shall apply as a minimum standard to CVD proposals as a framework for development within the CVD District. Additionally, as part of a Major Land Development review process with the Planning Commission, the following shall be required.

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1. The design guidelines provided in 21-269(3) shall be used by the Planning Commission where applicable. Where design specifications approved by the Planning Commission for an individual CVD District differ from or are stricter than those provided in Section 21-269(3) of the Zoning Ordinance, the specifications that are specific to a CVD proposal as approved by the Planning Commission shall prevail.
2. Where a CVD District is already established, the design specifications approved as part of the initial Zoning Map change shall apply to any new development or redevelopment proposal within the district. Any changes or deviations from these specifications shall be approved by the Planning Commission.
3. The applicant shall submit supplementary illustrated design specifications with any proposal to establish a new CVD District. If approved, the additional design documents shall be incorporated into the recorded legal documents for the development. These specifications shall address the following elements specific to the neighborhood context:
  - a. Identify any building typologies within the neighborhood or the community as a whole that should inform the selection of architectural styles.
  - b. Identify the character of the arterial or collector road that provides access to the CVD District and demonstrate how setbacks, vegetation, screening, signage, new roadside features and pedestrian/bicycle amenities will be used in a manner that is consistent with or enhances that character.
  - c. Building envelopes and/or limits of disturbance shall be considered as part of the approval.
  - d. Illustrate how the placement of buildings, parking lots and entrance ways will be consistent with or enhance the goal of developing a walkable CVD District. CVD applications must show a clear, contiguous pedestrian and/or non-motorized vehicle circulation network within the development. Elements, approaches or design specifications that may be required by the Planning Commission to ensure a walkable/bikeable environment include, but are not limited to:
    - i. Walkways, sitting areas, bicycle racks, lighting, landscaping and canopy trees along property frontage may be required where public sidewalks are not present or in conjunction with public sidewalks to enhance pedestrian mobility.
    - ii. Raised surfaces and/or durable, decorative alternatives to conventional pavement may be required to connect sidewalks or bike lanes across driveways for automobile access points to any site.
    - iii. Where pedestrian or bike lanes intersect with designated automobile travel lanes, strategically placed decorative bollards, stones, landscaped islands or low fencing may be required to provide a greater visual divide between these areas.

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- iv. Pedestrian connections between buildings shall be provided as safe, broad and easily identifiable ways of walking through areas that may also be occupied by automobiles. These walkways shall be designed to clearly show the space is primarily dedicated to pedestrian traffic through the use of raised or alternative surfaces, signage or raised landscaped islands that may serve as a safe resting area for pedestrians between automobile travel lanes.
  - v. Building placement shall be performed in a manner that balances the circulation needs of motorists and pedestrians. Where possible, building placement shall be close enough to property lines to ensure that property setbacks are entirely dedicated to pedestrian and/or bicycle travel.
- e. Demonstrate to the satisfaction of the Planning Commission that building materials, roof lines, fenestration, façades, entranceways, surface treatments, signs and lighting will be used to meet the goals of the CVD ordinance through the provision of architectural elevations and illustrated examples of these individual features.
4. The Planning Commission shall have the ability to require additional design specifications, amenities and development requirements that are compatible with or enhance the surrounding neighborhood.
5. Coverage of any lot by nonresidential and residential buildings shall be designed so as to create a walkable village.
6. The overall percentage of nonresidential to residential building coverage shall be set by the Planning Commission at the master plan level of review and approved by the Town Council as a condition of the zoning map amendment to the CVD District for the parcel(s) of land. In addition to the factors set forth in ~~sub~~Section 21-95.c.7, this determination shall take into account the existing traffic patterns, existing zoning and land uses, the Comprehensive Plan, surrounding zoning and land uses, the fiscal impact of the CVD District on the town and the availability of services and utilities including, but not limited to, water and sewer.
- h. *Circulation.* Vehicular, bicycle and pedestrian traffic shall be interconnected within the CVD District, and shall connect to adjacent lots containing land zoned for business purposes. Connections shall be designed without the use of traffic signals to the extent practicable.
- i. *Wastewater Disposal.* All parcels located in the CVD shall be tied into a sanitary sewer system if available. Where sanitary sewer system is not available applicable nutrient loading standards shall be met as stated in subsection j. below.
- j. ~~*Additional requirements in a CVD Districts in the Groundwater Overlay Zones.*~~ *This subsection shall apply in all non-groundwater overlay zones. In all groundwater overlay areas, all of the provisions of section 21-186 shall apply with the following exceptions:*

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1. All of the provisions of section 21-186 shall apply to CVD proposals within the Groundwater Overlay zones with the exception of Section 21-186(d)(1). Residential density within a CVD may therefore exceed an average of one unit per two acres, but shall not exceed a density of one unit per 5,000 feet of lot area pursuant to Section 21-95(e)(1). All new residential and commercial development must demonstrate that the nitrate loading standard of five (5) mg/L as set forth in Chapter 8, Article VI, (“Groundwater Reservoirs and Recharge Areas”) of the Revised Ordinances can be met according to the requirements of 21-186(d)(5).

~~The residential density calculation shall be based on bedrooms and shall be determined on the basis of a conventional yield plan as defined in the Land Development and Subdivision Regulations. The bedroom count shall not exceed three and one quarter (3.25) bedrooms per dwelling unit at one (1) unit per acre in non-groundwater overlay areas and three and one quarter (3.25) bedrooms per dwelling unit at one (1) unit per two (2) acres in groundwater overlay areas. The entire development shall not exceed an average of 2 bedrooms per dwelling unit. The Planning Commission shall also consider the following:~~

~~The Planning Commission shall determine the validity of the yield plan based upon the standards in section 21-214 in the zoning ordinance.~~

*Commentary: The use of bedroom counts is removed here in favor of using the nitrogen loading standard and the requirement for 5,000 square feet of lot area as the performance standards. Reference discussions beginning on page 41 of HW Interim Report.*

2. Provisions for reporting to the town the concentration of Nitrate (NO<sub>3</sub>) and Total Nitrogen (TN) concentration in Onsite Wastewater Treatment Systems (OWTS) effluent at least once per year shall be a condition of all approvals in a CVD District.
3. Where a proposed CVD would create average nitrogen concentrations within the district that exceed five (5) mg/L, an applicant may propose to offset the difference between the five (5) mg/L and the predicted concentration by adding dedicated open space into the nutrient loading calculations in accordance with the assumptions for nitrogen loading and natural recharge found in Section 21-186. The following shall apply:
  - a. Dedicated off-site open space is only eligible for offsetting nutrient loads from a CVD if the open space and the CVD are located within the same aquifer recharge area.
  - b. Only development activity within the Zone 2 as defined in Section 21-186(c)(2) shall be eligible for the nitrogen offset mechanisms offered in this subsection. Development activity within Zone 1 protection areas shall not be eligible for nitrogen offsets.

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- ~~b-c. The open space shall be land that is currently not restricted or protected from development through any easements or restrictions such as but not limited to: open space or conservation easements.~~
- d. Off-site nitrogen load offsets may only be used for CVDs located in the state designated Urban Services Boundary.
- e. The original nutrient loading analysis in the proposed CVD parcels may not show an average concentration of nitrogen that exceeds seven and a half (7.5) mg/L.
- ~~e. Only development activity within the Zone 2 as defined in Section 21-186(e)(2) shall be eligible for the nitrogen offset mechanisms offered in this subsection. Development activity within Zone 1 protection areas shall not be eligible for nitrogen offsets.~~

*Commentary: Language above is provided to allow for off-site nitrogen offsets that will allow for higher quality village design without compromising aquifer protection. Reference discussion beginning on pages 36 of the HW Interim Report.*

- k. *Transfer or Purchase of Development Rights (TDR).* Except as set forth in section e.3, the transfer or purchase of development rights shall be required for any individual commercial building that will exceed a 10,000 square foot ground floor area, but in no circumstances shall the footprint for any individual commercial building exceed 15,000 square feet. Historic structures shall be exempt from these limitations. ~~Transfer or purchase of development rights shall be required for any residential development that is permitted to exceed the density allowance set forth in subsection j.2 above.~~ The following shall also apply:

*Commentary: The exemption of historic structures is provided here pursuant to page 43 of HW Interim Report.*

*Reference to TDR for residential development is removed here as this no longer applies once the yield plan approach is removed pursuant to HW Interim Report.*

1. The transfer or purchase of development rights for use within a CVD District shall be allowed only from a sending area located within North Kingstown.
- ~~2. For CVD Districts within the state designated Urban Services Boundary and outside the town's groundwater overlay, TDR may be used to increase the amount of residential use beyond the original yield by fifty percent (50%).~~
- ~~3. For CVD Districts within the state designated Urban Services Boundary and in the town's groundwater overlay, TDR may be used to increase the amount of residential use beyond the original yield by twenty five percent (25%), but only by using intrabasin transfers from within the same watershed area.  
TDR's are not allowed to increase residential use outside the state designated Urban Services Boundary.~~

*Commentary: Reference to TDR for residential development is removed here as this no longer applies once the yield plan approach is removed pursuant to HW Interim Report (page 41). The requirement for being within the Urban Services*

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*Boundary is maintained for TDR as it relates to building footprint (see revised language in #3 below).*

4.2. The transfer or purchase of development rights for use within a CVD District shall allow nonresidential structures to expand from a maximum of 10,000 square feet ground floor area to 15,000 square feet ground floor area. This shall be the only application of TDR available to nonresidential uses in a CVD District and no other zoning standards (e.g., maximum height, allowable use, minimum open space, etc.) may be exceeded through TDR.

5.3. Any CVD District utilizing the transfer or purchase of development rights must be located within the state designated Urban Services Boundary and meet all applicable nitrogen loading standards of this ordinance.

- i. *Fiscal Impact.* The applicant shall submit a fiscal impact analysis demonstrating the potential costs to be incurred by the town for the provision of municipal services to the CVD District and the estimated municipal tax revenue to be generated by the CVD District.
- m. *Traffic Impact.* An applicant for any Zoning Map change shall submit a traffic analysis that includes impacts to intersections within one-half mile of the CVD District. Where the proposed CVD District would reduce the level of service (LOS), as defined by the Institute of Traffic Engineers (ITE), either by one level or to a level at or below “D”, the applicant shall present an alternatives analysis to illustrate how different traffic control measures within the traffic study area could be used to mitigate impacts and restore LOS to the existing level or to a level “D” or above, as applicable. Use of traffic signals for mitigation is discouraged. Where mitigation measures are not practicable, the Planning Commission shall consider the impacts in its recommendation for a Zoning Map change and for approval of the master plan. The duration of low service levels, the number of intersection approaches negatively affected, and the recurrence interval of unacceptable levels shall be considered by the Planning Commission in its recommendation.
- n. *Stormwater Management.* All applications shall be required to meet RIDEM’s Stormwater Standards.

~~e. *Dedicated Open Space.* Where a CVD District of ten (10) acres or more is proposed, a minimum of 25% of the total land area shall be dedicated as open space/recreation area and shall be designed as a system of available spaces throughout the development. Where a CVD of less than ten (10) acres is proposed, there shall be no minimum percentage for open space; however, small civic spaces, pocket parks or natural areas shall be integrated into the CVD District in a manner that provides accessible open areas, gathering places and/or recreational opportunities.~~

*Commentary: The minimum open space requirement is removed hereto allow for more flexibility with village design as discussed in the HW Interim Report (page 42).*

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- po.** *Property Ownership.* Parcels in separate ownership may be made part of the same CVD project provided that the owners of all parcels document their commitment to compliance with the land development plan to the satisfaction of the town including, but not limited to, through appropriate deed restrictions as part of the application and approval process.

**SECTION 4. ARTICLE VIII. Overlay Districts.** Groundwater Overlay provisions. Amend Section 21-186(d) by adding the following subsections:

- (4) For the purpose of determining nitrogen loading, where separate commercial and residential operations use the same denitrifying OWTS, the portion of the design flow attributed to residential use shall be assigned a nutrient loading coefficient of 19 mg/L in wastewater effluent. The portion of the design flow attributed to commercial use shall be assigned a nutrient loading coefficient of 35 mg/L.

**SECTION 5. ARTICLE XXIII. TRANSFER OF DEVELOPMENT RIGHTS (TDR).** Amend Section 21-622. Applicability by adding subsection (2)(b):

Sec. 21-622. Applicability

- (1) Areas that qualify as Sending Areas are delineated by the Sending Area Overlay District pursuant to Section 21-190 of the Zoning Ordinance;
- (2) Districts that qualify as potential Receiving Districts for development rights include:
- (a) Post Road District
- (b) Compact Village Development District ~~located within the state designated Urban Services Boundary~~ as provided for in Section 21-95.

*Commentary: The reference to the Urban Services Boundary is not required here as it is contained in the body of the CVD ordinance.*