


OFFICE OF THE CITY SOLICITOR
MEMORANDUM

TO: Jeanne Marie Napolitano, Mayor and Members of the City Council
for the City of Newport

CC: Joseph J. Nicholson, Jr., Esq., City Manager
Girard Galvin, Esq., Assistant City Solicitor
Patricia Reynolds, Director of Planning and Economic Development
Peter Friedrichs, City Planner
Laura Swistak, City Clerk

FROM: Christopher J. Behan, Esq., City Solicitor 

DATE: June 14, 2021

RE: Zoning Amendments "Base" and "Float" for North End

Provided herewith are the most recent versions of the "base" and "float" zoning amendments for the North End with a Zoning Amendment Map detailing the areas. You will recall that the documents includes a new Base zone entitled Innovation Hub (IH) with subdistricts (new Chapter 17.65), an Innovation Hub Floating Overlay Zone (IHF) (new Chapter 17.66), and a Zoning Amendment Map for the Innovation Hub for review.

I am requesting that these amendments be placed on the docket for the next scheduled Council meeting to be received and referred to the Planning Board for its review and recommendation and ordered for advertising.

CITY OF NEWPORT

ORDINANCE

OF THE

COUNCIL

NO. 2021-__

AN ORDINANCE IN AMENDMENT OF TITLE SEVENTEEN 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. Section 17.08.010 of the Codified Ordinances of the City of Newport, RI, revision of 1994, entitled, "Definitions" is hereby amended as follows:

17.08.010. Definitions

"Advanced Manufacturing" is the use of best practices, low or zero-pollution technology to improve products or processes, often integrating new technologies in both products and processes.

"Service" means a use that provides a personal service that is nonmedical as a primary use and may include accessory retail sales of products related to the service. These may include, but are not limited to hair salons, dry cleaning facilities, tailors, groomers, laundromats and travel agencies.

"Ocean Technologies" is a sector of the advanced technology industry that focuses on products and services to understand and work in or use of the ocean. This includes, but is not limited to, advanced maritime technology, oceanographic and marine biology research, aquaculture, and ocean related renewable energy research.

"Blue economy" is the sustainable use of ocean resources for economic growth, improved livelihoods, and jobs, while preserving the health of the ocean ecosystem.

"Green Economy" A green economy is defined as low carbon, resource efficient and socially inclusive. In a green economy, growth in employment and income are driven by public and private investment into such economic activities, infrastructure and assets that allow reduced carbon emissions and pollution, enhanced energy and resource efficiency, and prevention of the loss of biodiversity and ecosystem services.

"Co-working space" is a facility where people assemble in a neutral space to work independently on different projects, or in groups on the same projects. Unlike a typical office, people in a co-working space generally are not working for the same company.

"NEUP" means the North End Urban Plan which has been approved and adopted by the Newport City Council and incorporated into the City of Newport Comprehensive Land Use Plan.

"Maker-space" is a facility focused on technology and small-scale manufacturing opportunities, such as making furniture, clothing, watches, jewelry or bicycles, but also including uses such as a catering facility, coffee roasting, glass blowing, metal/art fabrication, welding, small machine shop, wholesale

Base

bakery or a pottery making facility. This is distinct from the Maker and Maker-tech character subdistricts.

“Live-work dwelling” is a single unit consisting of both a commercial/office and a residential unit that is occupied by the same person.

“Cellar” is a story of a building that has at least four feet of its story below abutting principal streets. “Story” is that part of a facade between the surface of one floor more than 33% of the building area and the ceiling immediately above. It must be at least 7’6” high. A cellar does not count as a story.

“Unified Development Review” is the process by which a zoning ordinance may provide that review and approval of dimensional variances, use variances and/or special-use permits for properties undergoing review by the planning board or commission as land-development or subdivision projects pursuant to RIGL §45-23-36, be conducted and decided by the planning board.

“Workforce Housing” is housing that is affordable to workers, and close to their jobs. It is ownership as well as rental housing that can be reasonably afforded by a moderate to middle income workforce and located in acceptable proximity to multimodal transportation options or job opportunities. It is generally accepted to be housing that is affordable to households earning from 80 to 120% of the area median income (AMI).

Section 2. Section 17.12.010 of the Codified Ordinances of the City of Newport, R.I., revision of 1994 entitled “Establishment of Districts” is hereby amended as follows:

17.12.010 Establishment of districts.

C. Other Districts

(ADD) Innovation Hub IH

Subdistricts

Urban Village UV

Maker MK

Maker-Tech MT

SECTION 3. Chapter 17.65 of the Codified Ordinances of the City of Newport, RI, revision of 1994, entitled, “Innovation Hub (IH)” is hereby created as follows:

Chapter 17.65 – INNOVATION HUB (IH)

The Innovation Hub (IH) shall consist of three distinct, mapped zoning subdistricts, Urban Village, as defined in Section 17.65.020A of this ordinance, Maker-Tech (MT) as defined in Section 17.65.020B of this ordinance, and Maker(M) defined in Section 17.065.020C of this ordinance and as illustrated on the City of Newport Zoning Map.

17.65.010 – Legislative Intent

The intent of the Innovation Hub (IH) is to support new employment opportunities in diverse fields of high technologies; including, but not limited to: healthcare; advanced manufacturing; defense (underwater, maritime and cyber security); blue and green economy initiatives, ocean technologies

Base

ventures; resilience/climate change research and development; alternative energy research and development; and digital industries, in line with the economic development goals of the Comprehensive Plan. This is to be allowed in an appropriate mix with supportive housing, retail, recreation, cultural and open space, in a single development of one lot. The intent is to create a cohesive village center reflective of Newport's impressive history at the base of the Pell Bridge, near Naval Station Newport, while proposing new street layouts, urban and recreational spaces, and architecture and building types to reflect modern times and needs, including resiliency in a low-lying coastal area.

The IH district is meant to work with the City's Comprehensive Plan, as amended to incorporate the North End Urban Plan (NEUP) and the NEUP Design Guidelines, and shall provide for mixed-use based economic development, foster twenty-first century jobs and lifestyle choices, clear public benefits including open spaces, the realization of health benefits associated with more walkable and bikeable streets and paths, and greater connectivity within and between the city's neighborhoods and resources.

The boundaries of the IH district prevent adjacent residential and open space areas from overdevelopment and the elevated design standards protect and enhance Newport's unique natural, cultural, and scenic character. The area of the City that includes the IH district possesses major thoroughfares, public greenspaces, Naval Station Newport, historic resources, and large quantities of affordable housing in need of protection and enhancement. This is achieved through the provisions of this district.

Specific components of this intent include:

- To provide for economic development and employment opportunities in diverse fields, including those related to an innovation economy.
- To support the development of these diverse fields as incubator/accelerator type businesses along with their support subsectors and to support the continued growth and success of these uses.
- To provide live/work opportunities for professionals, business owners, workforce and makers.
- To provide, as amenities to the primary functions, a multimodal district that allows for a mix of housing, recreation and a range of publicly-accessible, populated open spaces in the form of small pocket parks, trail corridors, and urban plazas that serve as amenities not only for the district, but also the surrounding areas.
- To support existing surrounding residential areas.
- To encourage, guide and direct development in the North End and ensure that the character presented in the City's Comprehensive Plan is maintained, and that mixed uses provide for the health and growth of the area.
- To utilize the area's approved NEUP Design Guidelines to have outstanding design associated with all forms of site and architectural design of new developments or substantial redevelopments.
- To foster high density, mixed-use development, and to deter: "suburban-type" shopping centers; big box store developments; low-rise developments that emphasize parking; developments that are large-scale and single-use or stand-alone single-use, including detached single-family dwellings.
- To promote pedestrian activity on streets, with easy multimodal access from surrounding neighborhoods.
- To promote a city that is resilient to climate change impacts and is environmentally sustainable, inclusive and accessible to all.

17.65.020 – Use Regulations

Uses may be established on a lot of record for one or more of the uses as listed below. Uses may be vertically or horizontally integrated but may not cross lot lines. The floor area of buildings within the district may be used for more than one permitted use, whether such uses are allowed by right, or by

Base

special permit authorized by the Planning Board through the Unified Development Review process as outlined in Section 17.65.87.

A – Urban Village (UV)

The Urban Village subdistrict is an area characterized by dense, mixed-use development and serves as the gateway to Newport. Because of this, the intensity and quality of development should both be high. While jobs-focused uses should be a priority, a mix of activities accessible by foot or bicycle shall complement those commercial uses to create a complete neighborhood. Future development should be approved with appropriate scale of new blocks that are in keeping with the traditional block sizes in Newport. All new roadways shall support generous walking and landscape areas to ensure ample tree cover. The ground floor of a multi-use building shall be used for allowed commercial uses.

The business corridor along JT Connell Highway shall seek to beautify and enhance pedestrian amenities and safety; development and redevelopment along this corridor shall reduce the width and number of curb cuts.

Providing public access to the water is a priority for this subdistrict. Both public access to the waterfront and ensuring adequate access to Blue Economy enterprises are priorities.

(a) The following uses are permitted by right:

1. Multifamily dwellings and/or live-work dwellings up to 35% of total gross square footage of a mixed-use project. Multifamily dwellings and/or live-work dwellings, up to 50% of total gross square footage of a mixed-use project, provided that 50% of the total units shall be rented or sold as workforce housing.
2. Home occupation
3. Family day care center
4. Community residence
5. Nonprofit multifamily housing facilities for the elderly
6. Municipal and public services corporation building and facility
7. Park, playground, playing field, plaza, trail
8. Commercial indoor recreational facility
9. Standard restaurant
10. Stores where goods are sold or service is rendered, primarily at retail
11. Stores where nautical goods are sold or service is rendered, primarily at retail
12. Tavern
13. Advanced manufacturing
14. Banks and financial institution
15. Co-working space
16. Maker-space
17. Marine and oceanographic research laboratory
18. Professional and business office
19. Professional and business offices where maritime issues and products are the primary use such as naval architects, maritime publishers, etc.
20. Research and development facilities, including, but not limited to clean energy, defense systems, ocean technologies, medical and pharmaceutical, and digital industries
21. Research laboratory
22. Yacht and sailing clubs, and schools which give special marine or nautical instruction
23. Marina

(b) The following uses require a special use permit through the Planning Board Unified Development Review process.

1. Temporary housing for yachting organizations
2. Agricultural and horticultural society
3. Arcade
4. Automobile dealership
5. Multimodal transportation center
6. Convalescent home, rest home
7. Convention or conference center
8. Conservation land
9. Church, place of worship
10. Cultural institution
11. Drive throughs
12. Fast-food restaurants with no drive thru facility
13. Federal, state and municipal building
14. Hospital
15. Religious, philanthropic, scientific, literary, historical, fraternal, and charitable institution
16. Library
17. Museum
18. Nursery school, day care center
19. Outdoor retail including restaurant and open-air markets
20. Schools, colleges and universities including fraternity or sorority houses or dormitories for faculty or students
21. Schools of limited instruction
22. Commercial recreational facility
23. Parking garage
24. Theater
25. Transient guest facility
26. Vacation guest facility
27. Wholesale brewing, distilling, fermenting, fungicide or hydroponics
28. Commercial scale energy system
29. Painting and woodworking shop
30. Printing and publishing establishment
31. Public utilities-private electric service
32. Radio and television broadcasting studio (excluding transmitting and receiving tower)
33. Residential scale energy system
34. Undertakers establishment
35. Water tower

B – Maker-Tech (MT)

Maker-Tech (MT) is a subdistrict designed to protect and provide for the expansion of existing uses which provide valuable technology and craft industries essential to the economy. Special considerations for this area include the incorporation of wetland features on low-lying parcels to improve stormwater storage areas and enhancing physical access for the existing and future land uses.

(a) The following uses are permitted by right:

Base

1. Live-work dwellings up to 35 % of total gross square footage of a mixed-use project or live-work dwellings, up to 50% of total gross square footage of a mixed-use project, provided that 50% of the total units shall be rented or sold as work-force housing.
2. Home occupation
3. Family day care center
4. Community residence
5. Municipal and public service corporation building and facility
6. Park, playground, playing field, plaza, trail
7. Wholesale brewing, distilling, fermenting, fungicide or hydroponics
8. Advanced manufacturing
9. Banks and financial institution
10. Co-working space
11. Maker-space
12. Marine and oceanographic research laboratory
13. Professional and business office
14. Professional and business offices where maritime issues and products are the primary use such as naval architects, maritime publishers, etc.
15. Research and development facilities, including, but not limited to clean energy, defense systems, ocean technologies, medical and pharmaceutical, and digital industries
16. Research laboratory
17. Boat building and repair
18. Boat dealer and broker
19. Marine fabrication, including sail making, repair and sales, canvas manufacturing, and marine metal casting
20. Yacht and sailing clubs, and schools which give special marine or nautical instruction
21. Manufacturing, processing, assembly or indoor storage of goods
22. Painting and woodworking shop
23. Printing and publishing establishment
24. Radio and television broadcasting studio (excluding transmitting and receiving tower)
25. Seafoods sales, landing, storage, brokerage and distribution
26. Sheet metal, blacksmith, welding, tire recapping, machine shops and the like
27. Warehousing; wholesale business; and wholesale business warehousing
28. Contractor's warehouse and indoor storage
29. Building, plumbing, electrical contracting business with no outdoor storage of materials

(b) The following uses require a special use permit through the Planning Board Unified Development Review process.

1. Agricultural and horticultural society
2. Church, place of worship
3. Commercial scale energy system
4. Conservation land
5. Drive throughs
6. Federal, state and municipal building
7. Library
8. Multimodal transportation center
9. Museum
10. Commercial scale energy system
11. Parking garage
12. Public utilities – private electrical services

Base

13. Religious, philanthropic, scientific, literary, historical, fraternal, and charitable institution
14. Residential scale energy system
15. Schools of limited instruction
16. Water tower

C – Maker (MK)

Maker (MK) is sub-district designed to protect the existing city wastewater treatment facility from incompatible adjacent uses, while limiting heavy industrial uses from further impacting nearby residential areas. This area allows industrial uses that are not negatively impacted by proximity to the wastewater treatment facility. Future development in the area shall protect and enhance the adjacent “rail/trail” corridor. All residential uses are prohibited in this subdistrict for public health and safety reasons

(a) The following uses are permitted by right:

1. Municipal and public service corporation building and facility
2. Open space, park, trail
3. Wholesale brewing, distilling, fermenting, fungicide or hydroponics
4. Maker-space
5. Boat building and repair
6. Boat dealer and broker
7. Marine fabrication, including sail making, canvas manufacturing, and marine metal casting
8. Business and storage yard for lumber and building material
9. Contractor’s warehouse and storage yard
10. Fish and seafood receiving, handling, storage and shipping
11. Manufacturing, processing, assembly or storage of goods
12. Painting and woodworking shop
13. Printing and publishing establishment
14. Radio and television broadcasting studio (excluding transmitting and receiving tower)
15. Seafoods sales, landing, storage, brokerage and distribution
16. Sheet metal, blacksmith, welding, tire recapping, machine shops and the like
17. Warehousing, wholesale business; and wholesale business warehousing

(b) The following uses require a special use permit through the Planning Board Unified Development Review process.

1. Conservation land
2. Drive throughs
3. Federal, state and municipal building
4. Library
5. Multimodal transportation center
6. Commercial scale energy system
7. Commercial storage and sale of fuel and bottled gas
8. Public utilities – private electrical services
9. Residential scale energy system
10. Water tower

17.65.030 Dimensional requirements

- A. The minimum lot area shall be 5,000 square feet in the UV subdistrict
- B. The minimum lot area shall be 10,000 square feet in the Maker and Maker-Tech subdistricts

17.65.040 Building setback requirements

Base

- A. Front line, minimum 0'
- B. Side line, minimum 0'
- C. Rear line, minimum 0'
- D. Structures on lots abutting residential zoning districts shall maintain a minimum setback of 10' from the abutting residential districts.

17.65.060 Building height requirements

- A. The maximum building height is 45'. Buildings shall not exceed 3 stories above the abutting principal streets.
- B. Structures on lots abutting a residential zoning district shall not exceed 24' in height for a distance of 30' from the abutting residentially zoned lots with the exception of railroads.
- C. The maximum building height for structures located in flood hazard areas shall be 30'.

17.65.070 Parking and loading requirements

A. Automobile Parking Spaces

The following parking requirements shall apply within the Innovation Hub.

The automobile parking requirements of 17.104.020 and 17.104.040D-E do not apply.

Unless provided in a parking structure, the number of off-street parking spaces provided shall not exceed the number of surface parking spaces required by 17.104.020, or total more than 75 cars within the entire parcel. The maximum number of parking spaces may be increased by up to 25% for electric vehicle charging spaces.

Reserved Parking

Parking spaces may be reserved for a specific tenant or unit, provided the following minimums are not exceeded.

Residential	Commercial
1 space/efficiency or 1 bedroom live-work unit	No more than 25% of the total nonresidential parking spaces provided may be reserved for a specific use or set of uses.
2 spaces/2 bedroom or greater multi-family dwelling unit or live-work unit	
No limit for other allowed residential units	

B. Loading Spaces

The following loading requirements shall apply within the Innovation Hub.

Adequate space shall be made available on site for the unloading and loading of goods, materials, items or stock for delivery and shipping, otherwise the on-site loading requirements of Section 17.104.030, do not apply

C. Bicycle Parking Spaces

The following requirements shall apply within the Innovation Hub.

Base

Residential Uses	Short Term Spaces	Long Term Spaces
Residential	1 space/20 units, 3 minimum	1space/5 units Projects with 10+ units, only
Retail Uses	1 space/5,000sf GSF, 2 min	1 space/5,000 GSF, 2 min
Office Uses	1 space/10,000sf of GSF, 2 min	1 space/5,000 GSF, 2 min
Industrial Uses	1 space/10,000sf of GSF, 2 min	1 space/10,000sf of GSF, 2 min

17.65.87 Unified Development Review

Uses and development inconsistent with the Comprehensive Plan or requiring a special use permit or a variance or requesting a waiver from Section 17.65.100 shall be classified as a Land Development Project and shall be reviewed and approved by the Planning Board pursuant to section 17.108.040 Unified Development Review and not be subject to Development Plan Review.

17.65.88 Development Plan Review

Uses and development subject to section 17.65.100, Development Standards for the Innovation Hub, but not section 17.65.87, Unified Development Review, shall be subject to Development Plan Review by the Planning Board, with an advisory recommendation from the Technical Review Committee to ensure a basic standard of building, site, and landscape design consistent with the vision for the IH district.

17.65.100 Development Standards for the Innovation Hub

The intent of this section is to achieve excellent building and site design in a cohesive village center that is supportive of new and continued employment opportunities in diverse fields, including high technologies, to protect and enhance features within and adjacent to the district as enumerated in section 17.65.010, and to protect and enhance Newport's unique historic, cultural, and scenic character. Architectural and site design for all parcels shall be consistent with the adopted NEUP and its Design Guidelines, as incorporated into the Comprehensive Plan. The NEUP and Design Guidelines are applicable to all new developments and redevelopments. For the purposes of this Chapter, redevelopment shall mean a fifty percent (50%) or greater change to the original building footprint, parcel area, value of the building; or exceeding 10,000 square feet in building footprint or parcel area.

Waivers from the requirements of the Development Standards, NEUP Design Guidelines or from the Subdivision and Land Development Regulations, may be granted by the Planning Board as may be reasonable where the literal enforcement of the provisions of the regulations is impracticable, will exact undue hardship or when such waiver is in the interest of good planning and/or design and otherwise consistent with the Comprehensive Plan.

The construction and design of buildings, streets and open spaces shall be in accordance with the NEUP and its Design Guidelines, as adopted, and be subject to review and approval by the Planning Board to ensure an elevated standard of design.

Developments and redevelopments shall:

- Provide an outstanding standard of building, site and landscape design.
- Encourage a density of buildings and activities, and discourage sprawling low-rise development with an emphasis on parking:
- Site principal buildings close to a street edge.
- Utilize the ground floor of multi-use buildings for industrial/commercial uses and as a lobby or access for upper story uses.

Base

- Provide for active and public uses on the ground floor, with windows that provide adequate and appropriate visual access to the interior commercial and activity areas.
- Incorporate complete streets and multimodal transportation options, with emphasis on the pedestrian experience.
- Provide for limited, necessary, use driven parking located away from the street, to the interior of the site, and shared parking whenever possible to reduce the number of parking spaces and impervious surface.
- Incorporate low impact development site practices, even on higher elevation sites, to reduce stormwater runoff and improve water quality.
- Incorporate green building measures such as daylighting, natural ventilation, biophilia, ground-source heat pumps, heat-recovery ventilation, passive heating and cooling, extra insulation, green roofs and walls, solar panels and carports, permeable surfaces, natural and local materials, low-flow water fixtures and water reuse, smart building management, monumental stairs, vestibules, energy-efficient appliances, commuter showers, waste reduction, upcycling and recycling, composting, and limiting petroleum based products.

A. **Site Circulation**

Interior circulation system shall be inclusive of all transportation choices and relate to public and planned public or private improvements in the area, including future roadways, street realignments, bike lanes, walkways and transit.

The circulation system shall be in accordance with the NEUP, the NEUP Design Guidelines, the Transportation Master Plan once adopted, the Green and Complete Street ordinance, once adopted, and implement convenient and safe pedestrian, bicycle and transit, accessible to all.

B. **Site Drainage**

All development and redevelopment shall submit a stormwater management plan consistent with the Rhode Island Stormwater Design and Installation Manual, the Rhode Island Soil Erosion and Sediment Control Handbook, and in accordance with any applicable provisions of the City ordinances, rules or regulations. The stormwater management plan shall reduce the generation of stormwater discharge rate, volume and water quality volume to the maximum extent possible using nonstructural management design prior to structural methods and are subject to review and approval by the Director of Utilities or their designee. All stormwater management plans shall address stormwater management on site-specific conditions and shall document that design of the stormwater management for the site is fulfilled to the maximum extent possible.

C. **Flood Plain - Building and Site Design Considerations**

A development or redevelopment located within a flood hazard area shall complete a Coastal Hazards Risk Assessment and incorporate future climate conditions into the design, maintenance and operations plans.

The integration of flood resilient strategies significantly impacts the street level connection of buildings to the public realm. It is also critical to address the interface between the private and public realm in a manner that ensures access is maintained for all people and of all abilities and the solutions contribute to the overall enhancement and experience of the street wall at street level.

D. **Landscape**

It is the intent of this subsection to require that all development and redevelopment in the IH provide an outstanding landscape installation that fosters resiliency. Special attention shall be paid

to earth forms, site drainage, plant forms and placement, hardscape materials, and ground plane treatments. Plans shall include all landscape materials and hardscape details, including fences, walls and site amenities and shall be prepared by a landscape design professional.

- Wherever practicable, preservation of the existing vegetation is encouraged. Every reasonable effort shall be made to preserve significant features, including, but not limited to, trees protected in Chapter 12.36 of the City of Newport Code of Ordinances and historic stone walls, as defined in Chapter 17.74.
- Structures elevated to comply with building code requirements shall incorporate landscaping at street level to mitigate any potential negative effects to the street wall and pedestrian environment.
- Streets and pathways shall be built for accessibility and landscaped with planting determined to be hardy in Newport's coastal climate, and ideally, native species.
- Stormwater control shall be integral to the landscape design, to the maximum extent practicable.
- Additional screening for aesthetic purposes, light pollution or noise reduction may be required.
- Frontage screen planting shall be in accordance with NEUP Design Guidelines for frontage type.

E. Open Space

All development or redevelopment in the Urban Village subdistrict shall include provisions for publicly-accessible open space. All required Open Spaces shall be in accordance with the NEUP Design Guidelines. Where open space is required, it shall be owned in accordance with the provisions of RIGL 45-24-47 (d). If the open space is privately owned, a restriction shall be recorded that the land will be kept in the authorized condition and shall not be built upon.

When Open Space is required, it shall:

1. Be a minimum of 5 percent of the total development parcel size
2. Be located on the site associated with the development or redevelopment
3. Not be parked or driven on except for emergency access and permitted temporary events
4. Be a minimum area of 225 square feet with no dimension less than 15' feet
5. Not be located within a required transition area
6. Abut and be directly accessible from a public sidewalk or right of way
7. Not be separated from the public sidewalk or public right of way by any structure for more than 40 percent of its width, with the exception of a wall or fence with a maximum height of 42 inches.

G. Utilities

All utility lines shall be installed underground.

H. Vehicle Parking and Loading

All new automobile and bicycle parking and loading shall be in accordance with the NEUP Design Guidelines.

I. Sustainability and Resiliency

A proposed development that receives Planning Board approval that would otherwise be subject to Section 17.90.030 Permitting of Wind Energy Systems shall be exempt from the requirements of the second through sixth sentences of that Section. Sections 17.90.060 and Section 17.90.080 do not apply to this zone.

Base

All development and redevelopment is encouraged to be designed in a manner to achieve at a minimum, base core and shell LEED (Leadership in Energy and Environmental Design) certification (or other recognized rating system.) Applying for certification is not required, but highly encouraged.

All development and redevelopment shall incorporate green building measures to the maximum extent practicable, such as daylighting, natural ventilation, biophilia, ground-source heat pumps, heat-recovery ventilation, passive heating and cooling, extra insulation, green roofs and walls, solar panels and carports, permeable surfaces, natural and local materials, low-flow water fixtures and water reuse, smart building management, monumental stairs, vestibules, energy-efficient appliances, commuter showers, waste reduction, upcycling and recycling, recycling of demolished buildings, composting, and such measures that avoid petroleum products.

To comply with net-zero energy standards, the following methodology is suggested:

- A. Construction of a cool roof.
- B. Green space covering an area in one of the following amounts, whichever is least:
 - Ten percent (10%) of the gross floor area of the building
 - Sixty percent (60%) of the total roof area on the building
 - The available roof space on the building
- C. On-site solar panels covering an area anywhere on the building or site equal to seventy percent (70%) of the total roof area or an area equal to an amount required to provide at least one hundred percent (100%) of estimated annual average electricity used at the development. Other renewable energy devices may be used in place of onsite solar panels so long as the owner provides evidence of similar generation capacity

J. Community benefit agreement

Any Applicant for development or redevelopment constituting a Land Development Project, a subdivision or requiring Unified Development Review may be required by the Planning Board to submit a community impact report detailing the impact the development or redevelopment may have on the local community. The Planning Board may require the Applicant to engage and pay for a report prepared by an independent consultant approved by the Planning Board. If the Planning Board determines that there may be substantial adverse impacts, as a condition of approval, the Planning Board may require that the Applicant agree to a Community Benefit Agreement to address such impacts. Such Community Benefits will be commensurate with the identified adverse impacts.

17.65.110 Environmental Performance Standard within the Innovation Hub.

1. No activities shall be carried out in the Innovation Hub that are injurious, noxious, or offensive to the neighborhood by reason of noise, vibration, smoke, odor, fumes, dust, chemical or otherwise hazardous to public health, safety and welfare. If during the course of monitoring any use or activity, an industry threshold or limiting value is reached or exceeded, a plan of action shall be implemented by the property owner to mitigate said effect to the satisfaction of the Zoning Official.
2. All uses shall be subject to the provision of Section 17.96.020. – *Performance standards designated.*

Base

Section 4 Section 17.108.040 of the Codified Ordinances of the City of Newport, RI, revision of 1994 entitled "Unified Development Review" is hereby created as follows:

17.108.040 Unified Development Review

- A. Review and approval of dimensional variances, use variances and/or special use permits for properties in the Innovation Hub (IH) undergoing review by the Planning Board as land development and subdivision projects pursuant to G.L.R.I. §45-23-36 shall be conducted and decided by the Planning Board with this process known as Unified Development Review.
- B. Any person, group, agency or corporation that files an application for an included land development or subdivision project may also file requests for relief from the literal requirements of a zoning ordinance on the property pursuant to section 17.108.010 and/or for the issuance of special use permits for the property pursuant to section 17.108.020 by including such with the application to the administrative officer of the Planning Board with the other required application materials.
- C. An application for Unified Development Review shall meet the criteria set forth for the same in the Subdivision Land Development regulations and the Zoning Ordinances for the City of Newport. Certifications as to whether an application meets established criteria shall be conducted in conjunction with, and following the time lines outlined for certification of completeness of the application pursuant to G.L.R.I. 45-23-38(c), 45-23-40(b) or 45-23-41(b).
- D. All land development and zoning subdivision applications that include requests for variances and/or special use permits submitted for Unified Development Review shall require a public hearing that meets the requirements of G.L.R.I. §45-23-50.1(b) and §45-23-50.1(c).
- E. In granting requests for dimensional and use variances, the Planning Board shall be bound to the requirements of section 17.108.010(C) relative to the entering of evidence into the record in satisfaction of the applicable standards and may apply special conditions to such approval pursuant to sections 17.108.010(D) and 17.108.030.
- F. In reviewing requests for special use permits submitted to Unified Development Review, the Planning Board shall be bound to the conditions and procedures under which a special use permit may be issued in section 17.108.020 unless otherwise provided for herein and the criteria for the issuance of special use permits set forth in section 17.108.020 (G). The Planning Board shall provide for the recording of its findings of fact and written decisions.
- G. Appeals from a decision or action of the Planning Board may be taken pursuant to section 17.116.010 and G.L.R.I. section 45-23-66 to the Zoning Board of Review.

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H. The Planning Board may grant a dimensional variance in conjunction with a special use permit, except as it pertains to the maximum number of dwelling units allowed per lot, for applications submitted for Unified Development Review.

Float

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OF THE

COUNCIL

NO. 2021-__

AN ORDINANCE IN AMENDMENT OF TITLE SEVENTEEN 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. Section 17.08.010 of the Codified Ordinances of the City of Newport, RI, revision of 1994, entitled, “Definitions” is hereby amended as follows:

17.08.010 Definitions

“Overlay District” means a zoning district that is superimposed on one or more zoning districts or parts of zoning districts and that imposes specific standards and requirements that may be more or less restrictive than those in the underlying district or districts consistent with other applicable state and federal laws. in addition to, but not less than, those otherwise applicable for the underlying zoning district.

“Floating Zone” means an unmapped zoning overlay district adopted within the Ordinance that is established on the zoning map only when an application for development, meeting the floating zone application requirements, is approved. The floating zone is subject to Planning Board Land Development Project review and approval and linked to the Land Development Process, which is subject to Planning Board review and approval. The Innovation Hub Floating Zone is a floating overlay zone.

SECTION 2. Chapter 17.66 of the Codified Ordinances of the City of Newport, RI, revision of 1994, entitled, “Urban Innovation Village District, Floating Zone (UIF)” is hereby created as follows:

Chapter 17.66 – Innovation Hub FLOATING OVERLAY ZONE

17.66.010 – Legislative Intent

The intent of the Innovation Hub Floating Overlay Zone is to enable owners of large, contiguous, undeveloped or underdeveloped properties within the Innovation Hub’s Urban Village zoning district to develop those properties in a coordinated way with an appropriate mix of clean industry and commerce, and supportive housing, retail, recreation, cultural and open space, in a single development on one lot or more than one lot. The goal is to foster developments that are both responsive to the marketplace and beneficial to the City by allowing developers to incorporate flexibility in their plans. The district is intended to promote a balanced combination of these uses to create dynamic and inclusive neighborhoods that enhance the economic vitality and livability of the city.

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This zoning amendment is meant to work in concert with the overall goals and standards of the City's Comprehensive Plan, as amended to incorporate the North End Urban Plan (NEUP) and NEUP Design Guidelines.

Specific components of this intent are in concert with the specific components of the Innovation Hub and include:

- To allow for flexibility within a development from the underlying Innovation Hub's Urban Village zoning requirements, including consideration of proposed uses, building height and parking limits. Off-site parking, as an alternative to onsite parking, may also be negotiated.
- To allow for a negotiated and coordinated development that is beneficial to both the Developer and the Community.
- To provide for mixed use development across contiguous parcels.
- To waive constraints if balanced by commensurate public benefit.
- To increase open spaces and public amenities.

Eligible Properties

Eligible properties shall be one or more parcels of land constituting a contiguous tract that is a minimum of (75,000) square feet, and located within the Innovation Hub's Urban Village (UV) subdistrict.

17.66.015 - Relationship to Land Development Project

All uses and development in the Floating Overlay Zone require a Major Land Development Plan approved by the Planning Board. All development shall be in substantial compliance with the approved Land Development Project. Deviations from the approved Land Development Project reviewed by the City Council during the zoning map amendment shall require review and approval as outlined in Section 17.66.150.

17.66.020 – Use Regulations

A. Permitted Uses

Permitted uses shall be all uses allowed by right or by special use permit within the Urban Village subdistrict, at the time of application for re-zoning, provided that the developer's specific proposed mix and orientation of development is approved by the City Council subsequent to recommendation by the Planning Board. These uses shall be in accordance with an approved Land Development Project.

Uses may be vertically or horizontally integrated, and may be sited across multiple lots as contiguous uses under common occupancy. The floor area of buildings may be used for more than one permitted use. When approving a Land Development Project, the mix of proposed uses and the percentage distribution of each use throughout the project area shall be considered.

17.66.030 Dimension requirements

The dimensions of the site and relationship of elements throughout the project area are designated in the approved Land Development Project plan. The density, building heights, building setbacks, lot coverage, driveway and street design, parking requirements, off-site parking, landscaping, buffers and any other relevant component of the development shall be generally consistent with the NEUP Design Guidelines, as incorporated in the 2017 Comprehensive Plan.

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17.66.031 Lot area requirements

Lot area is designated in the approved Land Development Project Plan, and lot boundaries may coincide with structure boundaries.

An individual lot for each structure is not required, but may be provided at the developer's option. There shall be no requirement that lots front on a street; adequate and permanent physical access may be provided through rights-of-way through other portions of the development.

17.66.040 Setback requirements

Front, side and rear setbacks are designated in the approved Land Development Plan, with the following stipulation.

- A. Structures on lots abutting residential zoning districts shall maintain a minimum setback of 10' from the abutting residential districts.

17.66.050 Lot building coverage

Lot building coverage is designated in the approved Land Development Project Plan.

17.66.060 Building height requirements

The building height limitation shall be sixty-five (65) feet. Up to ninety (90') may be approved provided there is commensurate benefit to the community and no substantial adverse impact on viewsheds or neighboring properties. Views of Miantonomi Tower, Narragansett Bay, or other important vistas shall be protected, and shadows on neighboring areas avoided. All development projects shall maintain view corridors from surrounding neighborhoods to the waterfront, if possible.

17.66.070 Community benefit agreement.

All applicants for development are required to provide a Community Impact Report paid for by the Applicant and prepared by a Consultant approved by the Planning Board, identifying the impact such development will have on the surrounding community. The Applicant will be required to enter into a Community Benefit Agreement to help offset any adverse impact to the surrounding community with the benefits commensurate with the identified adverse impact. The Planning Board may approve Community Benefit Agreements that are reached between the Applicant and local community organizations as the Community Benefit Agreement required herein.

17.66.88 Development Plan Review

Development in the Innovation Hub Floating Zone is exempt from Development Plan Review, as outlined in Chapter 17.88 of this ordinance.

17.66.100 -Development Standards

The following shall be the minimum development standards for all developments within an IHF. The development standards as set forth in Chapter 17.100 of this ordinance shall not apply within an IH Floating Zone. Improvements shall be made in accordance with the NEUP Design Guidelines, as approved and incorporated into the Comprehensive Plan.

Waivers from the requirements of development standards or from subdivision and land development regulations may be granted by the Planning Board as may be reasonable where the literal enforcement of the provisions of the regulations is impracticable, will exact undue hardship or when such waiver is in the interest of good planning and/or design and consistent with the Comprehensive Plan

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A. Architecture & Site Design

Newport is an international destination renowned for its sense of place. The Innovation Hub is a coordinated, community-driven effort to create a 21st-century neighborhood to drive Newport's future economic growth. The IH Floating Zone provides flexible development opportunities within this zone. Architects hold an elevated role in achieving this vision. Project architects shall feature prominently in shaping the overall design of a development and presenting it to the City for review. Conversations regarding other design elements will rely on the project architect's expertise, as well, in establishing a unified design that achieves the goals of this section, chapter, and the NEUP. Designs shall show awareness of Newport's incredible legacy of architectural achievement without being overly referential to community motifs inconsistent with the goals of this section, chapter, and the NEUP.

Architects within the community are design experts in their own right, however critiques of proposed developments' design provided as public comment on a project under review offered as expert testimony should focus on the design's achievement of the goals of this section, chapter, and the NEUP.

The IH Floating Zone provides flexible development opportunities within this zone. All architectural designs presented in a land development project shall be in accordance with these goals and shall be subject to review and approval by the Planning Board, to ensure an elevated standard of building, site and landscape design.

Developments shall be designed in accordance with the NEUP Design Guidelines and encourage a density of buildings and activities, fluid mobility, and discourage sprawling low-rise development with an emphasis on parking.

The development shall:

1. Provide an outstanding standard of building, site and landscape design.
2. Site buildings close to a street edge.
3. Provide for active and public uses on the ground floor, with windows that provide adequate and appropriate visual access to the interior commercial and activity areas.
4. Provide for parking away from the street, to the interior of the site.
5. Utilize shared parking whenever possible to reduce the number of parking spaces and impervious surface.
6. Incorporate low impact development site practices, even on higher elevation sites, to reduce stormwater runoff and improve water quality.
7. Incorporate complete streets and multimodal transportation options, with emphasis on the pedestrian experience.

B. Parking

All developments shall sufficiently and safely meet internal parking and loading needs. This shall be confirmed by a licensed professional engineer experienced in traffic circulation and smart growth, and accreditation in New Urbanism is highly recommended.

If, in the course of operations, the City deems additional parking to be necessary to preserve the safety and flow of traffic in the area, additional parking shall be provided to meet this requirement. The development may provide parking to offsite development, or rely on offsite parking, provided sufficient alternative transportation infrastructure or safe pedestrian access between the sites is provided. Parking areas shall be located within reasonable proximity to the uses they are intended to serve. Parking spaces may not front any street.

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Surface parking for more than 75 cars within the project area is prohibited, unless approved as a component of the approved Land Development Project Plan.

Sufficient electric vehicle charging spaces shall be provided.

All developments shall provide safe and accessible parking areas for bicycles and other two-wheeled vehicles

C. Open Space

All developments in the Innovation Hub Floating Zone shall include provisions for a minimum of 5 percent of the lot area or parcel area for publicly accessible open space. Where open space is required, it shall be owned in accordance with the provisions of RIGL 45-24-47 (d). If the open space is privately owned, a restriction shall be recorded that the land will be kept in the authorized condition and shall not be built upon.

17.66.120 – Rezoning Procedure.

The parcel proposed for rezoning to the Innovation Hub, Floating Zone must be located in the Urban Village District and be at least 75,000 square feet in size.

The granting of approval of an IHF consists of the following actions:

- A. Completion of the required pre-application conference with the Administrative Officer to the Planning Board;
- B. Application for Land Development Project approval;
- C. Referral to Technical Review Committee for report to Planning Board.
- D. Completion of a public meeting with notice provided according to the Land Development and Subdivision Regulations;
- E. An application for amendment to the zoning map that complies with all provisions for rezoning set forth in Sections 17.120.010, 17.66.120 and 17.66.130, as well as all other pertinent procedural and administrative city regulations.
- F. Referral of the zoning map amendment for review by and recommendations from the Planning Board
- G. City Council review and approval of the Zoning Map amendment.

A.66.130 – Zoning Amendment Submission Requirements

- A. Fee. – Payment of the \$2,500 application fee, plus costs incurred for advertising and notice requirements
- B. Narrative Outline. The applicant shall provide a statement of how the purpose and intent of this chapter will be achieved by the project, including additional graphics of the character of the development. This narrative shall include:
 1. Consistency with the Comprehensive Plan;
 2. Consideration of each of the applicable purposes of zoning, as outlined in Section 17.04.020;
 3. Information on the natural and built features of the surrounding neighborhood, existing natural and man-made conditions of the development site, including environmental conditions, topographic features, subsurface conditions, the location and results of percolation tests, groundwater elevation determinations, statements of subsoil conditions; the freshwater wetland and coastal zone boundaries, and the floodplains; and,
 4. Proposed terms of the community benefits agreement

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C. Background Report Requirements

The following reports may also be requested by the Administrative Officer to the Planning Board or the permitting authorities.

1. Traffic Impact Study and Mitigation Elements. For any proposed use that will generate 50 or more added (new) vehicle trips per hour during the adjacent roadway's peak hour or the development's peak hour according to the latest edition of the Institute of Transportation Engineers Trip Generation Handbook, or would require parking or provides parking for more than 20 vehicles, a traffic impact study shall be submitted to the Interdepartmental Traffic Committee for their review and comment prior to review by other City Officials. Such study shall be conducted by a licensed professional engineer selected by the City at the expense of the applicant. If negative traffic impacts are revealed, the permitting authority may deny the application if they deem such impacts significantly impacting the public safety or may apply conditions to mitigate the impacts, including without limitation, such standard practices as the provision of alternative transportation, off-site roadway, and signalization improvements. The applicant may retain its own traffic engineer to develop their own analysis or analyze the City's analysis.
2. City Services Analysis. A study shall be submitted outlining the proposed development's impact on existing public facilities, such as the roadway network, sewers, solid waste, electricity, telecommunications, water facilities, school system, recreation, and police and fire services. Such study shall be conducted by a consultant experienced in city services analysis and smart growth strategies and standards. The consultant to perform the city services analysis study shall be selected by the City of Newport at the expense of the applicant. Impacts may be required to be offset by the permitting authority.
3. Market Analysis Study. A market study shall be submitted demonstrating the area market demand for the proposed uses identified in Section 17.66.020, as well as the impact of proposed uses on existing similar facilities in the city. Such study shall be conducted by a consultant experienced in market analysis and smart growth strategies and standards. The consultant to perform the market analysis study shall be selected by the City of Newport at the expense of the applicant.
4. Carbon Consumption Study. A study shall be submitted estimating the proposed development's carbon emissions during construction and operations. Such study shall be conducted by a consultant experienced in carbon consumption analysis and smart growth strategies and standards. The consultant's report shall flag any other substantial negative environmental impacts. The consultant to perform the market analysis study shall be selected by the City of Newport at the expense of the applicant. Impacts may be required to be offset by the permitting authority.
5. Community Impact Study see section 17.66.070.

17.66.140 – City Council Action.

- A. Approval. After review and receipt of recommendations from the Planning Board, City Council approval of the zoning map change shall include approval of the community benefit agreement, if applicable. This approval shall bind the developer to construction of the development in substantial conformance with the elements of the approved Land Development Project Plan and the terms of the community benefit agreement, if applicable. Failure to abide by either of these requirements shall be considered a violation of this ordinance as outlined in Section 17.112.080. This approval shall not hereafter supersede the land development and subdivision approval process, RIGL 45-23, or mapped streets, Chapter 12.04.
- B. A formal long-term plan with specific methods to monitor conformity with the approved project terms and commitments is to be made part of the terms of each Floating Zone.

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- C. **Denial.** City Council denial of the zoning map change application shall be binding in accordance with the provisions of Chapter 45-24 of the General Laws of Rhode Island.

17.66.150 – Alterations Following Zoning Amendment.

Subsequent to City Council approval of the zoning map change, alterations to the development may be made.

- A. **Minor Alterations.** Alterations may be authorized by the Planning Board and shall be limited to those that may be defined as minor in nature. Minor alterations are those that result in little or no significant impact on surrounding properties or on the safe and efficient flow of traffic through nearby city roadways. For a proposed alteration to be deemed “minor” in nature, it shall meet one or more of the following conditions. The proposed alteration shall:
1. Alter the land use mix of the development by a cumulative total of less than ten (10) percent in any use;
 2. Decrease the overall density of the development by up to 25%;
 3. Allow minor reorientation of one or more points of access, the internal roadway network and/or the parking, made necessary due to actions taken by the City or State subsequent to the approval date of the zoning map change;
 4. Allow minor changes in location, orientation and/or design of parking facilities, provided such changes do not alter the total number of parking spaces;
 5. Allow minor changes in building location made necessary by previously unforeseen natural conditions;
 6. Allow changes in landscaping materials, lighting plan, and siting of pedestrian and accessory facilities as made necessary by other approved alterations; and/or
 7. Allow other site design modifications that would not substantially alter the character of the development.
- B. **Major Alterations.** Alterations that would substantially alter the final character of the development shall be deemed a major alteration proposal. Any alterations that do not meet the criteria for a minor alteration shall necessitate a zoning amendment. Additionally, any proposal requesting one or more of the following alterations to the development shall be considered a zoning amendment:
1. Construction of additional structures for anything other than ancillary uses;
 2. Introduction of a use;
 3. A change in use proposed for any structure directly adjacent to or abutting a residential structure;
 4. Any excavation, filling or other alteration of the property’s natural systems not previously approved in a zoning amendment;
 5. Any addition or deletion of vehicular access points and parking areas or significant reorientation of the internal roadway network of the site;
 6. Any change in the phasing plan of the development, including size, boundaries and timing of construction of one or more sections of the development.

Proposed Zoning

