

CITY OF NEWPORT
ORDINANCE
OF THE
COUNCIL
NO.2024-21

AN ORDINANCE IN AMENDMENT OF TITLE 17 OF THE CODIFIED ORDINANCES OF THE CITY OF NEWPORT, RHODE ISLAND, REVISION OF 1994, AS AMENDED, ENTITLED, "ZONING."

BE IT ORDAINED by the City of Newport:

SECTION 1. Chapter 17.88 of the Codified Ordinances of the City of Newport, RI, revision of 1994, as amended, entitled, "**Development Plan Review**," is hereby further amended as follows:

Chapter 17.88. DEVELOPMENT PLAN REVIEW

17.88.010. Intent.

The purpose of development plan review process is to ensure compliance with the comprehensive plan and protect the public health, safety, and general welfare of the community by providing a review of plans for uses which may have significant impact on traffic, municipal services and utilities, the environment, economic development or the public health and safety. Development plan review reviews new development and substantial alteration of existing development in order to ensure a basic standard of building, site and landscape design. Development plan review shall not be used for the purpose of denying an applicant a permitted use of the property as established by the zoning code. The planning board shall serve as the review agency of applications for uses requiring a special use permit, a variance, a zoning ordinance amendment and/or a zoning map change which are subject to development plan review. The technical review committee established pursuant to Chapter 2.68.040.B. of the Codified Ordinances of the City of Newport shall assist the planning board in its review of said applications by providing advice, comment and recommendations. The technical review committee shall serve as the review agency for uses that are permitted by right which are subject to development plan review. **ADD: The technical review committee shall also serve to provide advice and recommendation to the Building Official for principal structure demolition applications.**

17.88.020. Uses requiring development plan review.

The provisions of this chapter shall be applicable to the following:

- A. Transient guest facilities.
- B. Any multifamily dwelling use **ADD: or adaptive reuse** involving an increase of three or more dwelling units or when the total number of dwelling units is six or greater.
- C. Any commercial use of ten thousand (10,000) gross square footage or greater.
- D. Any individual restaurant of four thousand (4,000) gross square footage or greater.
- E. Any professional or medical office of ten thousand (10,000) gross square footage or greater or combination of professional or medical office in conjunction with other commercial uses such that the total gross square footage is ten thousand (10,000) or greater.
- F. Hospitals, convalescent and rest homes; schools, colleges and universities, including dormitories; museums; libraries; churches; alcohol research and rehabilitation facilities.
- G. Parking areas for more than ten automobiles.
- H. Vacation guest facilities.
- I. Public utilities—Private electrical services.

ADD:

- J. A change in use at the property where no extensive construction of improvements is sought.**
- k. Demolition of a principal structure outside of the Historic District.**

All applications for development plan review which require zoning approval, shall be filed with the zoning board of review by submitting a complete application with the zoning officer. The application shall be placed on the next available zoning board of review agenda and shall immediately be forwarded to the technical review committee and planning board. Once referred by the zoning officer, development plan review shall begin with a review of the application by the technical review committee which shall be advisory to the planning board which shall complete the development plan review. The planning board's review with its findings, recommendations and approvals shall be in writing and shall be advisory to the zoning board of review.

For applications for uses which are permitted by right and which are subject to development plan review, complete applications for development plan review shall be filed with the administrative officer for the technical review committee.

17.88.030 Guidelines and standards for review.

Prior to granting any development plan review approval or issuing findings or recommendations concerning approval to the zoning board of review, the planning board, or in the case of an application for a use permitted by right, the technical review committee shall find that:

1. The granting of the approval will not result in conditions inimical to the public health, safety or welfare;
2. The granting of the approval will not substantially or permanently injure the appropriate use of property in the surrounding area or zoning district;
3. The plans for the development comply with the requirements of the zoning ordinance and subdivision regulations, Titles 12, 13 and 15 of the Codified Ordinances of the City of Newport governing public services, streets, sidewalks and public places, parking, buildings and construction as well as laws, ordinances, rules and regulations governing stormwater management. An applicant may seek waivers and modifications of the requirements of the subdivision regulations and variances from the requirements of the zoning ordinance pursuant to provisions authorizing the same.
4. The plans for the development are consistent with the comprehensive plan; and
5. Conditions, restrictions or required site improvements required to meet these guidelines are incorporated in the written approval or guidelines.

ADD:

Applications solely for a demolition of a principal structure outside of the Historic District are exempt from these standards of review. The advice and recommendation of the technical review committee to the Building Official shall be made in consideration of public health, safety, and welfare.

17.88.040 Development plan contents.

Development plans required in accordance with this chapter shall contain the following minimum information **ADD:** (except

plans solely for demolition permits, which have separate content requirements):

- A. Proposed name of the development.
- B. Name and address of the owners and applicant/owner's representative of the property.
- C. Tax assessor's plat and lot number.
- D. Perimeter boundaries of the entire property with lot area and dimensions indicated.
- E. Date, scale, north arrow, phasing, and number of sheets.
 - 1. Scale shall be one inch equals fifty (50) feet or larger;
 - 2. If the project is to be constructed in phases, this should be clearly indicated;
 - 3. When more than one sheet is required, a cover sheet drawn to suitable scales shall show the entire site and indicate match lines for each page of the plan.
- F. A vicinity map which indicates the location of the site in relation to the immediate surrounding area or the entire city.
- G. Name, address, stamp/seal and signature of the professional preparing the plan.
- H. Existing and proposed topography at a suitable contour interval.
- I. All existing or proposed easements and rights-of-way.
- J. Limit of disturbance, location and square footage of buildings proposed, and breakdown by square footage of intended uses or number of units.
- K. Layout of proposed parking area, including arrangement and dimensions of parking spaces and drive aisles as well as existing and proposed points of ingress/egress.
- L. Existing and proposed sewers, watermains, culverts and other underground facilities, indicating pipe sizes, grades, manholes and location, both onsite and offsite.
- M. Existing and proposed drainage system.
- N. Location and type of lighting.
- O. Location and dimensions of pedestrian entrances, exits, and walkways.
- P. Location of any proposed freestanding signs.

- Q. Identification of proposed dumpster pad.
- R. Identification of any wetland located on the site and flood hazard information, if applicable.
- S. A landscape plan of existing and proposed trees, shrubs, and other vegetation prepared by a registered landscape architect.
- T. Stormwater management plan. The development plan shall contain all of the information and meet the requirements of the City of Newport department of utilities' requirements for development plans submitted for development plan review.
- U. All applicants must provide a copy of any existing institutional master plan or similar plan describing existing and/or anticipated institutional development. The administrative officer may require that an institutional master plan be prepared and submitted if the uses on the property are of such a nature that it is reasonably expected that further development thereon may be planned or take place.
- V. Any additional information deemed necessary by city staff in order to satisfactorily complete review as it pertains to a particular required improvement or other aspect of the proposed development plan. This may include information such as projected average daily water consumption for potable and nonpotable purposes; projected average daily wastewater flow; frequency and duration of peak usage of water and sewer facilities; effluent characteristics; water pressure; existing roadway capacity and traffic counts; projected average daily vehicle trips and peak hour trips generated.

ADD:

For principal structure demolition applications, plans required in accordance with this chapter shall contain the following minimum information:

- A. Demolition staging plan;
- B. Site plan identifying all existing structures and all trees of diameter eighteen (18) inches or greater;
- C. Stormwater management plans and specifications for the duration of the demolition work in conformance with the requirements of the city's stormwater management ordinance; and

D. Site restoration plans and specifications (only applicable if commencement of construction of a new structure is not planned within sixty (60) days after completed demolition.

17.88.050. Development plan submission.

Development plans may be submitted by the property owner or owner's representative. The reviewing agency, being the planning board or technical review committee as the case may be, shall make the final determination as to the adequacy of the development plan submitted for the purposes of this chapter. A development plan which is not complete and fails to satisfactorily provide the necessary minimum information described in Section 17.88.040 shall not be accepted for review. In such instances, the applicant will be notified in writing by the administrative officer within five (5) working days as to the reasons why the proposed development plan is not accepted for review. It shall be necessary for the development plan to be prepared by a professional architect, landscape architect, engineer and/or surveyor who are licensed in the State of Rhode Island.

Prior to submittal of the development plan, the applicant may be required to attend one or more pre-application conferences with the administrative officer.

17.88.060. Filing procedures and processing.

- A. The applicant shall comply with the requirements established by the administrative officer for the format and number of copies of the development plan to be submitted for processing and review. At the time the development plan is submitted to the city for review, a fee in accordance with Chapter 2.120 General Fee Schedule shall be paid to the city. After the development plan, related materials and fee have been submitted and is determined to be complete, it shall be processed and reviewed by the reviewing agency, being the planning board or technical review committee, as the case may be, in accordance with the provisions of this chapter.
- B. The reviewing agency shall act upon the development plan and related material as submitted by the developer, or as modified by the development review process within forty-five (45) days of its submittal.
- C. Reports of the technical review committee to the planning board shall be in writing and be part of the permanent record of the development application. In no case shall the recommendations of the technical review committee be binding

on the planning board in its activities or decisions. All reports of the technical review committee shall be made available to the applicant prior to the meeting of the planning board at which the reports are first considered.

ADD:

D. Reports of the technical review committee to the Building Official on principal structure demolitions shall be in writing.

17.88.070. Required site improvements.

Improvements of the following type may be required by the city during the course of development plan review. All such required improvements are to be constructed in accordance with the accepted standards and specifications of the city.

- A. Right-of-way improvements to include pavement widening, curb, gutter, sidewalks and street lights.
- B. Adequate sewage collection and disposal facilities including the provision of manholes or the construction of upgrading of pump stations.
- C. An adequate water supply and distribution system for both fire protection, (including hydrants) and potable purposes.
- D. Improvements to traffic flow and circulation, to include turn and by-pass lanes, signalization, pavement markings, and other traffic control measures.
- E. Drainage improvements for the disposition of storm or natural waters so as not to have a detrimental effect on the property of others or the public right-of-way.
- F. Plantings, trees, shrubs, and vegetation, as well as screening, fences, walls or berms where required by other sections of this zoning code, to provide privacy, protect public safety, and afford aesthetics.
- G. Driveways and entrances to streets for both pedestrian and vehicular access.
- H. Temporary or permanent erosion and sediment control measures.
- I. Easements for the purpose of adequate ingress/egress or the provision of public utilities such as water and sewer.
- J. For new construction or renovations resulting in the upgrading of services, all utilities shall be installed underground.

17.88.080. Development plan review prerequisite for building permit.

No building permit shall be issued to construct, erect or alter any building or structure, or develop, change, or improve land for which a development plan is required, except in accordance with the approved development plan. The approved development plan and any applicable stipulations shall become part of the application for a building permit and shall be binding on any building permit issued.

17.88.090. Construction in accordance with development plan.

It shall be unlawful for any person to construct, erect or alter any building or structure, or develop, change or improve land for which a development plan is required, except in accordance with the approved development plan. The city may restrain any unlawful act hereunder by a stop work order, and by appropriate court action.

17.88.100. Performance requirement.

- A. A certificate of occupancy shall not be issued until all requirements of the development plan are met.
- B. Where required improvements are of a public nature that are to be subsequently accepted for dedication, maintenance, or operation by the city, and their installation has not been made, in whole or in part, the city may issue a certificate of occupancy provided the applicant furnishes the city a certified check, bond, letter of credit, or other acceptable form of surety satisfactory to the city solicitor. The surety is to be held by the finance director. Estimated construction costs shall be in accordance with the approved development plan and the amount thereof, subject to the approval of the city engineer or other designated official.
- C. Performance bonds or other sureties established in subsection B of this section shall be released when the city engineer or other designated city official certifies that the requirements set forth have been met.
- D. Where any improvement is to be accepted for dedication, maintenance, or operation by the city, the applicant may be required to provide a certified check, bond, letter of credit, or other acceptable form of surety in the amount of ten percent of the total costs of the improvements involved to cover the costs of any defects which may occur in such improvements within two years after the date of acceptance by

the city. The director of public services shall be responsible for determining when such surety shall be required.

17.88.110. Revisions.

A development plan may be revised or modified provided it is done in accordance with the provisions and procedures of this zoning code in the same manner as originally approved. Any substantial modification or revision to a development plan will require re-submittal as for a new plan. Approval of the development plan shall become null and void unless the use of the land has commenced or a building permit issued within one (1) year from the date of approval. Upon the request of the applicant, approval of the development plan may be revalidated for one additional ninety (90) day period if all factors of the original development plan review are the same and the applicant requests revalidation prior to the expiration of the original approval period. A determination as to what constitutes a substantial modification or revision is to be made by the reviewing agency.

17.88.120. Appeals.

An aggrieved party with respect to a decision of the technical review committee on an application involving a use permitted by right shall have the right to appeal such decision to the zoning board of review. The zoning board of review shall articulate and explain the reasons and basis of each decision. The zoning board of review shall send a copy of the decision to the aggrieved party, and [to] all parties entering an appearance. An aggrieved party may appeal the decision of the zoning board of review on a matter appealed under this chapter to the superior court of Newport County.

SECTION 2. This ordinance shall take effect upon its passage and all ordinances or parts of ordinances inconsistent herewith are hereby repealed.

IN COUNCIL
READ AND PASSED
JULY 24, 2024


LAURA C. SWISTAK, CMC
CITY CLERK