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# Acquidneck Island: Citizen's Guide to Land Use Planning

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# Aquidneck Island

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## Citizen's Guide to Land Use Planning

## Introduction

This guide is not meant as an exhaustive resource for land use planning or management, instead the purpose of this guide is to serve as an introduction and overview of the land use decision making process as well as a resource for citizens to become aware of the opportunities that may be available for interaction with their city or town during the land use decision making process.

This guide is designed for citizens who would like to learn more about their communities' land use planning and development.

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|---------------------|--|
| <b>SECTION I:</b>   | Presents an overview of what Smart Growth entails and local goals in each community. |
| <b>SECTION II:</b>  | Presents an overview of the local process for deciding what gets built and where.    |
| <b>SECTION III:</b> | Presents opportunities for citizens' participation in the land use planning process. |
| <b>APPENDIX A:</b>  | List of resources and contact information.   |
| <b>APPENDIX B:</b>  | Glossary of terms.   |

## **Section I: Introduction to Smart Growth**

### **What is Smart Growth?**

The concept of Smart Growth may not be familiar to all. However, most people are probably familiar with the term “sprawl” and the negative impacts that are associated with sprawl, such as an increase of inconvenient neighborhood locations, increase in the cost of living, increase of traffic and an overall undermining of “America’s environment, economy, and social fabric.”<sup>1</sup> Smart growth is a means to prevent sprawl, not necessarily to prevent development. Smart Growth is citizen-driven planning to achieve:

1. Neighborhood livability
2. Better access, less traffic
3. Thriving cities, suburbs and towns
4. Shared benefits
5. Lower costs, lower taxes
6. Keeping open space open

### **Who is Grow Smart Rhode Island?**

The public interest group that formed to fight sprawl in Rhode Island is called Grow Smart Rhode Island. Grow Smart Rhode Island’s mission “is to bring together diverse interests to protect and improve Rhode Island’s quality of life, economic vitality, and environmental health and the unique physical character created by the state’s historic cities, towns, and villages and by its farms, forests and open spaces.”<sup>2</sup>

Through a joint effort between state, municipalities, and community participation, the goals of Grow Smart Rhode Island are to:

- Build strong, livable communities
- Promote economic growth
- Renew Rhode Island’s traditional pattern of urban, town and village centers
- Preserve natural resources
- Promote effective transportation systems
- Call for responsible government

The core idea behind Smart Growth is to ensure development that makes efficient use of land. The location of development should reinforce existing development or it should redevelop brownfield sites. For more information on brownfield sites visit <http://www.dem.ri.gov/brownfields/default.htm>. Development should consider the existing public service and infrastructure such as water and sewer lines, schools, roads and transportation systems. Development should be planned in an efficient manner to allow for a diversity of

use as well as diversity of housing options. Development should ensure transportation and accessibility to retail, schools, parks, jobs, and other necessary facilities. Development should also ensure the preservation of the community character and design and protection of the environment. The overall concept of Smart Growth is to make the best use of the land that has already been developed and considers redevelopment before spreading new development into open areas. Smart Growth can only be achieved through a collaborated effort of the state, local communities and the citizens.

### **Aquidneck Island's Action Plan for Smart Growth**

As a result of years of a collaborated effort by the Aquidneck Island Planning Commission, the communities of Portsmouth, Middletown and Newport, Rhode Island Sea Grant, Rhode Island Statewide Planning Program, Rhode Island Department of Transportation, and Newport County Chamber of Commerce, the Aquidneck Island West Side Master Plan ("West Side Master Plan") was created. Next, came a call to the U.S. Environmental Protection Agency's Smart Growth Implementation Assistance Program to help develop options and tools to incorporate Smart Growth concepts into the West Side Master Plan.

Identifying zoning options for mixed used development and design review was deemed the most important step to achieve the future goals of Aquidneck Island. Those goals include "minimizing haphazard development and preserving open space; reusing and redeveloping former military land; promoting marina and marine-related development to enhance marine industry in association with public waterfront access; and mixing uses in redevelopment and new development projects."<sup>3</sup>

*Aquidneck Island: Our Shared Vision* resulted from numerous public meetings and interviews with the citizens of the three municipalities forming Aquidneck Island -- Portsmouth, Middletown, and Newport. As a step toward implementing Smart Growth in Aquidneck Island the municipalities along with their citizens identified the following areas to be incorporated into the West Master Plan. For the more information download the EPA Final Report, *Implementing the Aquidneck Island West Side Master Plan* at <http://www.aquidneckplanning.org/epa.html>. Now that the goals have been identified the next step will be to make land use decisions to realize those goals.

## Aquidneck Island: Our Shared Vision<sup>4</sup>

<p><b>Portsmouth</b></p>	<p>Melville/Weaver Cove area as a “prime location for a mixture of uses including a marine, compact luxury housing and mixed-income housing, limited commercial and/or light industrial activities, and outdoor performance venue, some much needed utility infrastructure (wastewater treatment plan, wind turbines), a future transit stop, trails and open space, and preservation and expansion of marine-dependent economic activities, including the boat-building and yacht-service area at Melville. Also reconfiguration of the Burma Road/Stringham Road hairpin turn. Together, Weaver Cover and the Melville area would constitute a mixed-use “Marina Village.”</p>
<p><b>Middletown</b></p>	<p>Redevelopment of former Navy housing at the Anchorage area into a mixed-use, mixed-income development; development of waterfront access and a new public park; and streetscape improvements and redevelopment of strip shopping centers on West Main Road and Coddington Highway to promote mixed-used development. Strip commercial development characterizes much of West Main Road in Middletown. The Town is interested in combining compact, mixed-use development with open-space preservation if the last significant undeveloped property on West Main Road, the Vanicek site, is abandoned for farming uses and sold for development.</p>
<p><b>Newport</b></p>	<p>Developing the Pell Bridge/North End area as a mixed-use growth center that will continue the density of Newport’s urban center with potential for mixed-use development, a waterfront park, a transit terminal and water transportation; Expanding multimodal transportation options at the Gateway Transportation Center with more regional bus and rail connections, a water shuttle, and making the center the terminus of bicycle and pedestrian corridors that extend throughout the plan area; Using Newport’s secondary rail corridor for rail service and a bike path; Redeveloping the Newport Naval Hospital; and Improving streetscapes on J.T. Connell Highway.</p>

## Section II: Overview of Land Use Planning

### Who has the authority to make decisions for land use planning?

A general understanding of who has the authority to create land use regulation and how that authority is implemented at the state and local levels is useful to appreciate the complexity of land use planning for the purpose of promoting health, safety, morals, and the general welfare of the community.<sup>5</sup> Historically, the foundation for planning and zoning regulations took form during the 1920s when the Department of Commerce formed an advisory committee on zoning which implemented the *Standard State Zoning Enabling Act of 1926*<sup>6</sup> and the *Standard City Planning Enabling Act of 1928*<sup>7</sup>. Through this Enabling legislation, states are authorized to set land use goals. These state police powers are then transferred to local governments through state enabling legislation.

In Rhode Island, three pieces of state enabling legislation along with the Rhode Island Constitution transfer the power to the local governments. This legislation includes the *Rhode Island Comprehensive Planning and Land Use Regulation Act of 1988*,<sup>8</sup> the *Rhode Island Zoning Enabling Act of 1991*,<sup>9</sup> and the *Rhode Island Land Development and Subdivision Review Enabling Act of 1992*.<sup>10</sup> Through this enabling legislation the municipalities must provide for protection, development, use, and management of land and natural resources, regulate use of land and employ modern land development practices, as well as adequately address the present and future needs of the communities.<sup>11</sup>

State	Responsible for creation of State Guide Plan, which establishes statewide goals.
Municipality	<p>Enabling legislation empowers the municipalities to protect the general welfare through local land use decision-making that is consistent with statewide goals. This is accomplished by:</p> <ul style="list-style-type: none"> <li>• Adoption and amendment of comprehensive plan</li> <li>• Adoption and amendment of zoning ordinance</li> <li>• Adoption and amendment of land use regulations</li> </ul>
Citizens	<p>Assist the municipalities in land use decision making process by:</p> <ul style="list-style-type: none"> <li>• Becoming members of the decision making body</li> <li>• Attending meetings and hearings</li> <li>• Participating in committees and workshops</li> </ul>

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**Key Players and their functions in land use planning**

There are key players at both the state and municipal levels who are responsible for administering the land-use planning and management program. The key to having effective land use planning and management is having consistency between the state and local levels. Only with state and local players working together will the future desires of the land use be achieved.

<b>State level key players</b>	<b>Role</b>
Department of Administration:  Statewide Planning Program	Statewide Planning Program is charged with preparing and maintaining plans for the physical, economic, and social development of the state; encouraging their implementation; and coordinating the actions of state, local and federal agencies and private individuals within the framework of the state's development goals and policies. <sup>12</sup> Responsible for development, maintenance, and implementation of the State Guide Plan.
Department of Administration:  Office of Municipal Affairs	Office of Municipal Affairs provides local cities and towns with direct technical assistance on comprehensive planning, zoning, and subdivision matters.
State agencies	Rhode Island Coastal Resources Management Council and the Rhode Island Department of Environmental Management have direct review and enforcement authorities. They are charged with protecting the environment from the negative impacts that can be associated with land development. Other administrative authorities include, but are not limited to, the Dept. of Transportation and the Public Utilities Commission.

<b>Local level key players</b>	<b>Role</b>
Municipal Councils	Comprised of elected officials who influence the blueprint on how the cities and towns are to be developed through adopting, amending, and updating the comprehensive plan as well as enacting or amending the zoning ordinance. The Council also appoints the Planning and Zoning Board members.
Planning Boards	Appointed members are charged with the review and permitting process of land development. Other duties include: developing, adopting, amending, administering, and enforcing municipal and subdivision regulations; preparation of comprehensive plans; and making studies and preparing reports on the physical, economic, and social growth of the community
Zoning Board of Review and Board of Appeals	The Zoning Board of Review, generally comprised of five (5) members and two (2) alternatives, is responsible for administration of the zoning ordinance and authorizes applications for special-use permits, variances and modification permits. The Board of Appeals hears appeals from the decisions made by the Planning Board and other various municipal commissions.
Administrative Officers	Appointed officers including a Zoning Officer who issues permits, collects fees, maintains records, authorizes use, inspects violations, and collects fines; and a Planning Officer who oversees and coordinates the review, approval, recording, and enforcement of local land development and subdivision regulations.
Local Commissions	Usually act in an advisory capacity by commenting on specific proposals and conducting research for the proposed planning activity. The commissions may also have the authority to review and approve proposals for changes in specific zones. These commissions include Conservation Commissions, Historic Preservation Commissions, and Harbor Commissions.
Citizens	Are involved in the local land use planning by being decision makers, submitting feedback on proposed projects, or assisting the municipality in amending or adopting the comprehensive plan or zoning ordinance.

## **Land Use Actions**

Given the identification of the key players, there are tools that the players use to establish land use planning and management. The State creates a plan for statewide land use called the State Guide Plan. Each city or town must incorporate those goals into their individual communities. The first step for each city or town is to create a blueprint for its own community through the adoption of a comprehensive plan. The land use policies of the comprehensive plan are implemented through the zoning ordinance and land development and subdivision regulations. There must be consistency between the overall goals of the State and the local goals of the municipalities, referred to as the *Consistency Doctrine*, to achieve the future vision of land use.

## **State Guide Plan**

The State Guide is a collection of individual elements identifying specific needs and future goals for the State's land development. These elements identify among other things, land use concerns; physical development and environmental concerns; economic development; and human services.

### **Land Use 2025: State Land Use Policies and Plan**

One of the elements of the State Guide is the State Land Use Plan. This plan sets forth a statewide land use policy and plan for Rhode Island for a twenty-year period currently to 2025. The purpose of the element is to guide future land use and development by recommending policies to guide cities and towns in implementing their comprehensive planning, zoning, and other land use responsibilities, as well as to guide the state and its agencies in activities directly or indirectly affecting land use.<sup>13</sup>

The polices under this element are established with respect to the following:

- General land development
- Economic development
- Water resources
- Transportation
- Energy
- Recreation and open space
- Housing

## **Comprehensive Plan**

Each city or town is responsible for identifying its future land use goals through a comprehensive plan. The comprehensive plan is a written statement that is designed to provide a basis for rational decision-making regarding the long-term physical development of the city or town.<sup>14</sup> The comprehensive plan requires the cities and towns to plan for future land use that relates development to land capability; protects natural resources; promotes a balance of housing choices; encourages economic development; preserves and protects open space, recreational, historic and culture resources; and provides for orderly provision of facilities and services.<sup>15</sup> The comprehensive plan is reviewed every five years, but may be amended up to four times in any one calendar year.<sup>16</sup> The cities or towns, along with its citizens, are responsible for the formulation, review and adoption of the comprehensive plan.

## **Zoning Ordinance**

Cities or towns are responsible for establishing and enforcing standards and procedures for the management and protection of land, air and water as well as establishing the criteria for type and intensity of land use in accordance with its comprehensive plan.<sup>17</sup> The zoning ordinance is a means of achieving land use goals by providing a listing of all land uses and/or performance standards for the uses permitted within the city or town.<sup>18</sup> In accordance to the zoning ordinance, a city or town is divided into *zoning use districts*, identifying land usage as agricultural, commercial, industrial, open space and residential.<sup>19</sup> Within each district, size and use restrictions and limitations are set for buildings, structures, and land development, including building height, lot, and coverage allowed.<sup>20</sup> The zoning ordinance must also address water supplies, transportation systems, pedestrian access, recreational resources, landfills, and other public health and safety concerns.<sup>21</sup> The city or town council has the power to adopt, amend, repeal, administer, interpret, and enforce a zoning ordinance.<sup>22</sup>

### **Exceptions to the zoning ordinance**

Although the zoning ordinance lists the permitted uses of land and sets size and use restrictions, there are instances when exceptions to the zoning ordinance may be authorized. Those exceptions are categorized as special uses, variances, modifications and nonconforming uses.

## **Special uses**

There are certain uses of land that the zoning ordinance specifically identifies as requiring a special-use permit. If a landowner seeks to invoke that special use, he/she will have to obtain a permit from the Zoning Board of Review. The conditions and procedures under which special use permits may be issued are described in zoning ordinance for each city or town.<sup>23</sup> General criteria for special use permits requires that the special use must be in conformance of the purposes and intent of the comprehensive plan and the zoning ordinance of that city or town.<sup>24</sup> Special uses are also known as special exceptions.

## **Variance**

In some instances a zoning ordinance may create a hardship on a person, group, agency, or corporation. This hardship must be due to the unique characteristics of that particular lot of land or structure, *not the general characteristics of the surrounding area.*<sup>25</sup> (emphasis added). As a means of relief for the affected party, known as the aggrieved party, the Zoning Board of Review may grant a variance. A variance is permission to depart from the requirements of a zoning ordinance, and is issued as either a use or dimensional variance.<sup>26</sup> An *use variance* is permission to depart from the use requirements of a zoning ordinance where the applicant for the requested variance has shown by evidence that the subject land or structure cannot yield any beneficial use if it is to conform to the provisions of the zoning ordinance.<sup>27</sup> A *dimensional variance* is permission to depart from the dimensional requirements of a zoning ordinance, where the applicant for the requested relief has shown 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.<sup>28</sup> However, the fact that a use may be more profitable or that a structure may be more valuable after the relief is granted are not grounds for relief.<sup>29</sup>

## **Modification**

Some zoning ordinances express that modifications of the dimensional requirements of the zoning ordinance are allowed. A modification is a dimensional variance that is to be determined by the zoning ordinance of the city or town, but is not to exceed twenty-five (25) percent of each of the applicable dimensional requirements.<sup>30</sup> Even if the ordinance allows for a modification, an applicant must still submit an application for approval and determination that: 1) the modification is reasonably necessary for full enjoyment

of the permitted use; 2) there will be no substantial injury or impairment to neighboring property if the modification is granted; 3) the request is harmonious with the intent and purposes of the town's comprehensive plan and zoning ordinance; and 4) the request does not require a variance of a flood hazard requirement.

### **Nonconforming use**

There are instances when an approved use of the land does not change, but as a result of an enactment or amendment to the zoning ordinance, that use is no longer in compliance with the updated zoning ordinance. Even though the original use is out of compliance with the zoning ordinance, that use will be allowed to continue, this is commonly referred to as grandfathering a particular use. Nonconformance may occur in both use and dimension. Although nonconforming uses may be allowed to continue, they generally are not allowed to be rebuilt, expanded, or enlarged unless a variance is obtained.

### **Land development and Subdivision Regulations**

The land development and subdivision regulations are intended for either the land developer who desires to build residential and/or commercial development in a city or town or landowners who wish to subdivide their parcel into multiple lots. Each city or town is responsible for creating regulations and review procedures for land development and subdivisions. Subdivision regulations and reviews are detailed procedures involving the legal division of a parcel into a number of lots for the purpose of development. Cities or towns grant the Planning Board power to adopt or amend land development and subdivision regulations in accordance with the local comprehensive plan, zoning ordinance and other local land use regulations.<sup>31</sup> Cities or towns also grant the Planning Board power to adopt the standard review procedures for local land development and subdivision applications.<sup>32</sup>

# Land Use Decision-making Process

Many land use decisions that are made are routine and involve permissible uses of land, which are uses that are allowed under the zoning ordinance and are consistent with the comprehensive plan.

Permissible uses require an application and approval, but not a detailed review process, such as a building inspector approving an application for a building permit. Uses that are not permissible uses under the zoning ordinance or land development and subdivision regulations require a detailed review process involving the city or town’s board members to consider if the proposed project is appropriate for the location.

**Table 1: Typical Land Use Review Process**

1. Application	2. Public Notice	3. Public Hearing	4. Decision
 <ul style="list-style-type: none"> <li>• Land use application submitted by property owner.</li> <li>• Any supporting documentation required for land use decision process submitted at this time.</li> </ul>	 <ul style="list-style-type: none"> <li>• Public notice sent to all neighboring property owners that will be affected by the land use decision via first class mail.</li> <li>• Notice of upcoming public hearings posted in the local newspaper.</li> <li>• Meetings and agendas available on municipality website and at the city or town hall.</li> </ul>	 <ul style="list-style-type: none"> <li>• Applicant presents his/her proposal to the Board.</li> <li>• Board comments.</li> <li>• Floor opened to the public for questions and an opportunity to present support or opposition to proposal.</li> <li>• Board votes on proposal.</li> </ul>	 <p>Proposal will either be:</p> <ul style="list-style-type: none"> <li>• Approved</li> <li>• Approved with conditions or</li> <li>• Denied</li> </ul>

**Table 2: Common land use and land use regulation decisions**

Land Use Proposals	Initiated By	Submitted To	Public Notice	Public Hearing	Decision By	Local Appeal	State Appeal
<b>LAND USE DECISIONS</b>							
<ul style="list-style-type: none"> <li>Building permit</li> </ul>	Property owner	Zoning Officer	No	No	Staff	Zoning Board of Review	Superior Court
<ul style="list-style-type: none"> <li>Special use</li> <li>Variance</li> </ul>	Property owner	Zoning Officer	Yes	Yes	Zoning Board of Review	n/a	Superior Court
<ul style="list-style-type: none"> <li>Modification</li> </ul>	Property owner	Zoning Officer	Yes*	No	Zoning Officer	n/a	n/a
<ul style="list-style-type: none"> <li>Land development</li> <li>Subdivision</li> </ul>	Property owner	Administrative Officer	Yes	Yes	Planning Board	Zoning Board of Review	Superior Court
<b>LAND USE REGULATIONS</b>							
<ul style="list-style-type: none"> <li>Amendment to zoning ordinance</li> </ul>	Property owner, Planning Commission, City Council	Zoning Officer	Yes	Yes	City or Town Council	n/a	Superior Court
<ul style="list-style-type: none"> <li>Amendment to comprehensive plan</li> </ul>	Property owner, Planning Commission, City Council	Planning Board or Planning Commission	Yes	Yes**	Planning Board/Co, City or Town Council, State***	State Comp. Plan Appeals Board	State Supreme Court

\* The zoning officer shall notify all property owners abutting the property subject to the modification request. Modification will be granted unless written objection is received within thirty (30) days of the public notice.

\*\* There is a public hearing before both the Planning Board/Commission and City or Town Council decisions, and a thirty (30) day public comment period prior to the State decision.

\*\*\* A comprehensive plan is reviewed in three stages. A plan must first be adopted by the Planning Board/Commission, then adopted by the Municipal Council, and finally approved by the State.

## **Appeals**

A party that is not satisfied with a land use decision has the right to appeal that decision to a higher decision making body. This party is considered an aggrieved party and is any person who can demonstrate that his/her property will be injured by that land use decision. There are two levels of appeal--local and state. At the local level, Planning Board decisions are brought to the Board of Appeals while Zoning Officer decisions are brought to the Zoning Board of Review. These appeal boards may approve, modify or reverse the decision. At the state level, decisions made by the Board of Appeals and Zoning Board of Review may be brought to the Superior Court of the county where the decision was made. To be granted a hearing in Superior Court one must have standing, which is a legally recognized stake in the outcome of the decision. The Superior Court may affirm a decision by the lower Appeal Board, remand the case for further proceedings, or reverse if the decision was any one of the following:

- In violation of constitutional, statutory, or ordinance provisions;
- In excess of the authority granted to the decision-maker;
- Made upon unlawful procedure;
- Affected by the error of law; and/or
- Clearly erroneous, arbitrary, capricious or characterized by abuse of discretion<sup>33</sup>

Both local and state level appeals generally must be taken within twenty (20) days of the date that the decision from the lower decision making body was filed and posted in the office of the city or town clerk.

## **Public Meetings, Hearings and Notification Requirements**

The adoption, administration and amendment of land use controls constitute public business and are required to be conducted in open public meetings.<sup>34</sup> Public bodies involved in the land use planning and management, including City or Town Councils, Planning Boards and Zoning Boards, must notify the general public of their regularly scheduled meetings through postings of yearly announcements and supplemental notices. The public bodies are also required to keep written minutes of all their meetings, including date, time and place of meeting; members present; members' votes on issues; and other relevant information.<sup>35</sup> The minutes are public record.

There are times when meetings can be closed to the public. These include instances where discussion of personal characteristics, collective bargaining and litigation, security matters, investigative proceedings, property acquisitions, business attraction, or investment of public funds is to be discussed.<sup>36</sup>

Public hearings are required for most types of land use actions, including special-use permits, variances, amendments to land development and subdivision regulations and amendments to zoning ordinances and comprehensive plans. The hearing announcements, depending on the nature of the hearing, will be posted in the local newspaper between seven (7) and twenty-one days (21) prior to the hearing. Generally all regional and state agencies, contiguous municipalities and any other interested parties will receive notice via first class mail.

## **Section III: Getting involved in your local land use decisions**

It is important for citizens to understand who can get involved in local land use decisions and when to get involved. Cities and towns must keep citizens informed of upcoming land use proposals, usually by notification in the newspaper or notice via first class mail, this notice signals the time to get involved. Citizens may want to know what they can do once they have become aware of a proposal and is concerned that the proposed land use action may affect their individual property, neighborhood, or overall community. For example, a citizen received either notice that a neighbor is applying for a variance; a developer is proposing commercial development in a residential neighborhood which would include rezoning; or notice that the municipality is working on amending its local land use regulations, that citizen has the opportunity to voice an opinion, concern or support of the proposal, or even participate in the amendment of a regulation itself.

Citizen involvement in land use actions such as the granting of special-use permits and variances is generally limited to the review stage of the decision-making process and occurs through testimony during public hearings. Involvement in more complex land use actions such as the amending and adopting of land use regulations may occur during the formulation stages as well as during the review stages of the decision-making process. There are numerous ways to get involved in this process, from being appointed to decision-making bodies, participating in advisory committees, offering testimony at public hearings, to raising awareness in the community by simply discussing goals among fellow members of the community.

### **Public Participation in the Formulation Stage of Land Use Regulations**

Land use regulations have long-term effects on the community and affect all land use decisions. Citizen involvement in the amendment or adoption of land use regulations may begin during the formulation stage and include membership in citizen advisory committees. These committees are the pulse of the community and are generally comprised of representatives of all areas including business, professional, environmental, recreational, civic, charitable, religious, educational, and other fields. These committees work with the cities and towns in shaping the future of the community. Citizens may also participate in public workshops or group presentations, which are means to solicit input, educate and get other members of the community involved in the formulation of the regulations. Sharing information is important and may be

achieved through video, cable or other citizen information efforts such as newspapers or other media. To see what opportunities are available in your community check with your local city or town clerk.

### **Public Participation in the Review Stage of Land Use Regulations**

Citizens may get involved during the review stage of the proposed amendment or adoption of land use regulations through participation in public hearings. Hearings present opportunities for citizens to request clarification, enter objections, voice support, or submit recommendations for additions or changes to the proposed land use regulation. The typical sequence of events at a public hearing involve the presentation of the planned proposal followed by comments of the members of the hearing body, after which the floor is opened to attendees for questions and comments. Look in your local newspaper for upcoming hearings or check with your local city or town clerk.

### **Engagement in the land use decision-making process**

Getting involved in the decision-making process is your time to make a difference in the community, now and in the future. So no matter what your level of involvement in the land use decision-making process may be, it is important to remember that you are working toward an amicable outcome that will ultimately affect other citizens in your community.

### **A few tips to keep in mind during involvement in the decision-making process**

- Be aware of your rights
- Be educated on the decision-making process
- Be prepared to discuss your concern or support concisely
- Be patient and willing to listen
- Be flexible
- Be professional

### **Advocacy**

{How long should this section be? Documents provided were several pages long.}  
Undergrad to supplement

## Appendix A: Aquidneck Island Resources and Contact Information

### Aquidneck Island Planning Commission

<http://www.aquidneckplanning.org/>

321 Main Street  
Portsmouth, RI 02871  
(401) 845-9299

### Smart Growth Rhode Island

<http://www.growsmartri.com/>

235 Promenade Street, Suite 550  
Providence, RI 02908  
(401) 273-5711

### City of Newport

<http://www.cityofnewport.com/>

Newport City Hall  
43 Broadway  
Newport, Rhode Island 02840  
(401) 846-9600  
Office Hours:  
Monday through Friday, 8:30 a.m. to 4:30 p.m.

Agendas and Meetings  
<http://www.cityofnewport.com/dept/plan/board/home.html>

Comprehensive Plan  
<http://www.cityofnewport.com/dept/plan/maps/com-p-plan.html>

Zoning ordinance  
<http://www.cityofnewport.com/dept/plan/codes/home.html>

### Town of Middletown

<http://www.middletownri.com/>

Town Hall  
350 East Main Road (1st Floor)  
Middletown, RI 02842  
(401) 847-0009  
Office Hours:  
Monday through Friday, 8:00 a.m. to 5:00 p.m.

Agendas and Meetings  
<http://www.middletownri.com/agendas/>

### Comprehensive Plan

<http://www.middletownri.com/departments/comprehensive.php>

### Zoning Ordinance

[http://www.middletownri.com/departments/building\\_zoning.php](http://www.middletownri.com/departments/building_zoning.php)

### Town of Portsmouth

<http://www.portsmouthri.com/frames.htm>

Town Hall  
2200 East Main Road  
Portsmouth, RI 02871  
(401) 683-2101  
Office Hours:  
Monday through Friday, 9:00 a.m. to 4:00 p.m. -  
last Saturday of the month, 9:00 a.m. to 12:00 p.m.

Agendas and Meetings  
<http://www.portsmouthri.com/frames.htm>

Comprehensive Plan  
<http://www.portsmouthri.com/frames.htm>

Zoning Ordinance  
<http://www.portsmouthri.com/frames.htm>

### State Resources

<http://www.info.ri.gov/>

### RI Coastal Resources Management Council

<http://www.crmc.ri.gov/>

Oliver Stedman Government Center – Suite 3  
4808 Tower Hill Road  
Wakefield, RI 02879  
(401) 783-3370

### Department of Environmental Management

<http://www.dem.ri.gov/index.htm>

Office of Technical and Customer Assistance  
235 Promenade Street  
Providence, RI 02908  
(401) 222-6800

**Department of Transportation**

<http://www.dot.state.ri.us/>

RIDOT Headquarter Offices  
Two Capital Hill  
Providence, RI 02903-1124  
(401) 222-2481

**Housing Resources Commission**

<http://www.hrc.ri.gov/>

One Capitol Hill, 3rd Floor  
Providence, RI 02908  
(401) 222-5323

**Office of Municipal Affairs**

<http://www.muni-info.ri.gov/>

Municipal Affairs  
One Capitol Hill - 3rd Floor  
Providence, R.I. 02908-5873  
(401) 222-7701

**Public Utilities Commission**

<http://www.ripuc.org/>

89 Jefferson Boulevard  
Warwick, RI 02888  
(401) 941-4500

**State Water Resources Board**

[http://www.wrb.ri.gov](http://www.wrb.ri.gov/)

100 North Main Street  
Providence, RI 02903  
(401) 222-2217

**Statewide Planning**

<http://www.planning.ri.gov/>

Rhode Island Division of Planning  
One Capitol Hill  
Providence, RI 02908  
(401) 222-7901

## Appendix B: Glossary of Terms<sup>37</sup>

**Administrative Subdivision** – Re-subdivision of existing lots, which yields no additional lots for development, and involves no creation or extension of streets. Such re-subdivision shall only involve divisions, mergers, mergers and division, or adjustments of boundaries of existing lots.

**Aggrieved Party** – (a) Any person(s) or entity(s) who can demonstrate that their property will be injured by a decision of any officer or agency responsible for administering the zoning ordinance of a city or town; or (b) Anyone requiring a notice.

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

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

**Board of Appeal** – The local review authority for appeals of actions of the administrative officer and the planning board on matters of land development or subdivision, which shall be the local zoning board of review constituted as the board of appeal.

**Brownfield** – A former industrial site, often with environmental contamination, that is in a promising location for reclamation and redevelopment as a mixed use or residential area.

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

**Building permit** – A permit that must be issued by an administrative officer before activities such as construction, alteration, or expansion of buildings or improvements may legally commence.

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

**Capacity or land capacity** – Means the suitability of the land, as defined by geology, soil conditions, topography, and water resources, to support its development for land uses such as residential, commercial, industrial, open space, or recreation. Land capacity may be modified by provision of facilities and services.

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

**Comprehensive plan** – A written document that identifies the goals, objectives, principles, guidelines, policies, standards, and strategies for the growth and development of the community.

**Concept plan** – A drawing with accompanying information showing the basic elements of a proposed land development plan or subdivision as used for pre-application meetings and early discussions, and classification of the project within the approval process.

**Density** – The number of units of housing, office space, or commercial space per unit of land area.

**Developer** – Any person who is improving or reconfiguring a parcel of land within a city or town in order to sell and profit from that property.

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

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

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

**Final plan** – The final stage of land development and subdivision review.

**Historic district** – One or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites, and has been registered, or is deemed eligible to be included, on the state register of historical places pursuant to section 42-45-5.

**Improvement** – Any natural or built item, which becomes part of, is placed upon, or is affixed to, real estate.

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

**Infrastructure** – Facilities and services needed to sustain residential, commercial, industrial, institutional, and other activities. Among these are water and sewage systems, lighting, drainage, parks, public buildings, roads and transportation facilities, and utilities.

**Land** – Real property including improvements and fixtures on, above, or below the surface.

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

**Land use regulation** – A rule of statute of general application adopted by the municipal legislative body, which controls, directs, or delineates allowable uses of land and the standards for such uses.

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

**Lot area** – The total area within the boundaries of a lot, excluding any street right-of-way, usually reported in acres or square feet.

**Lot building coverage** – That portion of the lot that is or may be covered by buildings and accessory buildings.

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

**Lot frontage** – That portion of a lot abutting a street. A zoning ordinance shall specify how noncontiguous frontage will be considered with regard to minimum frontage requirements.

**Lot line** – A line of record, bounding a lot, which divides one lot from another lot or from a public or private street of any other public or private space.

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

**Major land development plan** – Any land development plan not classified as a minor land development plan.

**Major subdivision** – Any subdivision not classified as either an administrative subdivision or a minor subdivision.

**Master plan** – An overall plan for a proposed project site outlining general, rather than detailed, development intentions. It describes the basic parameters of a major development proposal, rather than giving full engineering details. Required in major land development or major subdivision review.

**Meeting** – The convening of a public body to discuss and/or act upon a matter over which the public body has supervision, control, jurisdiction or advisory power.

**Minor land development** – A development plan for a residential project as defined in local regulations, provided that such a development does not require waivers or modifications. All nonresidential land development projects shall be considered as major development plans.

**Minor subdivision** – A plan for residential subdivision of land consisting of five (5) or fewer units or lots, provided that such subdivision does not require waivers or modifications. All nonresidential subdivisions shall be considered as major subdivisions.

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

**Modification** – Permission granted and administered by the zoning enforcement officer of city or town, to grant a dimensional variance other than lot area requirements from the zoning to a limited degree as determined by the zoning ordinance of the city or town, but not to exceed twenty-five percent (25%) of each of the applicable dimensional requirements.

**Municipal legislative body** – The town meeting in a town; the town council in a town or the city council in a city; or that part of a municipal government that exercises legislative powers under a statute or charter.

**Municipal reviewing authority** – The municipal planning board, or commission, or if none, the municipal officers.

**Nonconformance** – A building, structure, or parcel of land, or use thereof, lawfully existing at the time of the adoption or amendment of a zoning ordinance and not in conformity with the provisions of such ordinance or amendment.

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

**Parcel** – A lot, or contiguous group of lots in single ownership or under single control, and usually considered a unit for purposes of development. Also referred to as a tract.

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

**Permitted Use** – A use by right that is specifically authorized in a particular zoning district.

**Permitting authority** – The local agency of government specifically empowered by state enabling law and local ordinance to hear and decide on specific matters pertaining to local land use.

**Phased development** – Development, usually for large-scale projects, where construction of public and/or private improvements proceeds by sections subsequent to approval of a master plan for the entire site.

**Planned development** – A land development project developed according to plan as a single entity and containing one or more structures and/or uses with appurtenant common areas.

**Planning Board** – The official planning agency of a municipality.

**Plat** – A drawing(s) of a land development or subdivision plan showing the location, boundaries, and lot lines of individual properties, as well as other necessary information as specified in the local regulations.

**Police power** – The power that is held by the state to legislate for the purpose of preserving the public health, safety, morals, and general welfare of the people of the state.

**Pre-application conference** – An initial meeting between developers and municipal representatives that affords developers the opportunity to present their proposals informally and receive comments and directions from the municipal officials and others.

**Preliminary Plan** – The required state of land development and subdivision review that shall require detailed engineered drawings and all required state and federal permits.

**Public body** – Any department, agency, commission, committee, board, council, bureau, or authority or any subdivision thereof of state or municipal government.

**Public improvement** – Any street or other roadway, sidewalk, pedestrian way, tree, lawn, off-street parking area, drainage feature, or other facility for which the local government or other governmental entity is presently responsible, or will ultimately assume the responsibility for maintenance and operation upon municipal acceptance.

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

**Quorum** – Unless otherwise defined by applicable law, means a simple majority of the membership of a public body.

**Setback line** – A line parallel to a lot line at the minimum distance of the required setback for the zoning district in which the lot is located that establishes the area within which the principal structure must be erected or placed.

**Site plan** – The plan, consisting of a map and all necessary supporting material, showing the proposed development and use of a single parcel of land.

**Special use** – A regulated use that is permitted pursuant to the special-use permit issued by the authorized governmental entity. Formerly referred to as a special exception.

**State guide plan** – Goals, policies, and plans or plan elements for the physical, economic, and social development of the state, adopted by the state planning council.

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

**Subdivision** – The division or re-division, of a lot, tract or parcel of land into two or more lots, tracts, or parcels. Any adjustment to existing lot lines of a recorded lot by any means shall be considered a subdivision.

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

**Variance** – Permission to depart from the literal requirements of a zoning ordinance. An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land that is prohibited by a zoning ordinance.

**Wetland, coastal** – A salt marsh bordering on the tidal waters of this state and contiguous uplands extending no more than fifty (50) yards inland therefrom.

**Wetland, freshwater** – A marsh, swamp, bog, pond, river, stream, flood plain or bank; area subject to flooding or storm flowage; emergent or submergent plant community in any body of fresh water; or area within fifty (50) feet of the edge of a bog, marsh, swamp, or pond.

**Zoning** – The reservation of certain areas within a community or city for buildings and structures, or use of land, for certain purposes with other limitations such as height, lot coverage or other stipulated requirements.

**Zoning map** – The map(s) which are a part of the zoning ordinance and which delineate the boundaries of all mapped zoning districts within the physical boundary of the city or town.

**Zoning ordinance** – An ordinance enacted by the legislative body of the city or town that sets forth regulations and standards relating to the nature and extent of uses of land and structures, which is consistent with the comprehensive plan of the city or town and includes a zoning map.

**Zoning use districts** – The basic unit in zoning, either mapped or unmapped, to which a uniform set of regulations applies, or a uniform set of regulations for a specified use. The districts include, but are not limited to: agricultural, commercial, industrial, institutional, open space, and residential. Each district may include sub-districts. Districts may be combined.

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<sup>1</sup> Smart Growth America, <http://smartgrowthamerica.org/whoweare.html> (last visited Oct. 5, 2006)

<sup>2</sup> Grow Smart Rhode Island, <http://www.growsmartri.com> (last visited Oct. 5, 2005)

<sup>3</sup> EPA Final Report, *Implementing the Aquidneck Island West Side Master Plan* at <http://www.aquidneckplanning.org/epa.html> (last visited Oct. 14, 2005)

<sup>4</sup> EPA Final Report, *Implementing the Aquidneck Island West Side Master Plan* at <http://www.aquidneckplanning.org/epa.html> (last visited Oct. 14, 2005)

<sup>5</sup> Standard State Zoning Enabling Act § 1

<sup>6</sup> Standard State Zoning Enabling Act of 1926

<sup>7</sup> Standard City Planning Enabling Act of 1928

<sup>8</sup> R.I. Gen. Laws § 45-22.2 (1956)

<sup>9</sup> R.I. Gen. Laws § 45-24 (1956)

<sup>10</sup> R.I. Gen. Laws § 45-23 (1956)

<sup>11</sup> R.I. Gen. Laws §§ (1956)

<sup>12</sup> R.I. Gen. Laws §§ 42-11-10, 12 (1956)

<sup>13</sup> RI Statewide Planning, <http://www.planning.ri.gov/landuse/default.htm> . \* . . . .

<sup>14</sup> R.I. Gen. Laws § 45.22.2-6 (1956)

<sup>15</sup> R.I. Gen. Laws §§ 45-22.2-3, 5 (1956)

<sup>16</sup> R.I. Gen. Laws § 45-22.2-12 (1956)

<sup>17</sup> R.I. Gen. Laws § 45-24-29 (1956)

<sup>18</sup> R.I. Gen. Laws § 45-24-37 (1956)

<sup>19</sup> R.I. Gen. Laws §§ 45-24-33, 36 (1956)

<sup>20</sup> R.I. Gen. Laws § 45-24-33 (1956)

<sup>21</sup> R.I. Gen. Laws § 45-24-33 (1956)

<sup>22</sup> R.I. Gen. Laws § 45-24-50 (1956)

<sup>23</sup> R.I. Gen. Laws § 45-24-42 (1956)

<sup>24</sup> R.I. Gen. Laws § 45-24-42 (1956)

<sup>25</sup> R.I. Gen. Laws § 45-24-41(1956)

<sup>26</sup> R.I. Gen. Laws § 45-24-31 (1956)

<sup>27</sup> R.I. Gen. Laws §45-24-31 (1956)

<sup>28</sup> R.I. Gen. Laws §45-24-31 (1956)

<sup>29</sup> R.I. Gen. Laws §45-24-31 (1956)

<sup>30</sup> R.I. Gen. Laws § 45-24-31 (1956)

<sup>31</sup> R.I. Gen. Laws §§ 45-23-26, 29, 51 (1956)

<sup>32</sup> R.I. Gen. Laws §§ 45-23-26, 29, 51 (1956)

<sup>33</sup> R.I. Gen. Laws §§ 45-23-71, 45-24-69 (1956)

<sup>34</sup> R.I. Gen. Laws § 42-46-1 (1956)

<sup>35</sup> R.I. Gen. Laws § 45-26-7 (1956)

<sup>36</sup> R.I. Gen. Law § 45-26-5 (1956)

<sup>37</sup> Definitions have been compiled from the definition sections of the Comprehensive Planning and Land Use Regulations Act; Land Development and Subdivision Review Enabling Legislation; the Zoning Enabling Act; DAVID GOLDBERG, CHOOSING OUR COMMUNITY'S FUTURE, (Smart Growth America); J. NOLON, WELL GROUNDED, USING LOCAL LAND USE AUTHORITY TO ACHIEVE SMART GROWTH, (Environmental Law Institute 2001).