

# TOWN OF TIVERTON

## TEMPORARY MORATORIUM

The Town Council, upon due and proper consideration, finds as follows:

### 1. Preamble

- A. Pursuant to Art. IV, § 407 of the Home Rule Charter and sec. 408 of the Town of Tiverton's Ordinances, this Council has the authority to enact ordinances and resolutions for the preservation of the public health, safety and welfare of the inhabitants of Tiverton;
- B. The {Building and Planning Department} have reported that residential areas of the Town are under threat of excessive development. This threat specifically includes an increase in development and applications for (commercial and residential) development in the Town of Tiverton, with the following developments under construction and/or under review:

#### MAJOR LAND DEVELOPMENT

- Harbor Ridge – Hayden Avenue, (Plat 118, Lot 304) 16 residential single-family units. Final Plan approved 10/2/2018. 14 homes built with two under construction
- Villages at Mount Hope Bay – Final Phase, Main Road (plat 119, Lot 102) 15 residential units (6 duplex and 1 triplex), age restricted, Final approval 9/19/2019. Construction completed 2023
- Advantage Self Storage – Tiverton Business Park, Industrial Way, (Plat 107, Lot 801) 102,000 sq ft approved 12/15/2020, Currently under construction
- Bill's Sales, Progress Way, Tiverton Business Park (Plat 109, Lot 701-704) 86,000 sq ft approved 7/20/21 with construction in progress

- Bayview Condominiums – 994 Main Road (Plat 119, Lot 121-122) 52 residential units, final plan amendment approved 3/2/21, construction not started to date
- Bourne Mill Phases II and IIIA, Mill Street, (plat 102, Lot 401) 59 residential rental units, final plan amendment approved 3/1/2022 and currently under construction
- Brookdale Sakonnet Bay Memory Care Facility, 1215 Main Road, (Plat 301, Lots 136-139), 18,000 sq ft single story care facility, Master Plan Approved February 2023
- Souza Road Condominium, 0 Main Road, (Plat 119, Lot 124) 43 Units, Comprehensive permit, 2,400 sq ft commercial building and 4,500 sq ft restaurant with 11 units designated LMI (low to moderate income housing), Master Plan approved January 2023
- Pocasset reserve, 797 Fish Road, (plat 110, Lot 207) 275-unit comprehensive permit, single family, duplex, townhouses, and apartments, 25% deed restricted to LMI, Master Plan approved January 2023
- Seasons Corner Market, Souza Road, (Plat 119, Lot 624) Season's Corner Market, Drive Through and gas station, Master Plan approved June 2023
- Vital at Tiverton Commons, Souza Road, (Plat 110, Lot 102 and 220) 62.58 acres, proposed 225-unit residential community, Comprehensive permit application, Concept Plan submitted October 2023
- 0 Stafford Road, (Plat 207, Lot 106) 60 acres, proposed 85-unit development, Comprehensive Permit, Concept Plan submitted October 2023

- Friendship Farms, Stafford Road, proposed age restricted 160 units, conceptual proposal only

#### MINOR LAND DEVELOPMENT

- Ditton Minor subdivision, 3407 Main Road, (plat 709, lot 102) R-80 zone, Preliminary Plan
- 51 King Road, (Plat 516, lot 107) R-80 zone, Final Plan
- 575 Nanaquacket Road, (Plat 404, Lot 101) R-80 zone, Final Plan
- Highland Builders, 785 Main Road, (Plat 117, Lot 223) 1,441 sq ft workshop, DPR, Preliminary Plan approved May 2023
- Lake Road Acres, 485 Lake Road, (Plat/Lot 109) R-80 zone, 5 lot minor subdivision

#### SOLAR DEVELOPMENT

- ECOGY Energy, 590 Fish Road, (Plat 106, Lot 110) Industrial Zone, DPR Plan Review, Major Land Development, Master and Preliminary Plan conditional approval October 2023 solar application

C. In addition, in May of 2020 the Massachusetts Bridge and Turnpike Authority (MBTA) approved a \$159 million dollar contract to Skansk DW White to construct the Fall River secondary rail corridor extension which included multiple rail stations, layover areas and rail line improvements. This secondary connector along with the addition of the MBTA approved Middleborough/New Bedford main line addition will bring rail service to and from Boston from New Bedford, Taunton and Fall River for the first time since 1950. The newly constructed Fall River Secondary line was completed in May of 2023 with an

expected operational date sometime in early 2024. The extension of the railroad corridor has created an increased interest and demand on development of properties in the Northern part of the Town of Tiverton;

D. The Tiverton Waste Water District, also reports that it is now being pressed by developers along Stafford Road on the North Easterly side of town for the extension of water and sewer lines for a proposed four-story 180-unit apartment complex. The parcel of land that the proposed project (0 Stafford Road) is situated on is a sixty-acre, R40 zoned parcel but is condensed into a very small segment of the parcel due to extensive wetlands throughout the entire parcel.

E. The {Building and Planning Department} have further reported concern that the increase in development as well as the anticipated demand as a result of the railway extension, has placed and will place an ever-increasing burden on various Town services including, but not limited to water resources, roads and schools;

1. Specifically with regard to the water services, it has been reported:

a. The North Tiverton Fire District is currently at 87% of capacity and has no reserve of water capacity set aside for the Tiverton Business/Industrial Park;

b. The Stone Bridge Fire District has capacity but limited infrastructure to pass water onto the North Tiverton Fire District;

c. In order to accommodate the increases and proposed increase in development, various mitigating measures have been taken, including *inter alia* restricting certain commercial entities, including the casino and limiting access to water during overnight hours to avoid an interruption of service for other customers due to reduce water capacity;

- d. The Town is being pro-active in seeking grant funding through the RI Housing, Municipal Technical Assistance grant program to fund a comprehensive study and analysis of the water infrastructure system with North Tiverton Fire District, Stone Bridge Fire District, the State Water Resources Board and the Town of Tiverton to better understand the limitations the existing system has with continuity of operations based on the existing structure and the ability to provide health and safety measures with respect to fighting structure fires, as well as understanding possible limited reserves to be used for the development of a town financed industrial/business park that the community subsidized through property tax collections for the outright acquisition and utility expansion of constructing the sewer extension from the Villages at Mount Hope Bay to the Tiverton Industrial/Business Park. The Town has received grant approval with regard to the scope of work to be performed with engagement beginning in November of 2023
- e. Moreover, there is a significant portion of the Town that does not have any water or sewer infrastructure where the zoning has been established (R-40, R-60 and mostly R-80) based upon the availability of potable water and in conjunction with the ground water saturation and contamination resulting from Individual On-site Wastewater Treatment Systems (OWTS). The Town needs time to develop appropriate ordinances requiring demonstrated proof that any approved building structure must first establish that it can sustain a viable water resource for the required potable water needed and that any such well does not dewater adjoining parcels or future development. The review and development of these new ordinances are necessary as the ground water tables in Town are very high and

subjected to various fecal chloroform and other pollutants from RIDEM approved OWTS systems that do not meet today's standards. There are at least three water reservoirs in Town (none of which belong to the town) which also include hundreds of acres of watershed property to protect and filter the waters of Nonquit Pond and the Watson Reservoir belonging to Newport Water and Stafford Pond, which provides water to Tiverton, with over flow rights to Fall River, MA and provides water as well to Stone Bridge Fire District.

2. With regard to sewer services, it is further reported that the north end of Tiverton has a high density of failing OWTSs that contribute towards the runoff pollution to the Sakonnet River and Mt. Hope Bay. The Town is participating in a program with the Rhode Island Infrastructure Bank and RI Housing to provide low interest loans to property owners in need of replacing failed septic systems or replacing cesspools required upon the sale of properties. The Tiverton Waste Water District was created legislatively to undertake the responsibility of sewer installations in the Northwestern portion of town that is directly responsible for the pollution in the Sakonnet River and Mt. Hope Bay, as its primary function. Any expansion beyond this critical area should require coordination and approvals from the Town Council in order to protect and conform to the local approved comprehensive plan.

3. The Tiverton School system is also facing burdens through limited availability of space:

- Ranger Elementary School      223 current 253 capacity 30 seats available
- Pocasset Elementary School      195 current 247 capacity 52 seats available

- Fort Barton Elementary School    171 current 228 capacity 57 seats available
- Total Elementary Schools            589 current 728 capacity 139 seats available
  
- Middle School                            490 current 530 capacity 40 seats available
- High School                                450 current 540 capacity 80 seats available

4. With the current proposals in planning and the expected demand anticipated the Town needs to determine what actions are needed to accommodate such an influx of additional students into the Tiverton School system with emphasis on the Northern sections of town which are supported by the single elementary Pocasset School which has just 52 seats of available capacity.;

- F. The last study on Town services, including study of water, school needs and road and traffic capabilities was conducted more than five (5) years ago. As such, the Town is in need of updated studies on Town services in order to adequately respond to pending and anticipated applications for development;
  
- G. The Town has been searching without success for a full-time Planner for the past 1.5 years. The Town has thus been operating with a limited contracted part-time Planner who has not only been advising the local Planning Board with respect to the workload and applications that come before the board but has also been the Administrative Officer with respect to the Planning Board and Planning Department. The Planning Department has one full time administrative clerk who provides the clerical work for the Planning Department and Planning Board.
  
- H. In light of these concerns, the continued allowance of development without obtaining such studies and plans pose a serious threat to the public health, safety and welfare of the

residents of Tiverton through potential water shortages, increased pollution and school overcrowding. Proper review of such proposed developments are further hindered by the ever increasing demand on both the Planning Department and Planning Board who currently have limited assistance due to the inability to fill the full-time Planner position;

I. The Town Council thus hereby finds that it could use *these circumstances create an emergency pursuant to sec. 408 of the Town Ordinance requiring, however in light of fairness to all potential developers and the residents of town, it has determined to post this draft ordinance for three weeks prior to holding a public hearing for the purpose of adopting a temporary moratorium on all developments for housing projects and subdivisions that exceed four (4) residential units and require the approval under the terms of the Town's land-use ordinances and regulations is necessary for the preservation of the public health, safety and welfare of the Town residents in order to prevent an overburdening of municipal and natural resources and facilities that is reasonable foreseeable as the result of the concerns identified above;*

## ***2: Enactment***

ACCORDINGLY, in accordance with Art. IV, § 407 of the Home Rule Charter and sec. 408 of the Town of Tiverton's Ordinances, the Town hereby finds:

Section 1. The Town Council is charged with the responsibility of providing for the orderly development of the town and to protect the health, safety and welfare of its residents;

Section 2. The actual and anticipated rapid development of single-family dwellings, subdivisions and housing projects has placed and will continue to place an increased burden on various Town



services interrupting the public peace, health, safety, comfort and welfare of the Town's inhabitants.

Section 3. It is in the best interest of the Town in order to allow the Town to conduct and/or complete the studies of the Town services including water, sewer and schooling and/or to amend its ordinances and properly staff its Planning Department, to place a temporary moratorium on all developments for housing projects and subdivisions that exceed four (4) residential units. .

Section 4. In accordance with the above stated findings, this Moratorium Ordinance is hereby adopted imposing a temporary moratorium on all developments for housing projects and subdivisions that exceed four (4) residential units and require the approval under the terms of the Town's land-use ordinances and regulations for the period of six (6) months following the passage of this ordinance or as may be otherwise extended by ordinance. Except as otherwise provided herein, this moratorium shall be applicable to the maximum extent permitted by law and subject to the terms and vesting provisions of the Town of Tiverton's Ordinances and Rhode Island General Law, to all proceedings, applications and petitions not vested pursuant to RI General Laws and/or pursuant to the Town of Tiverton's Zoning Ordinances, and on any new construction or use, requiring approval under the terms of the Town's land-use ordinance and regulations.

Section 5. Except as otherwise provided herein, the Planning Board, Zoning Board of Review, and all Town agencies and all Town employees shall neither accept, process, approve, deny or in any way act upon any new or non-vested applications, plans, permits, licenses and/or fees for any new construction or use governed by this {*emergency*} ordinance for said period of time.

Section 6. Those provisions of the Town' land-use ordinances and land development and subdivision regulations that are inconsistent or conflicting with the provisions of this temporary {*emergency*} moratorium is hereby stayed, to the extent that they are applicable, for the duration of the {*emergency*} moratorium hereby ordained, but not otherwise.

Section 7. If any clause, sentence, paragraph, section or part of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, action or part directly involved in the controversy in which such judgment shall have been rendered.

### ***3. Vesting and Exclusion Clause***

Notwithstanding the above, this moratorium shall not apply to any applications for which an applicant has submitted all required material and has been certified complete by the Town Planner who also holds the function of Administrative Office for the Town Planning Board, or otherwise deemed vested in accordance with the Town of Tiverton's Ordinances and Rhode Island General Laws; or to any Comprehensive Permit applications filed in accordance with R.I. General Laws, § 45-53-4;

### ***4. Effective Date:***

This ordinance shall take effect upon its passage and, from the effective date of this ordinance until its expiration or repeal, whichever comes first, to the extent that other ordinances or parts of ordinances are inconsistent herewith, said other ordinances or parts of ordinances shall be deemed suspended, and this ordinance shall be deemed to supersede said other ordinances or parts of ordinances.