

## **Section 320. Inland Activities and Alterations That Are Subject To Council Permitting**

### **A. Definitions**

1. The activities and alterations inland of shoreline features and their contiguous areas within state boundaries that may require a Council Assent are solid waste disposal; minerals extraction; chemical processing, transfer, and storage; power generation (excluding facilities of less than a 40-megawatt capacity); petroleum processing, transfer, and storage (excluding storage facilities of less than 2,400-barrel capacity); and sewage treatment and disposal (excluding individual sewage disposal systems).

2. Subdivision shall mean the division of a lot, tract, or parcel of land into two (2) or more lots, tracts, parcels or other divisions of land for sale, lease or other conveyance or for development simultaneously or at separate times. It also includes re-subdivision and when appropriate to the context, shall relate to the process of subdividing or to land subdivided. In computing six units or more the units shall be a total cumulative number of units on the property proposed after March 11, 1990, irrespective of ownership of the property or when the units are proposed.

3. For consistency with state land development legislation, the Council hereby adopts the activities identified by GLRI 45-23-27 as applicable for review.

### **B. Policies**

1. The Council shall review all proposals inland of the area contiguous to shoreline features which involve any of the above identified activities and alterations. The Council shall determine whether such proposals have a reasonable probability of conflicting with this Program or with adopted CRMC Special Area Management Plans, or have the potential to damage the coastal environment. Since, with the exception of those activities defined below, it is not practically feasible for persons proposing every activity that may come under Council jurisdiction to undergo such a review, the Council's policy is to assume the responsibility of informing parties proposing such inland activities or alterations when such a review is considered necessary. Where Council jurisdiction has established that there is a reasonable probability of conflict with this Program or an adopted CRMC Special Area Management Plan, or where potential exists to damage the coastal environment, the Council shall require that an Assent be obtained and that suitable modifications to the proposal be made.

2. Council Assents are also required for any other activity or alteration not listed in Table 1, Table 1A, or Table 1B but which (1) has a reasonable probability of conflicting with the Council's goals and its management plans or programs, and/or (2) has the potential to damage the environment of the coastal region.

3. Persons proposing subdivisions, co-operatives, and other multi-ownership facilities, [of six (6) units or more] or activities generating more than 40,000 square feet of impervious surface any portion of which extends onto a shoreline feature or its contiguous area, or within critical coastal areas, or those areas as identified in GLRI 45-23-27 are required to apply for a Council Assent.

Applicants proposing any of these activities shall satisfy all requirements specified in the RICRMP and any applicable special area management plan. Applicants shall also submit the following with their applications:

(a) A Stormwater Management Plan as required in Section 300.6 and as described in the most recent version of the *Rhode Island Stormwater Design and Installation Manual*.

(b) A soils map of the property (suggested scale 1:200) with an accompanying analysis of the best-use potential of the soils present; the soils maps and use potentials analysis prepared by the U.S. Soil Conservation Service should be used as the basis for this analysis.

(c) An overlay map showing the principal vegetation types or any significant features identified by the Natural Heritage Program of the Department of Environmental Management and the Historic Preservation Commission on the property; the maps prepared by McConnell (1974) and Kupa and Whitman (1972) may be the basis for information on vegetation.

(d) An overlay showing the proposed subdivision layout, including buildings, roadways, parking areas, drainage systems, sewage treatment and disposal facilities, and undisturbed lands.

(e) A Site Plan as detailed in the most recent version of the *Rhode Island Stormwater Design and Installation Standards Manual*.

(f) Prior to permitting, an archeological survey when recommended by the state Historical Preservation & Heritage Commission.

Applicants shall submit this information to the Council for review at the earliest stages of planning such projects and are required to utilize the Council's Preliminary Determination process in accordance with applicable requirements of the Land Development and Subdivision Review Enabling Act (R.I.G.L. 45-23-25 et. seq). Where so requested, all parties shall discuss their findings and recommendations at the municipality's pre-application conference, preliminary hearing, or similar proceeding. The findings and recommendations resulting from the coordinated, joint review shall be forwarded to the full Council. Where the Council finds a reasonable probability of conflict with this Program or with an adopted CRMC Special Area Management Plan, or finds there is a potential to damage the coastal environment, the Council shall require that suitable modification to the proposal be made or shall deny its Assent.

4. In those cases where a subdivision has been approved by the Council, any person wishing to conduct an approved activity, in accordance with the stipulations of the Council Assent, need not apply for a separate Assent unless so required by a stipulation of the Assent.

5. Applicants proposing the following projects are required to submit these projects for the Council's review:

- a) Power-generating plants (excluding facilities of less than a 40-megawatt capacity);
- b) Petroleum storage facilities (excluding storage facilities of less than 2,400-barrel capacity);
- c) Chemical or petroleum processing facilities;
- d) Minerals extraction;
- e) Sewage treatment and disposal facilities (excluding individual sewage disposal systems);
- f) Solid waste disposal facilities; and,
- g) Desalination plants.

Applicants proposing these activities shall demonstrate in writing that the Additional Category "B" requirements contained in Section 300.1 have been satisfied. If the Council determines that there is a reasonable probability that the project may impact coastal resources, then it shall be required to obtain a Council Assent in accordance with all applicable requirements of this program.

### **C. Prerequisites**

1. Solid waste disposal: permits from the Department of Environmental Management are required pursuant to the Solid Waste Management Act; and Air Quality Permit will have to be obtained from DEM if disposal practices include incineration. Disposal of hazardous wastes requires DEM permits pursuant to the R.I. Hazardous Waste Management Program as well as EPA permits.

2. Minerals extraction: DEM may require a wetlands permit and a Section 401 Water Quality Certification; the U.S. Department of Interior, Office of Surface Mining, issues permits for mining operations not including sand and gravel extraction.

3. Chemical processing, transfer, and storage: DEM may require permits pursuant to the Solid Waste Management Act and the R.I. Hazardous Waste Management Program, as well as an Air Quality Permit, Section 401 Water Quality Certification, and a Spill Contingency Plan. The DEM may require a Rhode Island Pollution Discharge Elimination System (RIPDES) permit.

4. Power generation: persons proposing a hydroelectric plant are required by DEM to obtain a Wetlands Permit, Dam Safety Certificate, and a Section 401 Water Quality Certification; a Preliminary Permit will also have to be obtained from the Federal Energy Regulatory Commission (FERC). Other power-generating facilities may require a DEM Air Quality Certificate, Section 401 Water Quality Certification, and Spill Contingency Plan. An NPDES permit may have to be obtained from EPA Region 1.

5. Petroleum processing, transfer, and storage: DEM may require an Air Quality Certificate, a Section 401 Water Quality Certification, and a Spill Contingency Plan.

6. Sewage treatment and disposal: DEM requires an ISDS permit for on-site sanitary sewage disposal. Other facilities may require: an Underground Injection Control permit from the DEM; a DEM Section 401 Water Quality Certification, or a RIPDES permit from DEM.

#### **D. Additional Category B Requirements**

1. Applicants proposing energy-related facilities are referred to the Energy Amendments adopted by the Council in 1978.

2. Persons proposing subdivisions, co-operatives, and other multi-ownership facilities, of six (6) units or more, or facilities which use larger Individual Sewage Disposal Systems (as defined in the RIDEM regulations for Individual Sewage Disposal Systems) which are designed, installed, or operated as a single unit to treat more than 2,000 gallons per day or any combination of systems owned or controlled by a common owner and having a total design capacity of 2,000 gallons per day, or facilities requiring one acre or more of parking, any portion of which extends onto a shoreline feature or its contiguous area, or within the watershed of the poorly flushed estuaries delineated on the maps accompanying this program, are required to apply for a Council Assent. Applicants shall submit the following information to the Council for review in the early stages of planning such facilities:

(a) A soils map of the property (suggested scale 1:200) with an accompanying analysis of the best-use potential of the soils present; the soils maps and use potentials analysis prepared by the U.S. Soil Conservation Service should be used as the basis for this analysis.

(b) An overlay map showing the principal vegetation types or any significant features identified by the Natural Heritage Program of the Department of Environmental Management and the Historic Preservation Commission on the property; the maps prepared by McConnell (1974) and Kupa and Whitman (1972) may be the basis for information on vegetation.

(c) An overlay showing surface drainage patterns and, where available, information on the depth to groundwater and the direction and volume of groundwater flows.

(d) An overlay showing the proposed subdivision layout, including buildings, roadways, parking areas, drainage systems, sewage treatment and disposal facilities, and undisturbed lands.

(e) Prior to permitting, an archeological survey when recommended by the state Historical Preservation & Heritage Commission.

This information shall be forwarded by the Council to other divisions of DEM for concurrent review.

The city or town in which the action is proposed shall be notified of the review and invited to participate; where so requested, all parties shall discuss their findings and recommendations at the municipality's pre-application conference, preliminary hearing, or similar proceeding. The findings and recommendations resulting from the coordinated joint review shall be forwarded to the full Council. Where the Council finds a reasonable probability of conflict with this Program or with an adopted CRMC Special Area Management Plan, or finds there is a potential to damage the coastal environment, the Council shall require that suitable modification to the proposal be made or shall deny its Assent.

3. In those cases, where a subdivision has been approved by the Council, any person wishing to conduct an approved activity, in accordance with the stipulations of the Council Assent, need not apply for a separate Assent unless by permit condition.

4. Subdivision shall mean the division of a lot, tract, or parcel of land into two (2) or more lots, tracts, parcels or other divisions of land for sale, lease or other conveyance or for development simultaneously or at separate times.

It also includes re-subdivision and, when appropriate to the context, shall relate to the process of subdividing or to land subdivided.

5. In computing six units or more the units shall be a total cumulative number of units on the property proposed after March 11, 1990, irrespective of ownership of the property or when the units are proposed.

#### **E. Standards**

1. See standards given in "Filling, Removing, or Grading" (Section 300.2), as applicable.
2. See standards given in "Residential, Commercial, Industrial, and Public Recreational Structures" (Section 300.3), as applicable.
3. See standards given in "Sewage Treatment and Disposal" (Section 300.6), as applicable.