Bristol Zoning Ordinance – 2023 Amendments

This amendment to the Zoning Ordinance contains the following revisions:

- Variance standards/definition [Article I, Sec. 28-1; Article XI, Sec. 28-409]
- Dimensional modifications [Article I, Sec. 28-1; Article V, Sec. 28-152]
- Substandard lots of record [Article VII, Sec. 28-221]
- Lot merger [Article VII, Sec. 28-221]
- Amended procedures for comprehensive permit applications [Article IX, Division 6]
- Adaptive reuse [Article I, Sec. 28-1; Article V, Sec. 28-161]
- Inclusionary zoning [Article IX, Division 7]
- Unified development review [Article XI, Sec. 28-414]
- Notice and hearing requirements [Article II, Sec. 28-52; Article XI, Sec. 28-409]
- Revisions to the definition of selected uses [Article I, Sec. 28-1]

Also contained within this amendment are revisions to changes to state law that took effect in 2022, as follows:

- Quorum requirement for the Zoning Board reduced from five (5) to four (4) members [Article XI, Sec. 28-408]
- Majority vote of three (3) members required to approve applications for variances or special use permits [Article XI, Sec. 28-408]

ORDINANCE No. 2023-___

AN ORDINANCE IN AMENDMENT TO
CHAPTER 28
OF THE ORDINANCES OF THE BRISTOL TOWN CODE – ZONING ORDINANCE

* * *

Article I. In General.

Sec. 28-1. Definitions.

Amend as follows:

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Adaptive reuse means the conversion of an existing structure from the use for which it was constructed to a new use by maintaining the elements of the structure and adapting such elements to a new use.

* * *

Boatyard/marina means a commercial facility for some or all of the following: the storing, servicing, sale, repairing, fueling, berthing, and securing, launching and transporting of boats, and the sale of fuel and incidental supplies (such as marine equipment and food service and

supplies) for the boat owners, crews and guests, and provision of on-water taxi and marine salvage operations.

* * *

Cemetery means land used or intended to be 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 boundaries of such cemetery.

* * *

Modification means permission granted and administered by the zoning official and pursuant to RIGL 45-24-46 and set forth in this Chapter at Sec. 28-152, to grant a dimensional variance other than lot area requirements from the zoning ordinance to a limited degree, not to exceed fifteen percent (15%) of each of the applicable dimensional requirements.

* * *

~~*Public informational meeting* means a meeting of the planning board or other governing body preceded by a notice, open to the public and at which the public shall be heard.~~

* * *

Variance means permission to depart from the literal requirements of this chapter. 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 chapter. There shall be only two categories of variance, a use variance or a dimensional variance.

(1) *Use variance.* Permission to depart from the use requirements of this chapter 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 chapter.

(2) *Dimensional variance.* Permission to depart from the dimensional requirements of this chapter~~, 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.~~ under the applicable standards set forth in RIGL 45-24-41 and set forth in this Chapter at Sec. 28-409(c).

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Article II. Administration.

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Division 2. Amendment of Zoning Provisions.

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Amend as follows:

Sec. 28-52. - Notice and hearing requirements.

(a) No provision of this chapter shall be adopted, repealed, or amended until after a public hearing has been held upon the question before the town council. The town council shall first give notice of such public hearing by publication of notice in a newspaper of general local circulation within the town 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 of the proposed ordinance. Written notice, which may be a copy of such newspaper notice, shall be mailed, to the parties specified in subsections (b) through (f) 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 The same notice shall be posted in the town clerk's office and one other municipal building and shall be accessible on the home page of the town's website at least fourteen (14) days prior to the hearing. The notice shall:

(1) Specify the place of the hearing and the date and time of its commencement;

(2) Indicate the provisions for adoption, amendment or repeal of this chapter that is under consideration;

(3) Contain a statement of the proposed amendments to this chapter 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 the hearing.

(b) Where a proposed general amendment to the existing provisions of this chapter includes changes in an existing zoning map, public notice shall be given as required by subsection (a) of this section.

(c) Where a proposed text amendment to an existing zoning ordinance would cause a conforming lot of record to become nonconforming by lot area or frontage, written notice shall be given to all owners of the real property as shown on the current real estate tax assessment records of the town. The notice shall be given at least two weeks prior to the hearing at which the text amendment is to be considered, with the content required by subsection (a). If the zoning ordinance contains an existing merger clause to which the nonconforming lots would be subject, the notice shall include reference to the merger clause and the impacts of common ownership of nonconforming lots. The notice shall be sent certified by first-class mail and a certificate of mailing from the US Postal Service shall be obtained and the certificate or an electronic copy thereof shall be retained to demonstrate proof of the mailing the sender of the notice shall submit a notarized affidavit to attest to such mailing.

(d) Where a proposed amendment to an existing provision of this chapter includes a specific change in a zoning district map but does not affect districts generally, public notice shall be given as required in subsection (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 town 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, by certified mail, 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 Town of Bristol or within an adjacent town (Warren) in which the property is located. Notice shall also be sent to any individual or entity holding a recorded conservation or preservation restriction on the property that is the subject of the amendment. The notice shall be sent by registered, certified, or first-class mail to the last known address of the owners, as shown on the current real estate tax assessment records of the town; provided for any notice sent by first-class mail, the sender of the notice shall utilize and obtain a US Postal Service certificate of mailing, PS Form 3817, or any applicable version thereof, to demonstrate proof of submit a notarized affidavit to attest to such mailing.

(e) Notice of a public hearing shall be sent by first class mail to the town council of any 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 quasi-public 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.

(f) Notice of a public hearing shall be sent to the governing body of any state or municipal water department 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 director in the town 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.

(g) No defect in the form of any notice under this section shall render an ordinance or amendment invalid, unless such defect is found to be intentional or misleading.

(h) Costs of any notice newspaper and mailing notices required under this section shall be borne by the applicant.

* * *

Bristol Zoning Ordinance – 2023 Amendments

Article III. Permitted Uses.

Amend as follows:

Sec. 28-82. Use regulations.

(b) *Prohibited uses and uses not listed.* ~~If a use is not shown herein, it is prohibited, unless the zoning enforcement officer determines in writing that such use is consistent with uses that are explicitly permitted.~~ To the extent a proposed land use is not specifically listed, an applicant may submit a written request to the zoning enforcement officer for an evaluation and determination of whether the proposed use is of a similar type, character, and intensity as a listed use requiring a special use permit. The zoning enforcement officer will have 30 days to provide a written response. Upon such determination, the proposed use may be considered to be a use requiring a special use permit. Unlisted uses that are deemed not similar to a listed use requiring a special use permit shall be deemed prohibited. Any number of uses may be located on a lot provided each use is permitted in that district and all other requirements of this chapter are met.

* * *

Article V. Supplementary Regulations

Amend as follows:

Sec. 28-152. Zoning Modification Permits.

~~The zoning enforcement officer may issue a modification permit on the construction, alteration or structural modification of a conforming structure or a conforming lot of record.~~

~~(1) *Criteria.* Such modification shall not exceed 25 percent of the following dimensional requirements: Side yard; front yard; and rear yard. Such modification shall only apply to residential structures in residential zoning districts. Such modification permits shall not include nonconforming lots of record. In the case of side yard variances, there shall be a minimum of ten feet between principle structures in all cases.~~

~~(2) *General procedure.* The applicant shall make an application for a modification permit with the zoning enforcement officer which shall include a signed site plan drawn to scale. Within ten days of receipt of a complete application, the zoning enforcement officer shall make a decision as to the suitability of the modification based on the following determinations:~~

~~a. The modification requested is reasonably necessary for the full enjoyment of the permitted use;~~

~~b. If the modification is granted, neighboring property will neither be substantially injured nor its appropriate use substantially impaired;~~

~~c. The modification requested is in harmony with the purposes and intent of the comprehensive plan and this chapter; and~~

~~d. The modification requested does not require a variance of a flood hazard permit.~~

~~(3) *Notice.* Upon an affirmative determination, the zoning enforcement officer shall notify abutting owners by certified mail and place an advertisement in the newspaper of the proposed modification. Such notice shall indicate that the modification will be granted unless written objection is received within 30 days of such notice. Costs of the public notice shall be borne by the applicant.~~

~~(4) *Decision.* If written objection is received within 30 days, the request for modification shall be denied. In that case the changes requested will be considered a request for a variance and may only be issued by the zoning board of review following the standard procedures for variances. If no written objections are received within 30 days, the zoning enforcement officer shall grant the modification.~~

~~(5) *Conditions.* The zoning enforcement officer may apply such special conditions to the permit as may, in the opinion of the zoning enforcement officer, be required to conform to the intent and purposes of this chapter.~~

~~(6) *Public records.* The zoning enforcement officer shall keep public records of all requests for modifications, and of findings, determinations, special conditions and any objections received.~~

The zoning officer is authorized to grant modification permits of up to and including twenty-five percent (25%) of the literal dimensional requirements of this ordinance as follows:

a. Within ten (10) days of the receipt of a request for a modification, the zoning enforcement officer shall make a decision as to the suitability of the requested modification based on the following determinations:

1. The modification is reasonably necessary for the full enjoyment of the permitted use;
2. If the modification is granted, neighboring property will neither be substantially injured nor its appropriate use substantially impaired;
3. The modification requested does not require a variance of a flood hazard requirement, unless the building is built in accordance with applicable regulations;
4. The modification requested does not violate any rules or regulations with respect to freshwater or coastal wetlands.

b. Upon an affirmative determination, in the case of a modification of five percent (5%) or less, the zoning enforcement offer shall have the authority to issue a permit approving the modification, without any public notice requirements. In the case of a modification of greater than five percent (5%), the zoning enforcement officer shall notify, by first class mail, all property owners abutting the property which is the subject of the modification request, and shall indicate the street address of the subject property in the notice, and shall publish in a newspaper of local circulation within the city or town that the modification will be granted unless written objection is received within fourteen (14) days of the public notice. If written objection is received within fourteen (14) days, the request for modification shall be scheduled for the next available hearing before the zoning board of review on application for a dimensional variance following the standard

procedures for such variances, including notice requirements provided for under this chapter. If no written objections are received within fourteen (14) days, the zoning enforcement officer shall grant the modification.

c. The zoning enforcement officer may apply any special conditions to the permit as may, in the opinion of the officer, be requested to conform to the intent and purposes of the zoning ordinance.

d. The zoning enforcement officer shall keep public records of all requests for modifications, and of findings, determinations, special conditions, and any objections received.

e. Costs of any notice required under this subsection shall be borne by the applicant requesting the modification.

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Sec. 28-161. Adaptive Reuse.

a. Permitted Use. Adaptive reuse for the conversion of any commercial building, including offices, schools, religious facilities, medical buildings, and malls into residential units or mixed-use developments is a permitted use, under the criteria described below under Eligibility.

b. Eligibility.

1. Adaptive reuse development must include at least 50% of existing gross floor area developed into residential units.

2. There are no environmental land use restrictions recorded on the property preventing the conversion to residential use by RIDEM or the US EPA.

c. Density calculations.

1. For projects that meet the following criteria, the residential density shall be no less than fifteen (15) dwelling units per acre:

    i. Where the project is limited to the existing footprint, except that the footprint is allowed to be expanded to accommodate upgrades related to the building fire code, and utility requirements.

    ii. The development includes at least twenty percent (20%) low- and moderate-income housing.

    iii. The development has access to public sewer and water service or has access to adequate private water, such as well and/or wastewater treatment systems approved by the relevant state agency for the entire development as applicable.

2. For all other adaptive reuse projects, the residential density permitted in the converted structure shall be the maximum allowed that otherwise meets all standards of minimum

housing and has access to public sewer and water services or has access to adequate private water, such as well and wastewater treatment systems approved by the relevant state agency for the entire development, as applicable.

3. The density proposed for any adaptive reuse project shall be determined to meet all public health and safety standards.

d. Dimensional requirements.

1. Notwithstanding any other provisions of this section, existing building setbacks shall remain and are considered legal nonconforming.

2. No additional encroachments shall be permitted into any nonconforming setback unless relief is granted by the permitting authority.

3. Notwithstanding other provisions of this section, the height of the structure shall be considered legal nonconforming if it exceeds the maximum height of the zoning district in which the structure is located.

    i. Any rooftop construction necessary for building or fire code compliance, or utility infrastructure is included in the height exemption.

e. Parking requirements.

    1. Adaptive reuse developments shall provide one parking space per dwelling unit. The applicant may propose additional parking in excess of one space per dwelling unit.

    2. The parking requirements and design standards in Article VIII shall apply to all uses proposed as part of the project unless otherwise approved by the applicable authority. The number of parking spaces required shall apply for uses other than residential.

f. Allowed uses within an adaptive reuse project.

1. Residential dwelling units are a permitted use in an adaptive reuse project regardless of the zoning district in which the structure is located, in accordance with the provisions of this section.

2. Any nonresidential uses proposed as part of an adaptive reuse project must comply with the provisions of Sec. 28-82 for the zoning district in which the structure is located.

    1.2.Development and Design Standards. Site design shall be in accordance with the development regulations.

    1.3 Procedural requirements.

a. Adaptive reuse projects shall be subject to land development project review pursuant to the regulations.

b. In addition to the checklist requirements for the applicable review process, the applicant shall provide the following information:

1. The proposed residential density and the square footage of nonresidential uses.
2. A floor plan to scale for each building indicating, as applicable, the use of floor space, number of units, number of bedrooms, and the square footage of each unit.

* * *

Article VI. Development Plan Review.

Amend as follows:

Delete Sec. 28-181 through 28-186 and replace as follows:

Sec. 28-181. Development plan review established.

There shall be development plan review for uses that are permitted by right under the zoning ordinance, as provided for in this Article.

Sec. 28-182. Permitting authority. The permitting authority shall be the Planning Board.

Sec. 28-183. Uses subject to development plan review.

The following uses shall be subject to development plan review when any action is taken that requires the issuance of a building permit or certificate of occupancy, other than as excepted in section 28-185:

(1) *Nonresidential uses.* All nonresidential development, including, but not limited to, commercial, retail, industrial or institutional, calculated as to the entire development both existing and proposed, where any of the following apply:

Criteria	Downtown and Waterfront Zones	All Other Zones
The GFA is greater than:	10,000 s.f.	20,000 s.f.
Parking is either required or provided for more than:	25 vehicles	50 vehicles
The lot area of the entire parcel is equal to or greater than:	20,000 s.f.	40,000 s.f.
Gasoline service station:	All	All

Criteria	Downtown and Waterfront Zones	All Other Zones
A use that contains a drive-up window, including an ATM:	All	All
Any use serving food or alcohol (other than a fast food restaurant) that has a legal capacity equal to or exceeding:	80 people	150 people
Any fast food restaurant that has a legal capacity equal to or exceeding:	40 people	80 people
Wireless telecommunications antenna:	All	All

(2) Residential use. Any residential use, calculated as to the entire development both existing and proposed, where any of the following apply:

Criteria	Downtown and Waterfront Zones	All Other Zones
There are dwelling units equal to or more than:	6 D.U.	6 D.U.
There are rooming units equal to or more than:	6 R.U.	12 R.U.
For lots containing more than two dwelling units, the lot area of the entire parcel is equal to or greater than:	40,000 s.f.	80,000 s.f.

(3) *DPR required in certain zones.* Any use that is located in the Metacom Avenue overlay zone or Metacom mixed use zone.

Sec. 28-184. Guidelines.

The review by the planning board shall be based upon the specific requirements set forth in Appendices E, F; and for those properties in the Metacom Avenue Overlay, Appendix G of the regulations.

Sec. 28-185. Exceptions to development plan review.

The following actions shall be excepted from development plan review, but only upon application to and written decision by the administrative officer:

(1) *Change of use.* A use otherwise subject to development plan review is changed to another use that is permitted on the same legal basis as the prior use, and the new use is listed in the same category in Table A—Permitted Use Table (section 28-82).

(2) *Minor changes.* A use otherwise subject to development plan review is the subject of a minor change, as defined in the regulations.

Sec. 28-186. Waivers of design standards.

The Planning Board may grant waivers of design standards, as set forth in the regulations.

Sec. 28-187 – 28-210. Reserved.

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Article VII. Nonconformance

Amend as follows:

Sec. 28-221. Land nonconforming by area.

(a) Single lots of record.

(1) In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot which was of record on June 28, 1961.

(2) Notwithstanding limitations imposed by other provisions of this chapter, such lot must be in separate ownership and not adjoining any other lots in common ownership which would result in a merger under subsection 28-221(c) below and must not have been merged by use. This provision shall apply:

a. Even though such lot fails to meet the requirements for total lot area or width, or both, that are generally applicable in the district as set forth in article V of this chapter; and

~~b. Provided that the front and rear yard dimensions of the lot as built upon shall conform to the regulations for the district in which such lot is located as set forth in article IV of this chapter, and provided that for a lot with a lot width of 50 feet or more, each side yard shall have a minimum width of at least 20 percent of the lot width, but such yard need not exceed 25 feet in width. For any lot with a lot width of less than 50 feet, each side yard shall have a minimum width of ten feet.~~

~~Lot coverage by structures shall not exceed 40 percent. Principal structures shall be compatible in size and character with the neighborhood in which they are located. Variance of building size, lot coverage or yard requirements shall be obtained only through action of the zoning board; and~~

~~c. Lots of 10,000 square feet or more must meet the requirements for public utilities of the zone in which it is located; and lots with less than 10,000 square feet shall either (A) be connected to both public sewer and water, or (B) shall obtain a variance from the zoning board of review to have the lot serviced by only one utility. In the granting of said variance, the zoning board of review shall consider such factors as health and safety reasons and the financial feasibility of extending the utility lines to the lot. It shall be considered financially unfeasible to extend utilities to the lot if the cost of such extension would exceed 50 percent of the value of the fully developed lot, (with street, utilities, etc., but without a building). Such financial infeasibility shall be verified by a certified appraisal as to the lot value and the BCWA estimate for water service or three estimates for the sewer line installation. If the lot is not serviced by water, the owner shall record an indemnity in the land evidence records to hold the town harmless against any and all future costs if a public utility must later be brought to service the lot.~~

(b) Notwithstanding the failure of a single substandard lot of record or contiguous lots of record to meet the dimensional and /or quantitative requirements of this zoning ordinance, and/or road frontage or other access requirements applicable to the district as stated in the ordinance, a substandard lot of record shall not be required to seek any zoning relief based solely on the failure to meet minimum lot size requirements of the district in which such lot is located. The setback, frontage, and/or lot width requirements for a structure under this section shall be reduced and the maximum building coverage requirements shall be increased by the same proportion as the lot area of the substandard lot is to the minimum lot area requirement of the zoning district in which the lot is located. All proposals exceeding such reduced requirement shall proceed with a modification request or a dimensional variance request, whichever is applicable.

~~(d)~~ (c) Provided that appropriate landscaping, including, but not limited to, trees, hedges or fences shall be installed pursuant to the direction of the director to minimize any impact on adjacent property.

(d) Merger prohibited for certain lots. The merger of lots shall not be required when the substandard lot of record has an area equal to or greater than the area of fifty percent (50%) of the lots within two hundred feet (200 ft) of the subject lot, as confirmed by the zoning enforcement officer.

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Article IX. Land Development Projects and Special Zones

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Division 6. Low and Moderate Income Housing and Inclusionary Zoning

Amend as follows:

~~Sec. 28-361. - Purpose and authority.~~

~~(a) *Purpose.*~~

~~(1) To promote the public health, safety and welfare by promoting the development of low- and moderate-income housing within the Town of Bristol in accordance with the state mandate and to provide for a full range of housing choices throughout the town for households of all incomes, ages and sizes.~~

~~(2) To promote the development of affordable housing throughout town in a manner that is consistent with the town's adopted affordable housing plan and the comprehensive community plan.~~

~~(3) To produce housing that qualifies as affordable as defined by the mandates of the State's Comprehensive Housing Production and Rehabilitation Act of 2004.~~

~~(4) To establish mixed-income households within new subdivisions and land development projects throughout the town.~~

~~(5) To provide the town's developers of affordable housing the financial resources for promoting the production of affordable units throughout town, in lieu of on-site units provided within a subdivision subject to the provisions of this article.~~

~~(6) To establish an affordable housing unit or funding set-aside requirement that allows for a reasonable return for property owners and developers, while recognizing the fact that most future subdivisions will be small scale because few large parcels remain for development within Bristol.~~

~~(b) *Authority to grant comprehensive permits.* In accordance with RIGL Tit. 45, Ch. 53, the Low and Moderate Income Housing Act (as amended) the local review board shall have the power to issue a comprehensive permit for a qualifying low or moderate income housing project, which relief shall include all permits or approvals from any local board or official who would otherwise act with respect to such application including, but not limited to, the power to attach to the permit or approval conditions and requirements with respect to setbacks, height, site plan, size, shape, building materials, landscaping, and parking consistent with the terms of the Act.~~

~~Sec. 28-362. - Designation of local review board.~~

~~The town planning board is hereby designated as the local review board and all references in this division to local review board shall be to the planning board.~~

~~Sec. 28-363. - Definitions.~~

~~*Affordable housing* means residential housing that has a sales price or rental amount that is within the means of a household that is moderate income or less. In the case of dwelling units for sale, housing that is affordable means housing in which principal, interest, taxes, which may be~~

~~adjusted by state and local programs for property tax relief, and insurance constitute no more than 30 percent of the gross household income for a household with less than 120 percent of area median income, adjusted for family size. In the case of dwelling units for rent, housing that is affordable means housing for which the rent, heat, and utilities other than telephone constitute no more than 30 percent of the gross annual household income for a household with 80 percent or less of area median income, adjusted for family size. Such housing shall remain affordable through a land lease and/or deed restriction for 99 years or such other period that is either agreed to by the applicant and town or prescribed by the federal, state, or municipal government subsidy program but that is not less than 30 years from initial occupancy.~~

~~*Affordable housing plan* means that component of the housing element of the town comprehensive plan designed to meet the housing needs in the town.~~

~~*Approved affordable housing plan* means the affordable housing plan that has been approved by the director of administration as meeting the guidelines for the local comprehensive plan as promulgated by the state planning council.~~

~~*Affordable housing trust fund* means a restricted fund to be established by the town council for the purposes set forth in this article per RIGL Tit. 45, Ch. 53.~~

~~*Comprehensive plan* means the comprehensive plan of the town adopted and approved by the town pursuant to RIGL Chs. 22.2 and 22.3.~~

~~*Consistent with local needs* means reasonable in view of the state need for low or moderate income housing, considered with the number of low income persons in the town affected and the need (a) to protect the health and safety of the occupants of the proposed housing or of the residents of the town, (b) to promote better site and building design in relation to the surroundings, or (c) to preserve open spaces, and if the local zoning or land use ordinances, requirements, and regulations are applied as equally as possible to both subsidized and unsubsidized housing.~~

~~*Inclusionary housing agreement* means an agreement recorded in the town's land evidence records describing how the developer will comply with the provisions of this article.~~

~~*Inclusionary housing plan* means a plan setting forth in detail the manner in which the provisions of this article will be implemented.~~

~~*Inclusionary unit* means an affordable housing unit, as defined in this article.~~

~~*Local board* means any town or city official, zoning board of review, planning board or commission, board of appeal or zoning enforcement officer, local conservation commission, historic district commission, or other municipal board having supervision of the construction of buildings or the power of enforcing land use regulations, such as subdivision, or zoning laws.~~

~~*Low or moderate income housing* means any housing whether built or operated by any public agency or any nonprofit organization or by any limited equity housing cooperative or any private developer, that is subsidized by a federal, state, or municipal government subsidy under any program to assist the construction or rehabilitation of housing affordable to low or moderate~~

~~income households, as defined in the applicable federal or state statute, or local ordinance and that will remain affordable through a land lease and/or deed restriction for 99 years or such other period that is either agreed to by the applicant and town or prescribed by the federal, state, or municipal government subsidy program but that is not less than 30 years from initial occupancy.~~

~~**Sec. 28-364. – Applicability and eligibility.**~~

~~(a) Any applicant proposing to build low or moderate income housing may submit to the local review board a single application for a comprehensive permit to build that housing in lieu of separate applications to the applicable local boards. This procedure is only available for proposals in which at least 25 percent of the housing is low or moderate income housing.~~

~~(b) Notwithstanding the foregoing, in accordance with RIGL § 45-53-4(a)(xiii) the Bristol Town Council limits the annual total number of dwelling units in comprehensive permit applications from for-profit developers to an aggregate of one percent of the total number of year-round housing units in the town, as recognized in the affordable housing plan.~~

~~(c) Notwithstanding the timetables set forth elsewhere in this division, the local review board shall have the authority to consider comprehensive permit applications from for-profit developers, which are made pursuant to this paragraph, sequentially in the order in which they are submitted.~~

~~**Sec. 28-365. – Application and review procedures.**~~

~~Application and review procedures shall be set forth in the Town of Bristol Subdivision and Development Review Regulations.~~

~~**Sec. 28-366. - Criteria for approval.**~~

~~In approving an application for a comprehensive permit, the local review board shall make positive findings, supported by legally competent evidence on the record which discloses the nature and character of the observations upon which the fact finders acted, on each of the following standard provisions, where applicable:~~

~~(1) The proposed development is consistent with local needs as identified in the local comprehensive community plan with particular emphasis on the community's affordable housing plan and/or has satisfactorily addressed the issues where there may be inconsistencies.~~

~~(2) The proposed development is in compliance with the standards and provisions of the municipality's zoning ordinance and subdivision regulations, and/or where expressly varied or waived local concerns that have been affected by the relief granted do not outweigh the state and local need for low and moderate income housing.~~

~~(3) All low and moderate income housing units proposed are integrated throughout the development; are compatible in scale and architectural style to the market rate units within the project; and will be built and occupied prior to, or simultaneous with the construction and occupancy of any market rate units.~~

~~(4) There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval.~~

~~(5) There will be no significant negative impacts on the health and safety of current or future residents of the community, in areas including, but not limited to, safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water run-off, and the preservation of natural, historical or cultural features that contribute to the attractiveness of the community.~~

~~(6) All proposed land developments and all subdivisions lots will have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered compliance with this requirement.~~

~~(7) The proposed development will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable, unless created only as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.~~

~~Sec. 28-367. – Criteria for denial.~~

~~The local review board may deny the request for any of the following reasons:~~

~~(1) The town has an approved affordable housing plan and is meeting housing needs, and the proposal is inconsistent with the affordable housing plan. In this section *meeting housing needs* means adoption of the implementation program of an approved affordable housing plan and the absence of unreasonable denial of applications that are made pursuant to an approved affordable housing plan in order to accomplish the purposes and expectations of the approved affordable housing plan.~~

~~(2) The proposal is not consistent with local needs, including, but not limited to, the needs identified in an approved comprehensive plan, and/or local zoning ordinances and procedures promulgated in conformance with the comprehensive plan. Local zoning and land use ordinances, requirements, or regulations are consistent with local needs when imposed by the town council after comprehensive hearing, and, the town either has existing low or moderate income housing units in excess of ten percent of the year-round housing units reported in the latest decennial census of the town, or the town has promulgated zoning or land use ordinances, requirements, and regulations to implement a comprehensive plan which has been adopted and approved pursuant to state law, and the housing element of the comprehensive plan provides for low and moderate income housing in excess of ten percent of the year-round housing units.~~

~~(3) The proposal is not in conformance with the comprehensive plan.~~

~~(4) The town has met or has plans to meet the goal of ten percent of the year-round units being low and moderate income housing.~~

~~(5) Concerns for the environment and the health and safety of current residents have not been adequately addressed.~~

~~In the case of a denial, if the applicant fails to meet one or more of the criteria for approval, where applicable, then the local review board shall make negative findings on those provisions as part of its decision.~~

~~Sec. 28-368. - Voting and appeal.~~

~~All decisions on comprehensive permits shall be by majority vote of the membership of the local review board and may be appealed by the applicant to the state housing appeals board. Any person aggrieved by the issuance of an approval may appeal to the Rhode Island Supreme Court.~~

~~Sec. 28-369. - Expiration of approval and construction.~~

~~A comprehensive permit shall expire unless construction is started within 12 months and completed within 60 months of final plan approval unless a longer and/or phased period for development is agreed to by the local review board and the applicant. Low and moderate income housing units shall be built and occupied prior to, or simultaneous with the construction and occupancy of market rate units.~~

Sec. 28-361. Definitions.

"Adjustment(s)" means a request, or requests by the application to seek relief from the literal use and dimensional requirements of the zoning ordinance and/or the design standards or requirements of the land development and subdivision regulations. The standard for the local view board's consideration of adjustments is set forth in RIGL §45-53-4(d)(2)(iii)(E)(II).

"Consistent with local needs" means reasonable in view of the state need for low- and moderate-income housing, considered with the number of low-income persons in the town affected and the need to protect the health and safety of the occupants of the proposed housing or of the residents of the town, to promote better site and building design in relation to the surroundings, or to preserve open spaces, and if the zoning ordinance, requirements, and regulations are applied as equally as possible to both subsidized and unsubsidized housing.

"Infeasible" means any condition brought about by any single factor or combination of factors, as a result of limitations imposed on the development by conditions attached to the approval of the comprehensive permit, to the extent that it makes it financially or logistically impracticable for any applicant to proceed in building or operating low- or moderate-income housing, within the limitations set by the subsidizing agency of government or local review board, on the size or character of the development, on the amount or nature of the subsidy, or on the tenants, rentals, and income permissible, and without substantially changing the rent levels and unit sizes proposed by the applicant.

"Letter of eligibility" means a letter issued by the Rhode Island housing and mortgage finance corporation in accordance with RIGL §42-55-5.3(a).

"Local review board" means the planning board.

"Low- or moderate-income housing" shall be synonymous with "affordable housing" as defined in R.I. Gen. Laws § 42-128-8.1, and further means any housing whether built or operated by any

public agency or any nonprofit organization or by any limited equity housing cooperative or any private developer, that is subsidized by a federal, state, or municipal government subsidy under any program to assist the construction or rehabilitation of affordable housing and that will remain affordable through a land lease and/or deed restriction for ninety-nine (99) years or such other period that is either agreed to by the applicant and town or prescribed by the federal, state, or municipal government subsidy program but that is not less than thirty (30) years from initial occupancy.

"Meeting local housing needs" means as a result of the adoption of the implementation program of an approved affordable housing plan, the absence of unreasonable denial of applications that are made pursuant to an approved affordable housing plan in order to accomplish the purposes and expectations of the approved affordable housing plan, and a showing that at least twenty percent (20%) of the total residential units approved by a local review board or any other municipal board in a calendar year are for low- and moderate-income housing as defined in R.I. Gen. Laws § 42-128-8.1.

"Monitoring agents" means those monitoring agents appointed by the Rhode Island housing resources commission pursuant to RIGL §45-53-3.2 and to provide the monitoring and oversight set forth in this chapter, including, but not limited to, RIGL §§45-53-3.2 and 45-53-4.

Sec. 28-362. Applicability and eligibility.

a. Any applicant proposing to build low- or moderate-income housing may submit to the local review board a single application for a comprehensive permit to build that housing in lieu of separate applications to the applicable local boards. This procedure is only available for proposals in which at least twenty five percent (25%) of the housing is low- or moderate-income housing.

b. Notwithstanding the foregoing, in accordance with RIGL §45-53-4(d)(10), the Bristol Town Council limits the annual total number of dwelling units in comprehensive permit applications from for-profit developers to an aggregate of one percent (1%) of the total number of year-round housing units in the town, as recognized in the affordable housing plan, and notwithstanding the timetables set elsewhere in this section, the planning board shall consider comprehensive permit applications from for-profit developers sequentially in the order in which they are submitted.

Sec. 28-363. Municipal Subsidies.

In order to offset the differential cost of the low- or moderate-income housing units in the section, the following municipal subsides shall be provided:

a. Adjustments, meaning a request, or requests by the application to seek relief from the literal use and dimensional requirements of the zoning ordinance and/or the design standards or requirements of the land development and subdivision regulations. The standard for the planning board's consideration of adjustments is set forth in RIGL §45-53-4(d)(2)(iii)(E)(II).

b. Density bonus. The town shall provide the following density bonuses for projects submitted under this section provided that the total land utilized under in the density calculation shall exclude wetlands, wetland buffers, area devoted to infrastructure necessary for development, and easements or rights of way of record.

1. For projects connected to public water and sewer, or eligible to be connected to public water and sewer, demonstrated through written confirmation from each respective service provider the following density bonuses are provided:

i. For projects providing at least twenty-five (25%) low- and moderate-income housing the density bonus shall be five (5) units per acre.

ii. For projects providing at least fifty percent (50%) low- and moderate-income housing the density bonus shall be nine (9) units per acre.

iii. For projects providing at least 100 percent (100%) low- and moderate-income housing the density bonus shall be twelve (12) units per acre.

2. For properties not connected to either public water or sewer or both, but which provide competent evidence as to the availability of water to service the development and/or a permit for on-site wastewater treatment system to service the dwelling units from the applicable state agency the following density bonuses are provided:

i. For projects providing at least twenty-five (25%) low- and moderate-income housing the density bonus shall be three (3) units per acre.

ii. For projects providing at least fifty percent (50%) low- and moderate-income housing the density bonus shall be five (5) units per acre.

iii. For projects providing at least 100 percent (100%) low- and moderate-income housing the density bonus shall be eight (8) units per acre.

c. Parking. For comprehensive permit applications one (1) off-street parking space per dwelling unit is required for units up to and including two (2) bedrooms. Bedrooms. The bedroom count of units for a comprehensive permit are not limited to any count less than three (3) bedrooms for single family dwelling units, Floor area. There are no floor area limitations for comprehensive permit applications other than those provided by §45-24.3-11.

Sec. 28-364. Application Procedure.

The application and review process for a comprehensive permit shall be as follows:

a. Pre-application conference. A pre-application conference may be required by the administrative officer or requested by the applicant. The preapplication conference may be with the planning board, technical review committee, or administrative officer as determined appropriate by the administrative officer.

1. In advance of the pre-application conference, the applicant shall submit a short written description of the project including the number of units, type of housing, density analysis, preliminary list of adjustments requested, a location map, and a conceptual site plan.

2. Upon request of the applicant for a pre-application conference, such conference will be scheduled and held within thirty (30) days of the request, unless a different timeframe is agreed to by the applicant in writing.

3. If thirty (30) days has elapsed from the filing of the pre-application submission, and no pre-application submission has taken place, nothing shall be deemed to preclude the applicant from thereafter filing and proceeding with an application for preliminary plan review.

b. Preliminary plan.

1. Submission requirements. Applications for preliminary plan under this section shall include:

i. A letter of eligibility issued by the Rhode Island Housing Mortgage Finance Corporation, or in the case of projects primarily funded by the U.S. Department of Housing and Urban Development or other state or federal agencies, an award letter indicating the subsidy, or application in such form as may be prescribed for a municipal government subsidy; and

ii. A letter signed by the authorized representative of the applicant, setting forth the specific sections and provisions of applicable local ordinances and regulations from which the applicant is seeking adjustments; and

iii. A proposed timetable for the commencement of construction and completion of the project; and

iv. Those items included in the checklist for preliminary plan review with the exception of evidence of state or federal permits.

v. Notwithstanding the submission requirements set forth above, the planning board may request additional, reasonable documentation throughout the public hearing, including, but not limited to, opinions of experts, credible evidence of application for necessary federal and or state permits, and advice from other local boards and officials.

2. Certification of completeness. The preliminary plan must be certified complete or incomplete by the administrative officer, provided, however, that the certificate shall be granted within twenty-five (25) days of submission of an application. The running of the time period set forth herein will be deemed stopped upon the issuance of a written certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a correct application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies the

application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.

3. Public hearing. A public hearing shall be noticed and held as soon as practicable after the issuance of a certificate of completeness.

4. Notice. Public notice for the public hearing will be the same notice required under local regulations for a public hearing for a master plan**.** The cost of notice shall be paid by the applicant.

5. Timeframe for review. The planning board shall render a decision on the preliminary plan application within ninety (90) days of the date the application is certified complete, or within a further amount of time that may be consented to by the applicant through the submission of written consent.

6. Failure to act. Failure of the planning board to act within the prescribed period constitutes approval of the preliminary plan and a certificate of the administrative officer as to the failure of the planning board to act within the required time and the resulting approval shall be issued on request of the applicant. Further, if the public hearing is not convened or a decision is not rendered within the time allowed, the application is deemed to have allowed and the preliminary plan approval shall be issued immediately.

7. Vesting. The approved preliminary plan is vested for a period of two (2) years with the right to extend for two (2), one-year extension upon written request by the applicant, who must appear before the planning board for each annual review and provide proof of valid state or federal permits as applicable. Thereafter, vesting may be extended for a longer period, for good cause shown, if requested, in writing by the applicant, and approved by the planning board. The vesting for the preliminary plan approval includes all ordinances and provisions and regulations at the time of the approval, general and specific conditions shown on the approved preliminary plan drawings and support material.

c. Final plan. The second and final stage of review for the comprehensive permit project shall be done administratively, unless an applicant has requested and been granted any waivers from the submission of checklist items for preliminary plan review, and then, at the planning board's discretion, it may vote to require the applicant to return for final plan review and approval.

1. The following items shall be submitted as part of the final plan submission:

i. All required state and federal permits must be obtained prior to the final plan approval.

ii. A draft monitoring agreement which identifies an approved entity that will monitor the long-term affordability of the low- and moderate-income units pursuant to RIGL §45-53-3.2.

iii. A sample land lease or deed restriction with affordability liens that will restrict use as low- and moderate-income housing in conformance with the guidelines of the agency providing the subsidy for the low- and moderate-income housing, but for a period of not less than thirty (30) years.

iv. Those items included in the checklist for final plan review.

v. Arrangements for completion of the required public improvements, including construction schedule and/or financial guarantees.

vi. Certification by the tax collector that all property taxes are current.

vii. For phased projects, the final plan for phases following the first phase, shall be accompanied by copies of as-built drawings not previously submitted of all existing public improvements for prior phases.

2. Certificate of completeness. The final plan application must be certified complete or incomplete by the administrative officer according to the provisions of § 45-23-36; provided however, that, the certificate shall be granted within twenty-five (25) days of submission of the application. The running of the time period set forth herein will be deemed stopped upon the issuance of a written certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.

3. Timeframe for review. The reviewing authority shall render a decision on the final plan application within forty-five (45) days of the date the application is certified complete.

4. Decision on final plan. An application filed in accordance with this article shall be approved by the administrative officer unless such application does not satisfy conditions set forth in the preliminary plan approval decision or such application does not have the requisite state and/or federal approval or other required submissions, does not post the required improvement bonds, or such application is a major modification of the plans approved at preliminary plan.

5. Failure to act. Failure of the reviewing authority to act within the prescribed period constitutes approval of the final plan and a certificate of the administrative officer as to the failure to act within the required time and the resulting approval shall be issued on request of the applicant.

6. Vesting. The approved final plan is vested for a period of two (2) years with the right to extend for one one-year extension upon written request by the applicant, who must appear before the planning board for the extension request. Thereafter, vesting may be extended for a longer period, for good cause shown, if requested, in writing by the applicant, and approved by the local review board.

Sec. 28-365. Modifications and changes to plans.

a. Minor changes, as defined in the local regulations, to the plans approved at preliminary plan may be approved administratively, by the administrative officer, whereupon final plan approval may be issued. The changes may be authorized without additional public hearings, at the discretion of the administrative officer. All changes shall be made part of the permanent record of the project application. This provision does not prohibit the administrative officer from requesting a recommendation from either the technical review committee or the local review board. Denial of the proposed change(s) shall be referred to the local review board for review as a major change.

b. Major changes, as defined in the local regulations, to the plans approved at preliminary plan may be approved only by the local review board and must follow the same review and public hearing process required for approval of preliminary plans.

Sec. 28-366. Required findings.

a. Required findings for approval. In approving a preliminary plan application for a comprehensive permit, the local review board shall make positive findings, supported by legally competent evidence on the record which discloses the nature and character of the observations upon which the fact finders acted, on each of the following standard provisions, where applicable:

1. The proposed development is consistent with local needs as identified in the comprehensive plan with particular emphasis on the affordable housing plan and/or has satisfactorily addressed the issues where there may be inconsistencies.

2. The proposed development is in compliance with the standards and provisions of the zoning ordinance and subdivision regulations, and/or where adjustments are requested by the applicant, that local concerns that have been affected by the relief granted do not outweigh the state and local need for low- and moderate-income housing.

3. All low- and moderate-income housing units proposed are integrated throughout the development; are compatible in scale and architectural style to the market rate units within the project; and will be built and occupied prior to, or simultaneous with the construction and occupancy of any market rate units.

4. There will be no significant negative impacts on the health and safety of current or future residents of the community, in areas including but not limited to, safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water runoff, and the preservation of natural, historical, or cultural features that contribute to the attractiveness of the community.

5. All proposed land development and all subdivision lots will have adequate and permanent physical access to a public street.

6. The proposed development will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable, unless created only as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.

b. Required findings for denial. In reviewing the comprehensive permit request, the local review board may deny the request for any of the following reasons:

1. The town has an approved affordable housing plan and is meeting housing needs, and the proposal is inconsistent with the affordable housing plan; provided that, the local review board also finds that the municipality has made significant progress in implementing the housing plan;

2. The proposal is not consistent with local needs, including, but not limited to, the needs identified in an approved comprehensive plan, and/or local zoning ordinance and procedures promulgated in conformance with the comprehensive plan;

3. The proposal is not in conformance with the comprehensive plan;

4. The community has met or has plans to meet the goal of ten percent (10%) of the year-round units being low- and moderate-income housing provided that, the local review board also finds that the community has achieved or has made significant progress towards meeting the goals of the affordable housing plan; or

5. Concerns for the environment and the health and safety of current residents have not been adequately addressed.

c. Infeasibility of Conditions of Approval. The burden is on the applicant to show, by competent evidence before the local review board, that proposed conditions of approval are infeasible, as defined in R.I. Gen. Laws § 45-53-3. Upon request, the applicant shall be provided a reasonable opportunity to respond to such proposed conditions prior to a final vote on the application.

Sec. 28-367 – 28-369. Reserved.

Sec. 28-370. - Inclusionary zoning.

(a) *Applicability.* This section shall apply to all subdivisions of five or more units and all land development projects including new development and redevelopment of existing buildings, with five or more dwelling units, as classified under Bristol's Zoning Ordinance and Subdivision and Development Review Regulations. This section shall not apply to any project filed after January 1, 2024.

When a subdivision or land development project that creates fewer than five new dwelling units is approved on a portion of a parcel of land, leaving another portion of the same parcel undeveloped, the portion left undeveloped shall not be subdivided or developed for residential use unless the undeveloped portion is subject to the inclusionary requirements of this chapter. The number of inclusionary units required in the later development shall be calculated as if the earlier development were part of it. This provision does not apply when an entire parcel receives master plan approval and is developed in phases.

(b) *Affordability requirement.* For all applicable projects as defined in subsection 28-370(a), at least 20 percent of the units on site must qualify as affordable housing, as defined by this article. Fractions of a lot or dwelling unit shall be rounded up to the nearest whole number.

(c) *Design and building requirements.*

(1) All inclusionary units provided within a development shall:

a. Be reasonably dispersed throughout the development.

b. Be indistinguishable in appearance of quality of construction from the other units in the development.

c. Contain a mix of bedrooms, up to and including three-bedroom units.

d. Be compatible in architectural style to the market rate units within the project.

e. Be built and occupied prior to, or simultaneous with the construction and occupancy of any market rate units.

f. Where affordable housing units are proposed in the Metacom mixed use zone, these units shall not be located in a separate structure and must be located on the upper floors with commercial uses on the first floors.

(2) Any existing dwelling units proposed to be counted as inclusionary units must be in full compliance with all applicable construction and occupancy codes, and shall be sufficiently maintained or rehabilitated so that all major systems meet standards comparable to new construction.

(d) *Incentives.*

(1) *Reduction in minimum lot area.* All projects subject to this article shall be entitled to a density bonus allowing for reduction in the minimum lot area per dwelling unit in the development based upon the underlying zoning. The density bonus shall be 20 percent.

(2) *Modification of lot dimensional requirements.* The density bonus shall correspond with a 20 percent decrease in the minimum front, rear and side yard setback requirements and a 20 percent decrease in the minimum frontage and lot width requirements of the Bristol Zoning Ordinance for the zoning district in which the property is located. Except in the R-6 zoning district where the front yard setback shall not be less than the average of the block.

(e) Reserved.

(f) *Off-site option.*

(1) *Off-site options.* The planning board at its sole discretion may allow any developer of an inclusionary project to comply with the requirements of subsection 28-370(b) through one of the following off-site exactions:

a. Off-site rehabilitation of affordable units in existing buildings.

b. Off-site new construction of affordable units.

c. Donation of one or more parcels of land suitable for residential development to be held by the affordable housing trust fund.

(2) *Conditions.* Use of an off-site option shall be subject to the following conditions:

a. Reserved.

b. Off-site inclusionary units shall have a certificate of occupancy prior to, or simultaneous with the occupancy of any market rate units.

c. New off-site units shall be compatible in architectural style to the existing units in the surrounding neighborhood.

d. Renovated off-site units shall be in full compliance with all applicable construction and occupancy codes, and shall be sufficiently maintained or rehabilitated so that all major systems meet standards comparable to new construction.

e. The planning board in its sole discretion may further condition the use of any off-site option.

(g) *Preference of options.*

(1) Reserved.

(2) Reserved.

(3) The following is the town's preferred progression of affordable housing options:

a. *First preference.* Affordable units developed on-site.

b. Reserved.

c. *Second preference.* Off-site options:

1. Off-site rehabilitation of affordable units in existing buildings.

2. Off-site new construction of affordable units.

3. Donation of one or more parcels of land suitable for residential development to be held by the affordable housing trust fund.

(h) *Affordability requirements.* All affordable housing units constructed pursuant to this article must qualify as low- and moderate-income housing units as defined in RIGL Tit. 45, Ch. 53. To accomplish this, an applicant shall, at a minimum, make the following submission in conjunction with the final plan:

(1) A town approved monitoring service agreement, with a qualified organization; and,

(2) A town approved land lease and/or deed restriction that includes the town as a signatory, and grants to the town enforcement authority and the right to notice.

(3) A town approved marketing plan and residential selection plan for the low to moderate income units. The plan shall meet state and federal fair housing requirements and shall describe how the low or moderate income units will be marketed and potential homebuyers or tenants selected.

(4) *Local preference.* Priority shall be given in resident selection to local preference households for the low or moderate income units. "Local preference households" are to include those containing persons currently residing or employed in Bristol or hired to do so but not yet working within the town. They may include others such as persons having children, parents, or siblings who are residents of the town, if shown to be consistent with state and federal fair housing requirements.

(i) *Implementation of inclusionary unit provisions.* Implementation procedures, to be developed administratively by the town and approved by the planning board as part of the town's subdivision and development review regulations, shall further describe the submission requirements and review timelines for the inclusionary housing plan and inclusionary housing agreement.

* * *

Article XI. Administration, Enforcement and Relief

Amend as follows:

Sec. 28-408. Zoning board of review.

(f) Voting. The board shall be required to vote as follows:

(1) ~~Five~~ Four active members, which may include alternates, shall be necessary to conduct a hearing. As soon as a conflict occurs for a member, that member shall excuse himself, and shall not sit as an active member and shall take no part in the conduct of the hearing. ~~Only~~ A maximum of five active members, which may include alternates, shall be entitled to vote on any issue.

(2) The concurring vote of ~~three of the five~~ a majority of members of the board sitting at a hearing shall be necessary to reverse any order, requirement, decision or determination of the historic district commission, the planning board, or any administrative officer or agency from whom an appeal was taken.

(3) The concurring vote of ~~four of the five~~ a majority of members of the board sitting at a hearing shall be required to decide in favor of an applicant on any matter within the discretion of the board upon which it is required to pass under this chapter, including variances and special use permits.

Sec. 28-409. Variances and special use permits.

*** * ***

(b) *Hearing and notice.* The zoning board shall immediately upon receipt of an application for a use variance or special use permit, request that the planning board report its findings and recommendations, including a statement on the general consistency of the application with the goals and purposes of the comprehensive plan of the town, in writing to the board. The planning board may, but need not, hold a public hearing on any such request to the zoning board not later than 30 days from receipt of the request by the planning board. The planning board may also delegate the review of such requests to its technical review committee pursuant to RIGL § 45-23-32(52). The zoning board shall hold a public hearing on any application for variance or special use permit in an expeditious manner after receipt in proper form of an application and the planning board recommendation, provided such recommendation is received within the specified 30 days. The zoning board shall give public notice thereof at least 14 days prior to the date of the hearing in a newspaper of ~~general~~ local circulation in the town. The same notice shall be posted in the town clerk's office and one other municipal building and shall be accessible on the home page of the town's website at least fourteen (14) days prior to the hearing. Notice of this hearing, including at least the substance of the application and the street address of the subject property, shall be sent by first class mail to the applicant and to:

(1) All owners of real property whose property is located within 200 feet of the perimeter of the subject property, if any part of the subject property is located in the D, W, LB or R-6 zones; or

(2) All owners of real property whose property is located within 300 feet of the perimeter of the subject property, if any part of the subject property is located in any zone other than the zones set forth in subsection 28-409(b)(1) of this section; and

(3) To the town council of any town to which one or more of the following pertain:

a. Which is located within 200 or 300 feet, as set forth in subsections 28-409(b)(1) and (2) of this section, of the boundary of the subject property; or

b. Where there is a public or quasi-public 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 part of the subject property, regardless of municipal boundaries; and

(4) 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 part of the subject property; provided, however, that the governing body of any state or municipal water company has filed with the director in the town 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.

Such notice as is required in subsections 28-409(b)(1) and (2) of this section shall be sent whether or not the noticed land is within the town or within an adjacent town. No defect in the form of any notice under this section shall render any variance, special use permit or decision on appeal, invalid, unless such defect is found to be intentional or misleading. For any notice sent by first-class mail, the sender of the notice shall submit a notarized affidavit to attest to such mailing.

(c) Standards for relief. The following shall be standards for relief:

(1) Variance. In granting a variance, the board shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

a. That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to an economic disability of the applicant;

b. That such hardship is not the result of any prior action of the applicant ~~and does not result primarily from the desire of the applicant to realize greater financial gain~~;

c. That the granting of the requested variance will not alter the general characteristic of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan of the town;

~~d. That the relief to be granted is the least relief necessary;~~

~~e~~ d. The board shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:

1. In granting a use variance, the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of this chapter. Nonconforming use of neighboring land or structures in the same district and permitted use of land or structures in an adjacent district shall not be considered grounds for granting a use variance; and

2. In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. 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.

* * *

Add the following:

Sec. 28-414. Unified development review.

a. Unified development review established. There shall be unified development review for the issuance of variances and special use permits for properties undergoing review by development plan review and/or land development or subdivision review.

b. Public hearing. All land development and subdivision applications, and development plan review applications that include requests for variances and/or special-use permits submitted pursuant to this section, shall require a public hearing.

c. In granting requests for dimensional and use variances, the planning board shall be bound to the requirements of Sec. 28-409(c)(1) relative to entering evidence into the record in satisfaction of the applicable standards.

d. In reviewing requests for special use permits the planning board shall be bound to the conditions and procedures under which a special use permit may be issued and the criteria for the issuance of such permits, as found within the zoning ordinance at Sec. 28-409(c)(2), and shall be required to provide for the recording of findings of fact and written decisions as described in the zoning ordinance pursuant to Sec. 28-408(i).

e. Appeals. An appeal from any decision made pursuant to this section may be taken pursuant to RIGL 45-23-71.

* * *

This ordinance shall take effect on January 1, 2024.