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TITLE 650 – COASTAL RESOURCES MANAGEMENT COUNCIL

CHAPTER 20 – COASTAL MANAGEMENT PROGRAM

SUBCHAPTER 00 – N/A

PART 5 – Metro Bay Region Special Area Management Plan

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5.1 Authority and Purpose

A. It is the responsibility of the Rhode Island Coastal Resources Management Council (RICRMC) to preserve, protect, develop, and where possible, restore the coastal natural resources of Rhode Island. The Federal Coastal Zone Management Act (16 U.S.C. §§ 1451-1465) also charges the RICRMC with:

1. assisting in the redevelopment of deteriorating urban waterfronts, and considering the need for economic development that is compatible with the ecological, cultural, historic, and aesthetic values of the coastal zone;

2. ensuring the availability of public access points for coastal recreation;

3. considering the need for siting of facilities for national defense, energy, fisheries development, ports and transportation, as well as appropriate siting of new commercial and industrial developments;

4. timely review of projects through the streamlining of management activities;

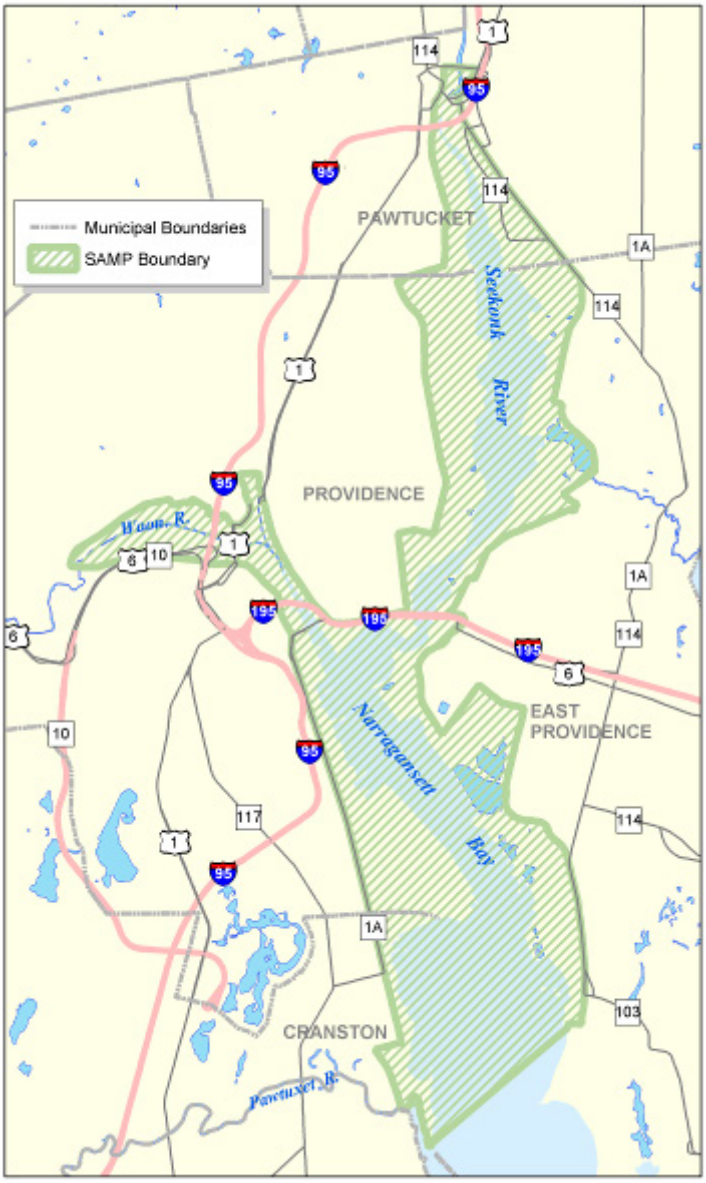
5. providing opportunities for public involvement in the decisions regarding coastal management; and

6. protecting uses of regional benefit.

B. As authorized by the federal Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451-1466) and R.I. Gen. Laws Chapter 46-23, the Coastal Resources Management Council may implement special area management plans.

C. The purpose of the rules of the Metro Bay Region Special Area Management Plan (SAMP) within the municipalities of Cranston, East Providence, Pawtucket and Providence is to provide for the management of the Providence Harbor and surrounding Metro Bay region. The boundaries of the Metro Bay region are shown in Figure 1 of § 5.1(D) of this Part. These rules provide an alternative coastal vegetative buffer policy for the Metro Bay region that accommodates increased public access to the coast, improved water quality via on-site vegetative stormwater treatment, and the preservation and restoration of habitat corridors and the general aesthetic value of Rhode Island's urban shoreline. Additionally, the intent and purpose of these rules is to promote economic development along the urban shorelines with a predictable permitting process, ensure redevelopment proceeds in a coordinated fashion, and ensure that conflicts are resolved in favor of maintaining a balance among port, recreation, commercial, and residential uses consistent with the designated CRMC water types. For additional information on the Metro Bay SAMP region that informed the development of these rules, please see the Metro Bay SAMP guidance document.

D. Map depicting the area of the Metro Bay Region Special Area Management Plan (SAMP)



5.2 Definitions

A. Definitions for this Part are as follows:

1. "Area of particular concern" or "APC" zone means areas within the Metro Bay SAMP boundary that have been identified either as highly significant habitats (High Priority Conservation or Restoration Areas) or as areas of significant recreational value. The conservation, restoration, and recreation designations were identified using a ranking system that includes habitat quality, use of the site by wildlife, presence of rare

species, geographic relationships (i.e., contiguous parcels with habitat value), and restoration potential. The APC Zone is delineated in the Urban Coastal Greenway Zone Map (Figure 2 in § 5.4 of this Part), and the ranking system is described in § 5.16(C) (Appendix 3) of this Part.

2. "Capital center district" or "CCD" means the area established in the City of Providence Code of Ordinances that is bounded by I-95, Smith Street, Francis Street, Gaspee Street, Canal Street, Steeple Street, Exchange Terrace, and West Exchange Terrace.

3. "Coastal buffer zone" is a regulatory feature that requires a naturally vegetated area that must be retained in a natural, undisturbed condition, or properly managed in accordance with the standards contained in § 1.1.11 of this Subchapter. In cases where native vegetation does not exist within a buffer zone, the Council may require restoration efforts which include, but are not limited to, replanting the coastal buffer zone with native plant species.

4. "Coastal wetlands" include salt marshes and freshwater or brackish wetlands contiguous to salt marshes or physiographical features as defined in § 1.2.2(D) of this Subchapter. Areas of open water within coastal wetlands are considered a part of the wetland. In addition, coastal wetlands also include freshwater and/or brackish wetlands that are directly associated with non-tidal coastal ponds and freshwater or brackish wetlands that occur on a barrier beach or are separated from tidal waters by a barrier beach.

5. "Compensation" means a required action by an applicant that wishes to reduce the width of an urban coastal greenway below the standard width for the applicable UCG zone. Any reduction in UCG width below that standard requires compensation for the lost urban coastal greenway area as described in § 5.13 of this Part.

6. "Construction setback" means a minimum distance between a shoreline feature, buffer zone, or urban coastal greenway and construction activities.

7. "Council" or "CRMC" or "RICRMC" means the Rhode Island Coastal Resources Management Council.

8. "Development" means the construction of new commercial, industrial, or residential structures, as defined in § 1.3.1(C) of this Subchapter for the purposes of the urban coastal greenway requirements. This also includes structures accommodating a mix of uses within a single development, building, or tract, as allowed by a municipality. Other activities subject to RICRMC jurisdiction may be contained within the RICRMP definition of development.

9. “Development zone” means areas that have been specifically designated for high-density development by the local municipality or the state. Many parcels within this zone are formerly filled tidelands. This zone also incorporates large parcels within the Metro Bay SAMP boundary that may have been primarily industrial in their former use(s) and are therefore constrained by the existence of utility corridors and their associated easements, and/or the need for brownfield remediation prior to development. The boundaries of this Zone are identified on the Urban Coastal Greenway Zone Map (Figure 2 in § 5.4(K) of this Part)

10. “High priority conservation areas” or “HPCA” means those areas identified by the RICRMC as parcels or areas within the metro bay region that should be preserved for their habitat value.

11. “High priority restoration areas” or “HPRA” means those areas identified by the RICRMC as parcels within the metro bay region that should be restored for their habitat value.

12. “Inland edge” means the boundary of a coastal feature, urban coastal greenway, or buffer zone that directly abuts an upland area.

13. “Inner harbor and river zone” or “IHRZ” means a zone that incorporates extensively developed areas where, on the majority of parcels, public infrastructure (i.e., roads and/or sidewalks) already exists between the coastal feature and the proposed development at the time of promulgation of the Urban Coastal Greenway Regulations. The Inner Harbor and River Zone (IHRZ) specifically encompasses the area upriver and inland from the Providence hurricane barrier and along the Woonasquatucket and Moshassuck Rivers, including the Capital Center District (CCD), to the extent of the Metro Bay SAMP boundary as depicted in the Urban Coastal Greenway Zone Map (Figure 2 in § 5.4(K) of this Part). The CCD is defined as the area bounded by I-95, Smith Street, Francis Street, Gaspee Street, Canal Street, Steeple Street, Exchange Terrace, and West Exchange Terrace, and shown on Figure 2 herein.

14. “Mitigation” means as described in § 5.10 of this Part and is required whenever an applicant chooses not to include public access within a development or redevelopment project that triggers the urban coastal greenway regulations. Mitigation is not equivalent to “compensation”, and therefore it is possible that both mitigation and compensation could be required within a single project.

15. “Low impact development” or “LID” means planning and engineering techniques for stormwater management that emphasize conservation and the use of vegetative features to meet water quality goals (See § 5.5.1(F) of this Part for specific LID techniques).

16. “Managed landscape” means for the purposes of the urban coastal greenways policy a vegetated area within a buffer zone or urban coastal greenway where limited landscaping practices are allowed. These practices may include the removal of non-native invasive plants, restorative plantings of native and sustainable plant species and the pruning, trimming, and selective cutting of vegetation designed to manage habitat, maintain scenic view-sheds, and preserve shoreline access. Managed landscapes should also provide for infiltration of stormwater and the minimization of erosion. Activities not allowed in managed landscapes include:

    a. clear-cutting of vegetation (except as part of an RICRMC-approved habitat restoration or public access plan);

    b. the establishment of lawns (except in areas designated for public access and recreation);

    c. the application of fertilizers, herbicides and pesticides (except as specifically allowed by an RICRMC-approved managed landscape plan); and

    d. any other activities which the RICRMC determines are incompatible with the functions and values of buffer zones and established urban coastal greenways.

17. “Metro bay region” means the northern region of Narragansett Bay, encompassed within the boundaries of the metro bay special area management plan or SAMP. The SAMP boundary stretches north from the southern tip of Pawtuxet Neck in Cranston to Main Street in Pawtucket, then around the bay to the East Providence water pollution control facility at Crest Avenue. The boundary also includes the Woonasquatucket River tidal portion to Atwells Avenue and the Moshassuck River to Orms Street. The municipalities contained within the metro bay region are Pawtucket, East Providence, Providence, and Cranston.

18. “Multi-residential development” means any residential development designed or used to house three or more families.

19. “Native, non-invasive vegetation” means those species that grew naturally (outside of cultivation) in this region prior to European colonization (URI Cooperative Extension, 1999) and do not grow so rapidly that they become difficult to maintain. Native species are well acclimated for local climatic and soil conditions, and often require less frequent replacement and maintenance than non-native species. Native vegetation also provides habitat for wildlife species that depend upon native plant communities for all or part of their life cycle. An assemblage of native non-invasive plants is referred to as a native plant community.

20. “Non-stormwater management wetlands” means those wetlands that provide the recognized functions and values of natural wetlands systems, rather than wetlands designed specifically for a stormwater treatment function. These natural wetlands functions and values include: wildlife and food web support; wildlife habitat; water quality enhancement; recreation; aesthetics; and shoreline anchoring.

21. “Primary public access path” means a linear public access along the length of the shoreline, as part of an Urban Coastal Greenway.

22. “Providence harbor” refers to the harbor area surrounded by and incorporating waterfront areas of the municipalities of Providence, East Providence, and Cranston.

23. “Public roads” means existing, usable public throughways. This does not include streets that have been planned, but not yet constructed.

24. “Redevelopment” means any alteration or reconstruction of existing commercial, industrial, or residential structures.

25. “Residential zone” means the area south from the Johnson and Wales University Campus in Cranston to the southern tip of Pawtuxet Neck, in addition to some areas of Providence and East Providence, as shown in the Urban Coastal Greenway Zone Map (Figure 2 in § 5.4(K) of this Part), and is predominantly composed of single and two-family residences.

26. “RICRMP” means the Rhode Island Coastal Resources Management Program – Redbook (Part 1 of this Subchapter), as amended.

27. “Secondary public access path” means an arterial or perpendicular public access to a coastal feature, as part of an Urban Coastal Greenway.

28. “Shoreline” or “coastal feature” means a natural or artificially constructed physical feature of the shoreline as defined in § 1.2.2 of this Subchapter.

29. “Shoreward edge” means the boundary of a coastal feature, coastal buffer zone, urban coastal greenway zone, or development site that faces away from the upland area.

30. “Standard urban coastal greenway width” means the maximum urban coastal greenway width required for a project. The standard width varies by UCG zone.

31. “Sustainable vegetation” means non-invasive native plants, as described above, as well as other (non-native) non-invasive plants that require low inputs of pesticides, fertilizers, water, and maintenance. Refer to the Urban Coastal Greenway Design Manual for a list of appropriate plantings.

An assemblage of sustainable plants is referred to as a sustainable landscape.

32. "Urban coastal greenway" or "UCG" means a land area that:

    a. is located with the Metro Bay Region and adjacent to a coastal (shoreline) feature on a development site;

    b. is, or will be, appropriately vegetated to provide native plant communities and/or sustainable landscapes which serve as a natural transition zone between the coast and adjacent upland development;

    c. provides public access adjacent to the shoreline; and

    d. is established and managed to protect aquatic, wetland, shoreline, and terrestrial environments from man-made disturbances and coastal flood hazards, while allowing for coastal economic development.

33. "Urban coastal greenway design manual" means a CRMC reference guide that provides information regarding urban coastal greenway design options and resources. See: http://www.crmc.ri.gov/samp_mb/UCG-Design-Manual.pdf.

34. "Urban coastal greenway management plan" means a CRMC-approved document that specifies the property owner's required best management practices for urban coastal greenway maintenance and management.

35. "Vegetated buffer zone" means a land area that provides a vegetated transition zone composed of native plant communities and/or sustainable landscapes between a waterway and developed land. Native plant communities are often preferred in areas identified for wildlife habitat while sustainable landscapes often support recreation and water quality treatment in areas where wildlife habitat is not a priority. Site development strategies shall be discussed with the CRMC prior to site plan development.

36. "Water quality volume" means the quantity of water that must be captured for water quality treatment by a stormwater management system. The specific requirements for water quality volume are established in the RIDEM Rhode Island Stormwater Design and Installation Standards Manual, as amended.

5.3 Metro Bay Region Policies

A. Regional approach: The CRMC seeks to promote the revitalization of the Metro Bay region in a manner which increases public access and recreational

opportunities as well as economic uses. The consideration of Providence Harbor as part of the broader Metro Bay region, a single geographic, economic and ecological unit, greatly increases the number of individuals whose interest, concern and commitment can be brought to the task of overcoming redevelopment obstacles and providing political and financial support for waterfront revitalization projects.

B. Enlisting the involvement of municipalities: The CRMC shall actively work with the municipalities to develop and implement local waterfront renewal plans.

C. Reviewing municipal waterfront plans: The CRMC shall provide early review and comment on municipal plans and proposals for waterfront development projects to assure their compatibility with its goals and policies for the Metro Bay region.

D. Enlisting the involvement of the public: The CRMC shall actively work to foster public awareness, concern and support for harbor and waterfront redevelopment and renewal at the state and local level.

E. Provisions for shoreline public access: CRMC's Urban Coastal Greenway policy applies to the Providence Harbor and broader Metro Bay region. It strongly encourages shoreline public access, integrating the need for urban shoreline access within the spatial constraints of urban lots, through both alongshore and arterial access pathways.

F. Improving the management of the Metro Bay region and Narragansett Bay for maritime commerce: The CRMC will support and assist efforts by municipal or state government, or the industry itself, to improve the quality of port planning, operation and management decisions.

G. Adoption of a water quality-based approach to pollution control: The CRMC shall utilize an approach to water quality planning and regulation which links conditions and problems in estuarine waters to sources of pollution.

H. Shoreline use: The CRMC considers the urbanized waterfront of the Metro Bay region as one of Rhode Island's valuable coastal resources. The CRMC seeks to increase the overall contribution the Metro Bay region makes to the well-being of nearby residents and the region in terms of marine recreation, environmental quality, and economic activity. The goals for the shoreline use of the Metro Bay region are to:

1. Transform deteriorated, abandoned, and vacant waterfront property to high value public and private uses;

2. More effectively utilize open space for outdoor recreation;

3. Protect the economic viability of the port industry and marine commercial uses;

4. Improve the condition of the estuary in order to support greater recreational use, remove aesthetic impediments to waterfront redevelopment projects, and reduce the impact of Harbor pollution on Narragansett Bay; and

5. Foster and protect the existence of a diversity of uses in the Harbor in recognition of the capacity of area to serve a variety of purposes and the persistence of unfulfilled human needs in the surrounding communities for employment, outdoor recreation, housing and environmental quality.

I. Improved water quality: The CRMC seeks to assure that the quality of estuarine waters will be adequate for shoreline and in-water uses and the living resources of the Metro Bay region and upper Narragansett Bay. Continuing estuarine research is necessary to inform management decisions, improve our understanding of how pollutants behave in the estuary, and document the relative importance of human and natural sources of pollution. In addition to establishing use goals, the CRMC will cooperate with the ongoing efforts of the state pollution control agencies including but not limited to the RI Department of Environmental Management (DEM), the RI Department of Health (DOH) and the Narragansett Bay Commission (NBC), publicly owned treatment works, private dischargers, and the research community to grapple with the many-faceted challenge of improving the quality of water in the Metro Bay region and upper Narragansett Bay.

J. Shoreline public access: The CRMC recognizes that the Metro Bay region and upper Narragansett Bay comprise the largest expanse of open space in proximity to residents of the Providence metropolitan area. Opportunities exist for increasing the passive and active recreational value of the harbor's shore and waters. CRMC's Urban Coastal Greenway policy applies to the Metro Bay region. It strongly encourages shoreline public access, integrating the need for urban shoreline access within the spatial constraints of urban lots, through both alongshore and arterial access pathways.

K. Coordination and consultation: An essential ingredient in achieving a successful balance among new and old uses of the Metro Bay region is the maintenance of a rich, multilayered process of communication and personal interaction among those involved in developing, using, enjoying, regulating, and managing the urban waterfront. In order to assure that public and private decisions and actions affecting the Metro Bay region meet coastal management goals and policies as stated in this special area plan, the CRMC will provide a variety of forums for the review and discussion of important issues and problems facing the Metro Bay region, in addition to its decision-making role on individual permit applications, through the ongoing work of a permanent subcommittee on urban ports and harbors.

L. Protection of historic resources: The CRMC will provide for the protection of historic resources within the Metro Bay region, including but not limited to the

historic shipwrecks on Green Jacket Shoal off Bold Point Park in East Providence.

M. Redevelopment and improvement: The CRMC recognizes that the need for redevelopment and improvement programs in the Metro Bay region is far greater than the amount of government and private sector resources available to carry them out. However, the CRMC views the problems and opportunities in the Metro Bay region as matters of statewide importance. Successful revitalization efforts in the urban waterfront will not only benefit adjacent neighborhoods but the metropolitan area and Rhode Island as a whole. Metro Bay region policies are designed to encourage the establishment of new public and private uses which take advantage of proximity to the harbor, and to promote a carefully balanced mixture of uses. These changes will enable the public to enjoy the shore as well as attract sufficient financial investment to reverse the process of deterioration and keep the waterfront districts of each municipality economically and socially viable for the future.

N. Debris subject to removal: Every pier, wharf, bulkhead, dock, shore protection structure, and foundation shall be maintained in good working condition in service of its intended purpose. Waterfront structures which have deteriorated so that portions of the construction are broken, detached or likely to fall away, possibly entering the water or littering the shore, shall be repaired and the site cleaned. Structures which are so deteriorated that they cannot serve an economic or public function shall be removed and the site returned to a cleared condition. Solid waste of every type shall also be removed. Unauthorized fill is also subject to CRMC action.

O. Fitness of purpose: CRMC's fitness of purpose standards apply to new and existing commercial marine facilities within the Metro Bay region and other areas within CRMC's jurisdiction. Further, a fitness of purpose certification is required for structures in Type 4, 5 or 6 waters, bridges, commercial moorings, ship building or repair facilities, public ferry facilities or other commercial type structures within CRMC jurisdiction that in the opinion of the Council warrant such certification for protection of public trust resources. For further information, see CRMC document "Guidelines for Fitness of Purpose Investigations and Certifications" and R.I. Gen. Laws § 46-23-6.

P. Uses of regional benefit: The federal Coastal Zone Management Act requires that CRMC's management program "contains a method of assuring that local land use and water use regulations within the coastal zone do not unreasonably restrict or exclude land uses and water uses of regional benefit" and that "priority consideration" be given to "coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new commercial and industrial developments in or adjacent to areas where such development already exists" (16 U.S.C. § 1451). Accordingly, the following criteria shall be used for applications in the Providence Harbor area:

1. The CRMC shall encourage the development of facilities and operations which require or make direct use of the Harbor channel for maritime commerce or recreation. CRMC will prohibit new or expanded uses that conflict with uses of regional benefit.

2. The CRMC is committed to assuring that existing terminals will be able to maintain berths at required depths through maintenance dredging. Further, it is the CRMC's policy that full economic use is made of the 40-foot navigation channel serving Providence harbor.

5.3.1 Metro Bay Region Prohibitions

A. Removing marine debris: The CRMC shall prohibit the abandonment of vessels, piers, wharves, or other such structures in the navigable waters of Rhode Island. Additionally, every shore structure shall be maintained in good condition. Deteriorated structures shall be repaired or removed, and every shorefront property owner shall remove all marine debris. Pursuant to R.I. Gen. Laws § 46-6-8, authority to remove obstructions to navigation is under the exclusive jurisdiction of the Rhode Island Department of Environmental Management.

B. Maintenance of shorefront structures and property: The abandonment of vessels, piers, wharves or other such structures in the navigable waters of the State of Rhode Island is specifically prohibited by the Coastal Resources Management Council. The dumping of any solid waste along the shore is also prohibited. Modification to the shore or manmade shoreline features are subject to the requirements established in Part 1 of this Subchapter and all structures are required to be kept in good condition. Upon verification of legal title to abandoned structures the CRMC shall order their repair or removal and site cleanup at owner expense within a time period specified in said order. In 1979, the General Assembly provided the Department of Environmental Management with specific authority to enforce these state policies by requiring the removal of abandoned vessels and marine debris (R.I. Gen. Laws §§ 46-6-8 through 16).

5.3.2 Providence Harbor Policies

A. Balanced and compatible shoreline use: The CRMC believes that greater use can be made of the land and water in Providence Harbor for both public and private benefit. In order to achieve these benefits, redevelopment must take place. The CRMC seeks to encourage good site development proposals by providing assurances that harbor-wide redevelopment will proceed in a coordinated fashion and that conflicts are resolved in favor of maintaining a balance among port, recreation, commercial, and residential uses. The juxtaposition of different human activities and natural features along the shore is one of the unique attributes of the urbanized coast which must be protected.

B. Port development: CRMC's goal is that the physical development of Providence Harbor contributes to a vigorous, healthy port industry. Port industry activity is an

important and necessary economic use of the state's coastal waters and shore. The construction and maintenance of port facilities as a result of growth and development in the port industry presents the CRMC with a source of change to the shore and marine environment. Underutilized or abandoned facilities contribute to the marine debris problem and preclude other productive, marine dependent uses from access to tidal waters and dredged channels. Maintenance and development dredging of berths and channels is necessary for sustaining the economic viability of port facilities. Careful selection and utilization of a dredged material disposal option is essential to reduce the risk of causing adverse effects on the marine ecosystem. New proposals to fill tidal waters or alter the shore for port development must truly provide a flow of economic benefits to the public as compensation for unavoidable environmental damage and lost waterfront use opportunities. These are all issues that require the CRMC to balance protection of coastal land and water resources with compatible economic development, which is part of CRMC's responsibility as laid out in the federal Coastal Zone Management Act (CZMA) (16 U.S.C. § 1452 *et seq*.).

C. Urban ports and harbors subcommittee: The CRMC has established a permanent subcommittee on urban ports and harbors to implement the policies and regulations in this section. The subcommittee on urban ports and harbors will review and submit recommendations to the full Council on contested Category B applications originating in the area covered by this SAMP.

5.4 Urban Coastal Greenway Policies (formerly § 130)

A. The Council herein establishes an Urban Coastal Greenway (or "UCG") policy specifically for projects to be located exclusively within the Metro Bay SAMP boundary, and within the RICRMC jurisdiction of 200 feet inland from the coastal feature.

B. The establishment of an Urban Coastal Greenway is based upon the RICRMC's legislative mandate to preserve, protect, develop, and where possible, restore Rhode Island's coastal resources.

C. The Urban Coastal Greenway policy allows flexibility for urban sites that is different from the requirements of the RICRMP by four main tenets:

1. The Urban Coastal Greenway policy allows the implementation of a sustainable landscape using plantings that are designed and managed for an urban environment.

2. The UCG policy strongly encourages a public access component that integrates the need for urban shoreline access with the spatial constraints of urban lots.

3. The UCG policy allows for compact greenways provided the applicant meets the compensation requirements in § 5.13 of this Part.

Compensation options will be available at such time as the Rhode Island General Assembly establishes a compensation statute; reductions in regulatory requirements provided by the compensation provision are not available until the trust is set up.

4. The UCG policy encourages low impact development (LID) stormwater management techniques that improve water quality and enhance the developer's ability to maximally utilize an urban lot.

D. It is the intent of this policy to establish a program that protects these ecological, economic, recreational, historic, cultural, and aesthetic values to the greatest extent practicable. The "Urban Coastal Greenway" program consists of a management area designed to accommodate development on the urban coastlines of the Metro Bay Region (see Figure 2 of § 5.4(K) of this Part), while still meeting the mandates of the Coastal Zone Management Act. The purposes of the Urban Coastal Greenway Policy are:

1. to preserve, protect, restore, and enhance the overall quality of Narragansett Bay's urban coastal waters;

2. to capture nutrients, sediment and other waterborne pollutants from surface runoff;

3. to minimize flood impacts and shoreline erosion;

4. to protect, preserve, enhance, and restore coastal fish and wildlife habitat;

5. to preserve and enhance the experiences available along the urban coast;

6. to achieve responsible shoreline development that will allow a mixture of land uses (residential, recreational, commercial, and industrial) that orient to northern Narragansett Bay, including the Seekonk and Providence Rivers;

7. to preserve, enhance, or create an aesthetically pleasing view from the water, as well as from opposing shorelines;

8. to maintain the accessibility and natural habitat of the Metro Bay regional shoreline, as well as access to established pedestrian and bicycle trails; and

9. to provide safe public access to and along the shoreline.

E. While each of the purposes mentioned above will be considered in the establishment of Urban Coastal Greenways, the preeminent goals of this UCG policy are to prevent further degradation of coastal waters by treating stormwater (through vegetative means where possible), to protect and/or restore coastal habitats, and to ensure public access to the urban shoreline while preserving an

aesthetically appealing view from both the water and the shore. In addition, the UCG policy offers a mechanism to encourage thoughtful economic development of the Metro Bay Region shoreline in a way that contributes to the CRMC's goals of enhancing the natural, recreational, and industrial history of the region.

F. The goals of the Urban Coastal Greenway Policy will be met through the application of the regulations herein. Please refer to § 5.5.1 of this Part for the available coastal buffer options. §§ 5.6 through 5.9 of this Part define the requirements of the Urban Coastal Greenway policy for each particular zone. § 5.12 of this Part describes the policies and standards for Urban Coastal Greenways on RIDEM-designated brownfield sites, while § 5.13 of this Part describes the compensation options available in exchange for a reduction in UCG width. Compensation options will be available at such time as the Rhode Island General Assembly establishes a compensation statute; reductions in regulatory requirements provided by the compensation provision are not available until the trust is set up. These regulations, when applicable and as determined by RICRMC, will supersede applicable sections of Table 2 of § 1.4 of this Subchapter and §§ 1.1.5, 1.1.8, 1.1.10, 1.3.1(B), 1.3.1(G), 1.3.3, and 1.3.4 of this Subchapter. All other RICRMP requirements shall remain in full force and effect.

G. High priority conservation and restoration areas (formerly § 130.2)

1. High Priority Conservation Areas (HPCAs) and High Priority Restoration Areas (HPRAs) have been designated within the Metro Bay SAMP boundary as described in § 5.20 of this Part, and graphically depicted in § 5.21 of this Part. HPCAs are those sites with habitat quality rankings of C4 (highest quality habitat) to C1. Likewise, HPRAs are sites suitable for restoration, with habitat quality rankings of R3 (highest priority restoration) to R1. High priority habitat areas shall be preserved and enhanced to the greatest extent possible, and shall also be afforded a higher level of protection. Fragmentation of the Urban Coastal Greenway corridor (specifically the alongshore component) shall be avoided wherever possible and the development of contiguous habitats will be required wherever possible.

H. Coastal and freshwater wetlands (formerly § 130.3)

1. All coastal wetlands, including salt marshes that are located within the Metro Bay Region, will be subject to the policies and standards in § 1.2.2(D) of this Subchapter. In those cases where impacts to coastal wetlands are unavoidable and approved by the Council, coastal wetland mitigation shall be conducted in accordance with § 1.3.1(L) of this Subchapter. Projects involving impacts or potential impacts to freshwater wetlands within the Metro Bay Region shall be subject to the Council's "Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast". The Council's policy is

to avoid, minimize, and mitigate for any potential adverse impact to coastal or freshwater wetlands.

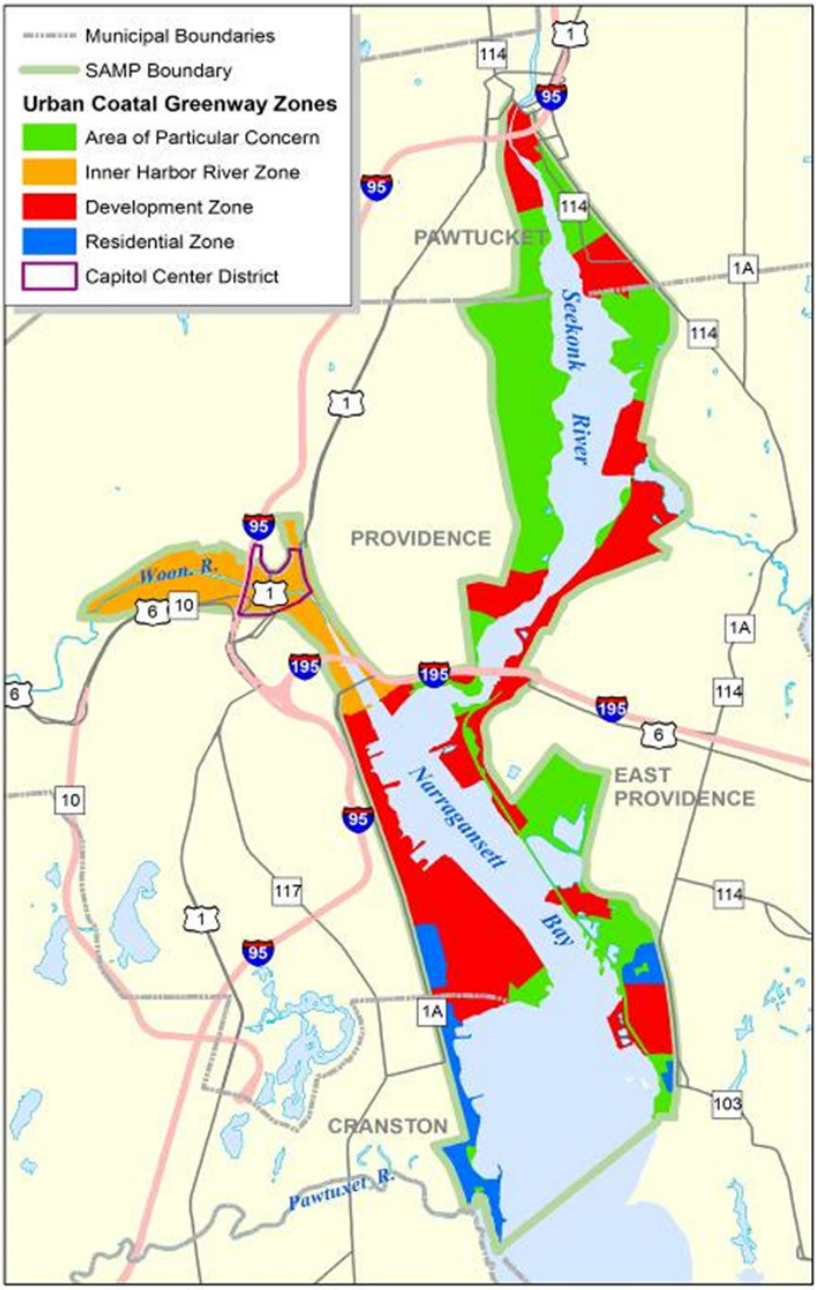
I. Building shading (formerly § 130.4)

1. The design of new structures and buildings should minimize shading of the shoreline and the Urban Coastal Greenway, such that the shoreline and UCG are not overwhelmed by tall and dense structures built to the setback line that rise vertically without relief from that line. Accordingly, structures should be designed to minimize the shadow cast upon the UCG and the adjacent shoreline. The RICRMC may negotiate and enter into agreements with the Metro Bay Region municipalities to allow for increased density on a development in exchange for appropriate building massing on the site.

J. Visual elements (formerly § 130.5)

1. The scenic and visual qualities of the Metro Bay Region coastal area shall be considered and protected as a resource of public priority. Development should be sited and designed to protect views to and along coastal areas, minimize the alteration of natural land forms, be visually compatible with the character of surrounding areas, and, where feasible, restore and enhance visual quality in visually degraded areas in accordance with § 1.3.5 of this Subchapter. Detailed landscape plans and artist renderings are helpful to aid the CRMC in project review.

K. Figure 2: Urban Coastal Greenway zone map. Online version: http://edc.maps.arcgis.com/apps/MapSeries/index.html?appid=16a00ec4a7ab45fd992e7327a2047dfd&folderid=51a9e35a774c426ca844938a6492e2fe.


Municipal Boundaries
SAMP Boundary
Urban Coastal Greenway Zones
Area of Particular Concern
Inner Harbor River Zone
Development Zone
Residential Zone
Capitol Center District
PAWTUCKET
PROVIDENCE
EAST PROVIDENCE
CRANSTON
Seekonk River
Narragansett Bay
Woon. R.
Pawtuxet R.

5.5 Urban Coastal Greenway Regulations

A. Application of the Urban Coastal Greenway regulations (formerly § 120.8)

1. The regulations herein shall apply to those projects or activities located solely within the boundaries of the Metro Bay Special Area Management Plan (Figure 1 in § 5.1 of this Part) and within the Council's coastal jurisdictional area.

2. Notwithstanding § 5.5(A)(1) of this Part, a Council Assent is required for any alteration or activity that is proposed for: tidal waters; shoreline features; and areas contiguous to shoreline features. Contiguous areas include all lands and waters directly adjoining shoreline features that extend inland two hundred (200) feet from the inland border of that shoreline feature. A Council Assent is required for any alteration or activity any portion of which extends onto the most inland shoreline feature or its 200 foot contiguous area. Other activities may also require a Council Assent as specified in § 1.1.4 of this Subchapter (RICRMP Red Book).

3. Specific activities that trigger the Urban Coastal Greenway regulations are explained in § 5.5(C) of this Part.

B. The urban coastal greenway begins at the inland edge of the coastal feature.

1. At minimum, all applicants shall adhere to the Council's requirements for setbacks and buffers as specified in §§ 1.1.9 and 1.1.11 of this Subchapter and must meet the 15% minimum vegetative cover and stormwater management requirements specified in § 5.5.1(A) of this Part. An applicant, however, may select to use the urban coastal greenway options, as specified herein.

C. Activities that trigger urban coastal greenway requirements (formerly § 140)

1. Applicability

a. The following activities shall be subject to the Urban Coastal Greenway (UCG) requirements when an applicant chooses a UCG option, rather than the setback and buffer requirements in §§ 1.1.9 and 1.1.11 of this Subchapter, and shall be applied when any portion of a project extends onto a shoreline feature or its 200 foot contiguous area within the Metro Bay Region.

(1) Development – the construction of any new commercial, industrial, or residential structures as defined in § 1.3.1(C) of this Subchapter. This also includes structures accommodating a mix of uses within a single development, building, or tract, as allowed by a municipality.

(2) Redevelopment – the alteration or reconstruction of any existing commercial, industrial, or multi-residential structures that results in:

(AA) an increase of building or accessory structure footprints by twenty (20) per cent or more over existing conditions as of the adoption date of the UCG regulations. In computing the 20% or more expansion, all structures within 200 feet of the coastal feature shall be considered, as well as all structures subject to CRMC jurisdiction on the project site; or

(BB) an increase of ten thousand (10,000) square feet of gross floor area of any building or group of buildings on a project site; or

(CC) the addition of 20,000 square feet or greater of new impervious surface area (i.e., buildings or parking areas) on the project parcel (Note: Excludes resurfacing of existing paved areas.). State and local road projects are exempt from this standard, but must meet stormwater requirements in § 1.3.1(F) of this Subchapter.

2. Standards

a. Where a property owner owns adjoining lots, these lots shall be evaluated for the purposes of applying the Urban Coastal Greenway requirements to the project parcel, and ensuring that the appropriate UCG is established and fragmentation is avoided.

b. The entire extent of a development project must be submitted to the RICRMC, as part of any Preliminary Determination application and must be included for reference with any subsequent submittals for phased projects, regardless of parcel ownership. The applicant must include any plans for phased development on the tract(s) of land so that the RICRMC can review proposals for jurisdiction and/or project impacts.

c. In any case where an applicant is submitting phased portions of a development project for consideration, the applicant shall not create any circumstance that would preclude the installation of the Greenway on any phase of the project site. Accordingly, the applicant shall be cognizant that the Greenway requirements may still apply for any future development on the site, and subsequent phases of development must accommodate the UCG.

3. Other Projects

a. Projects that are subject to CRMC coastal jurisdiction within the Metro Bay Region, but do not meet the UCG thresholds specified in § 5.5(C)(1) of this Part, may voluntarily apply the UCG requirements with CRMC approval in lieu of the setback and buffer standards in §§ 1.1.9 and 1.1.11 of this Subchapter.

4. Exemptions.

a. The Urban Coastal Greenway requirements shall not be applied to the following activities:

(1) pre-existing structure(s), unless the structure(s) are razed for new development or meet the redevelopment threshold as defined above in § 5.5(C)(1)(a)((2)) of this Part;

(2) activities that qualify as maintenance pursuant to § 1.3.1(N) of this Subchapter;

(3) new development of individual structures with less than 200 square feet in building footprint area;

(4) commercial or industrial port activities including, but not limited to: bulk material transport; energy facilities; ship building, repair, maintenance; or any activity subject to US Coast Guard Maritime Security (MARSEC) jurisdiction (See: 33 C.F.R. Parts 104, 105, and 106); or

(5) projects on municipal or state-owned land may be considered compliant with relevant UCG requirements when the sole purpose of the project is to provide public access or other public amenities (e.g., ball fields, parks, playgrounds, public boat ramps or boating facilities, etc.).

D. The urban coastal greenway setback and buffer requirements may be waived on a site-specific basis for Council-approved water-dependent uses (e.g., docks, marinas, etc.), as described in the RICRMP Red Book (See Part 1 of this Subchapter).

5.5.1 Urban Coastal Greenway Development Standards for the Metro Bay Region (formerly § 150)

A. Standards applicable to entire development (formerly § 150.1)

1. Applicants within the Metro Bay SAMP area have a choice of meeting the setback and buffer requirements of §§ 1.1.9 and 1.1.11 of this Subchapter or providing an urban coastal greenway in accordance with the applicable zone designations of §§ 5.6 through 5.9 of this Part. Even if applicants choose to meet the RICRMP setback and buffer requirements for their

project in lieu of an UCG option, they must still meet the vegetative cover and stormwater management requirements as specified in §§ 5.5.1(A)(3) of this Part, below.

2. In those cases where an Urban Coastal Greenway is part of a project, the applicant shall grant an easement for the UCG area to the RICRMC. The easement shall be recorded in the land evidence records of the appropriate municipality, and also with the Homeowner or Condominium Association, or other ownership documents, where applicable.

3. Applicants following the Urban Coastal Greenway policy shall adhere to the following standards on the entirety of the development parcel, as well as those as found in §§ 5.5.1(B) through 5.15 of this Part. All proposals will be subject to a fifteen (15) day public notice period. Following the 15-day public notice period, any proposal that fully satisfies these UCG requirements, and has not received a substantive objection in accordance with § 1.1.6(G) of this Subchapter, will be processed as a Category A (administrative) assent. Variance requests under § 5.7 of this Part (Areas of Particular Concern), however, will not be processed as Category A applications.

   a. Minimum 15% vegetation requirement: Applicants must include sustainably landscaped areas in their proposals to achieve vegetative coverage of at least 15% of the surface area over the entire development parcel. This vegetation requirement may be met by the UCG or through a combination of the UCG and additional plantings elsewhere on the property, including green roofs. All planting plans shall be prepared by a licensed landscape architect (See: R.I. Gen. Laws § 5-51-16). The landscape plan shall use an appropriate mix of groundcovers, grasses, forbs, shrubs, and trees to achieve the goals of these regulations. The vegetated area may include landscaping elements of surface stormwater treatments, green roofs and bioretention areas, or other Low Impact Development (LID) vegetation alternatives. Within the UCG, the plantings should include an appropriate mix of trees, shrubs, and ground covers, with minimal use of high maintenance lawn sods and grasses.

   b. Stormwater management: All new development and redevelopment proposals shall meet the stormwater requirements in § 1.3.1(F) of this Subchapter and as specified in the most recent edition of the Rhode Island Stormwater Design and Installation Standards Manual (250-RICR-150-10-8) to control peak flow rates and volumes, maximize infiltration of runoff, and improve water quality. Applicants shall incorporate LID techniques such as filter strips, vegetated swales, vegetated detention ponds, bioretention areas, stormwater infiltration planters, green roofs, etc. to the maximum

extent practicable. Permeable paving materials, vegetated buffers, and infiltration techniques should be used where ever feasible and desirable to support infiltration and groundwater recharge. If site conditions and/or other regulatory constraints do not allow these practices, appropriate non-vegetative stormwater treatment technologies (i.e., proprietary devices) may be permitted on a case-by-case basis. Applicants shall coordinate their stormwater management strategy with the RICRMC, RIDEM, and the municipality of jurisdiction. CRMC and DEM will coordinate for compliance with any required DEM Water Quality Certification or RIPDES permits. Furthermore, proprietary stormwater management technologies shall be maintained and monitored in accordance with § 5.21 of this Part.

c. Public access: It is the RICRMC's preference that applicants provide alongshore and arterial public access pathways within the development site, as described in § 5.5.1(E) of this Part. Public access may not be required for development activities subject to United States Coast Guard Maritime Security (MARSEC) jurisdiction. Public access shall always be required:

(1) where the proposed project impacts upon public trust resources;

(2) on sites that have existing public access areas; and

(3) on CRMC-designated rights of way (ROW) or previous easements granted under § 1.3.6 of this Subchapter.

d. Construction Setback: A construction setback of 25 feet is required for all new and existing residential, commercial, mixed-use, and other structures to provide for fire, safety, and maintenance purposes. The setback is measured from the inland edge of the UCG or buffer.

(1) At no time shall there be any private structures or encroachment into or above the UCG. Examples of such include, but are not limited to, decks, patios, balconies, restaurant or café tables and chairs, or private accessory structures. Such structures or uses shall be located within the setback area or other portion of the project site. These limitations must be clearly stated within the deed restrictions and applicable ownership documents for the project.

(2) The setback may be reduced when the applicant can clearly demonstrate that the project and its subsequent use and

maintenance will not result in the privatization of, or preclude public use of, the UCG.

(3) The CRMC Executive Director may require additional setback when site conditions warrant, especially for areas susceptible to high erosion potential, to protect coastal resources or public safety.

e. Project Illumination: All exterior light fixtures shall use shielding and glare control devices to shield surrounding areas from excessive light trespass and glare.

B. Urban coastal greenway zones (formerly § 150.2)

1. Each UCG zone is described in its applicable section below and shown on Figure 2 in § 5.4 of this Part. Other applicable information and detailed zone maps are available for the Metro Bay Region online at: http://www.crmc.ri.gov/samp_mb.html.

2. UCG standards are applicable to all activities that meet the regulatory thresholds specified in § 5.5(C) of this Part.

3. The UCG zone in which the development is located, as described below and summarized in Figure 2 in § 5.4(K) of this Part, determines the specific Urban Coastal Greenway requirement.

4. Each UCG zone allows at least two options for implementation of a vegetated area on a proposed development. In each Zone (with the exception of the Inner Harbor and River Zone), the first option requires the creation of a naturally vegetated buffer that is to be left undisturbed in accordance with § 1.1.11 of this Subchapter. Additional options within each zone allow for a more compact vegetated area (an “Urban Coastal Greenway”), in exchange for various public amenities.

5. Reductions in the standard UCG widths shall only be permissible if the applicant provides compensation, as described in § 5.13 of this Part. Compensation options will be available at such time as the Rhode Island General Assembly establishes a compensation statute; reductions in regulatory requirements provided by the compensation provision are not available until the trust is set up.

C. General standards for urban coastal greenways (formerly § 150.3)

1. The Urban Coastal Greenway shall begin at the inland edge of the coastal feature. The coastal feature, the applicable UCG area, and construction setback must be clearly delineated on any site plans submitted for review to the RICRMC.

2. Applicants may utilize an averaging method, where compensatory UCG width is provided for a necessary reduction in UCG width in other areas of the site, provided the total square footage of the UCG area remains the same. This averaging provision shall only be used with CRMC approval and in cases involving existing historic buildings or where DEM-required site remediation necessitates a specific location for a new structure(s).

3. The boundaries of the Urban Coastal Greenway easements shall be marked on all plans used for planning, permitting, and during construction. Additionally, the public access path and other public amenities (e.g., overlook, canoe or kayak launch, etc.) must be clearly delineated on site plans submitted for review to the RICRMC.

4. The UCG shall have appropriate signage approved by the RICRMC and the municipality, and its inland limits on all sites shall be marked on-site by permanent markers.

5. In the interest of public safety, project designs should facilitate the unobstructed observation of public spaces. These designs should:

    a. Provide pedestrians with a sense of direction while giving them some visible indication as to where access is encouraged or restricted.

    b. Provide a minimum number of access routes while allowing users some flexibility in movement.

    c. Use shrubbery and low-level plantings (those which attain heights no greater than 3 feet) within 10 feet of footpaths, with the exception of appropriately spaced trees. Plants in managed landscapes should be graded such that taller plants are next to walls or other structures.

    d. Avoid creating unused or unusable spaces or isolated pockets, except in areas designated for wildlife habitat.

    e. Ensure that access opportunities enhance and complement shoreline observation opportunities.

    f. Provide for emergency access to public spaces and areas.

    g. Provide access for maintenance of stormwater treatment measures.

6. In order to ensure ease of access for emergency services, all projects shall be consistent with applicable municipal requirements. When hardened fire lanes are required, applicants are encouraged to use

permeable paving materials (open grid pavers, etc.) that can be driven upon but also allow stormwater infiltration.

7. Encroachments into the Urban Coastal Greenway shall only be allowed by the RICRMC for:

    a. Public access;

    b. Physical access to the coastal feature for public recreation;

    c. Emergency vehicle access;

    d. Public utility corridors;

    e. Structural shoreline protection; and

    f. UCG or utility maintenance corridors.

8. All Urban Coastal Greenways shall be dedicated for public use by way of a Conservation Easement granted to the CRMC that runs with the land and shall be recorded as such in the land evidence records of the applicable municipality.

D. Vegetation standards for all urban coastal greenways (formerly § 150.4)

1. The entirety of the Urban Coastal Greenway shall be vegetated with the exception of approved public access pathways (as described in § 5.5.1(E) of this Part). The UCG shall be wholly vegetated and maintained with native plant communities and/or sustainable landscapes using a mixture of groundcover, shrubs, and trees. Stormwater from any public access path shall be directed into vegetated areas designed for stormwater treatment.

2. Site and UCG landscaping elements for projects listed on the National Register of Historic Places or eligible for inclusion, as determined by the RI Historic Preservation and Heritage Commission (RIHPHC), may be reduced or modified at the discretion of the CRMC Executive Director to bring the project more in compliance with RIHPHC requirements. The resulting landscape elements shall balance between the CRMC UCG policies and maintaining the historical context of the project, as determined by RIHPHC and the CRMC Executive Director.

3. The vegetation within an Urban Coastal Greenway shall be properly managed in accordance with the standards contained in § 5.14 of this Part. In cases where native or sustainable vegetation does not exist within a UCG, or non-sustainable invasive vegetation currently occurs on the site, the Council may require restoration efforts that include, but are not limited to, replanting the UCG with non-invasive native or sustainable plant species. These species shall be chosen from the most current edition of

Sustainable Trees and Shrubs, from the University of Rhode Island Cooperative Extension office or the CRMC Rhode Island Coastal Plant Guide at: http://cels.uri.edu/testsite/coastalPlants/CoastalPlantGuide.htm. All plant species utilized shall be primarily low maintenance species with maximum habitat value. Salt-tolerant species shall also be included where site conditions warrant. The criteria for selection of appropriate non-invasive native or sustainable species are:

a. ability to perform the desired function(s);

b. anticipated survival and hardiness given site conditions, with minimal (if any) application of pesticides and fertilizer;

c. high wildlife value; and

d. aesthetic value.

4. Urban Coastal Greenways shall be designed as native plant communities and/or sustainable landscapes using noninvasive native and/or sustainable species of vegetation in order to promote the Council's goal of preserving, protecting, and restoring ecological systems. The Council may permit alterations to Urban Coastal Greenways that facilitate the continued enjoyment of Rhode Island's urban coastal resources. All alterations to a UCG or alterations to the natural vegetation (i.e., areas not presently maintained in a landscaped condition) within the Council's jurisdiction shall be conducted in accordance with the standards contained in this section, as well as all other applicable policies and standards of the Council. In order to ensure compliance with these requirements, the Council will require applicants to submit an Urban Coastal Greenway Management Plan. In cases where the preservation, protection or enhancement of wildlife habitat is the primary management goal (such as the Area of Particular Concern Zone and/or specific sites with high quality habitats), as determined by the RICRMC, native plant communities shall be preferred over sustainable landscapes.

5. Existing non-invasive vegetation, especially trees, shall be preserved in the Urban Coastal Greenway to the maximum extent practicable. Removal of these species will be allowed only after the Council has reviewed and approved a UCG Management Plan prepared by a RI-licensed landscape architect and in accordance with standards and specifications found in the Urban Coastal Greenway Design Manual.

E. Public access standards for all urban coastal greenways (formerly § 150.5)

1. Wherever public access is provided, the following public access standards shall be met:

a. The public access component shall be located within the UCG identified for the project. In certain cases, the RICRMC may allow the public access component to be located within the construction setback or other portion of the site as conditions may require. Applicants, however, must ensure that the UCG primary public access path on their development site connects with any existing UCG public access path on adjacent parcels.

b. The applicant's engineer must certify that public access paths and associated elements shall be compliant, where applicable, with the most recent version of the Americans with Disabilities Act (ADA) Standards for Accessible Design (See: https://www.ada.gov/2010ADAstandards_index.htm) are incorporated by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations).

c. The Council prefers that all new multi-residential, commercial, and mixed-use developments provide primary (alongshore) public access within the Urban Coastal Greenway. These primary public access pathways shall be a minimum of eight (8) feet in width to accommodate pedestrians, but may be wider if designed to accommodate both pedestrian and bicycle access. Projects must design the UCG pathway to provide an extension of adjacent existing pedestrian or bicycle pathways, if consistent with a municipal or state pedestrian or bike path access plan.

d. All public access pathways should be constructed of a pervious surface. In those cases where pathways are constructed of impervious materials for bicycle access or to be consistent with existing adjacent impervious surface paths (e.g., Waterplace Park), the project must include stormwater treatments to minimize stormwater runoff, as described in the Urban Coastal Greenway Design Manual. Public access paths shall be designed to have a relatively flat profile and cross section to prevent stormwater runoff from eroding the path surface or adjacent soils. When paths are located directly adjacent to the coastal feature, they should be angled slightly to cause stormwater runoff to flow inland for treatment (e.g., bioretention area), rather than toward the coastal feature.

e. Each parcel with a UCG shall include at least one secondary (arterial or perpendicular) access path leading to the linear UCG public access path, unless adjoining parcels share a secondary public access path as described in § 5.5.1(E)(1)(g) of this Part.

(1) The access path must emanate from a public place. The secondary access path should be a minimum of eight (8) feet in width to accommodate pedestrian traffic, but may be up to twenty (20) feet in width when emergency vehicle access is necessary. In the latter case, the pathways must be capable of supporting emergency and maintenance vehicles.

(2) The secondary access path shall connect sidewalk traffic with the alongshore UCG path, and may be a meandering path, as long as erosion is minimized. All public access pathways shall be recorded within the land evidence records and shall run with the land. The limited liability provision stated in § 1.3.6 of this Subchapter shall apply to these public access pathways.

f. Each Urban Coastal Greenway must include adequate provisions for emergency vehicle access paths from the nearest street to the shoreline. These vehicular paths shall be constructed of a permeable surface capable of supporting emergency vehicles.

g. Each project must provide at least one secondary public pedestrian or vehicular access pathway per 500 linear feet of shoreline. Adjoining parcels may share secondary pedestrian or vehicular access paths on their shared boundary, where applicable. The RICRMC may waive the 500-foot secondary pathway standard if the applicant provides ten (10) percent more public parking spaces than required in § 5.5.1(E)(1)(h) of this Part below, and can demonstrate that there is adequate available secondary public access.

h. In order to facilitate public access to the shoreline, each development with a UCG shall include a minimum of two (2) public parking spaces adjacent to an access point or incorporated within a project, and an additional space per 100 linear feet of shoreline (where “linear” refers to the shortest distance between lot boundaries) within the parcel. The placement of the public parking spaces shall be decided in consultation with the RICRMC and the municipality of jurisdiction. In cases where the project is directly adjacent to public parking, (defined as on-street parking and off-street parking available to the general public), such spaces may be included for purposes of satisfying the public parking requirements of this section

i. Acknowledgement of existing public access. The CRMC may allow reduced public access requirements within lots containing

preexisting public access, provided there is no net loss of access and the following standards are met:

(1) Where existing public access pathways and public roads occur between the coastal feature and the development parcel(s), the primary (alongshore) public access and construction setback requirements may be waived.

(2) Where public roads are immediately adjacent to the sides of the development perpendicular to the coastal feature, these public roads may count toward the urban coastal greenway secondary public access requirements. The road(s) must be usable for pedestrian and/or emergency vehicle access, as appropriate.

j. In order to facilitate public access to the shoreline and promote passive recreational uses of the waterways, and where appropriate based on site conditions, each project with a UCG must provide a minimum of one public access point that leads directly to the water in the form of a stabilized path or steps, canoe/kayak ramp, overlook, or other access method. Where appropriate, given the discretion of the CRMC Executive Director, this requirement may be satisfied if the UCG public access path directly abuts the shoreline feature. Applicants should consult with CRMC staff concerning the type and design of direct shoreline access methods.

F. Stormwater standards for all urban coastal greenways (formerly § 150.6)

1. The RICRMC requires the use of low impact development (LID) techniques, as described in the Urban Coastal Greenway Design Manual and the most recent version of the RIDEM RI Stormwater Design and Installation Standards Manual that distribute infiltration methods throughout the development site to the maximum extent practicable. These LID techniques may include, but are not limited to:

a. Minimization measures including decreased clearing and grading or reducing the use of pipes, curbs, and gutters;

b. Using alternative surfacing materials such as gravel, cobble, wood mulch, grass pavers, turf blocks, natural stone, and concrete pavers in cross walks, for example;

c. Discharge of runoff into open drainage systems, vegetative swales, and other bioretention areas to slow runoff, reduce discharges, and encourage more infiltration and evaporation;

d. Integration of, bioretention, biofiltration, storage, and capture of runoff systems into the site;

e. Planting large trees within a designated UCG and the site in general to promote evapotranspiration, restore urban forests, provide scenic relief, and vegetative screening;

f. The installation of green roofs to retain and naturally filter stormwater runoff;

g. The use of cisterns to temporarily store rainwater that can subsequently be used for irrigation of the property; and

h. The incorporation of rain gardens or other bioretention systems.

2. Stormwater treatment should, where possible, be designed to constitute a landscape amenity. Applicants should meet this goal primarily through vegetative means, in part by incorporating land shaping to create bioretention areas capable of treating runoff. When site topography necessitates traditional detention ponds or other non-vegetated means of stormwater treatment, these structures must be located within the setback or other portion of the project site, and not within the UCG.

3. In those cases where proprietary stormwater management technologies are used they shall be maintained and monitored in accordance with § 5.15 of this Part. In addition, these devices shall be located within the setback or other portion of the project site.

4. Untreated stormwater runoff shall not drain directly into coastal waters. Runoff shall be detained and slowly released through the use of best management practices (BMPs).Projects shall meet the stormwater management requirements of § 1.3.1(F) of this Subchapter and the most recent edition of the RIDEM RI Stormwater Design and Installation Standards Manual to control peak flow rates and volumes, maximize infiltration of runoff, improve water quality, and discharge non-erosively to tidal waters. Applicants shall incorporate LID techniques such as filter strips, vegetated swales, bioretention areas, stormwater infiltration planters, green roofs, etc. to the maximum extent practicable. LID techniques may be located with the UCG provided they are well landscaped and create a public amenity within the UCG.

5. All stormwater management techniques shall have a maintenance plan submitted as part of the RICRMC application package, in accordance with the most recent edition of the RIDEM RI Stormwater Design and Installation Standards Manual. Maintenance provisions shall be tailored to the specific stormwater management techniques that are proposed for the site, and shall include maintenance practices and frequency.

G. Structural shoreline protection standards for all urban coastal greenways (formerly § 150.7)

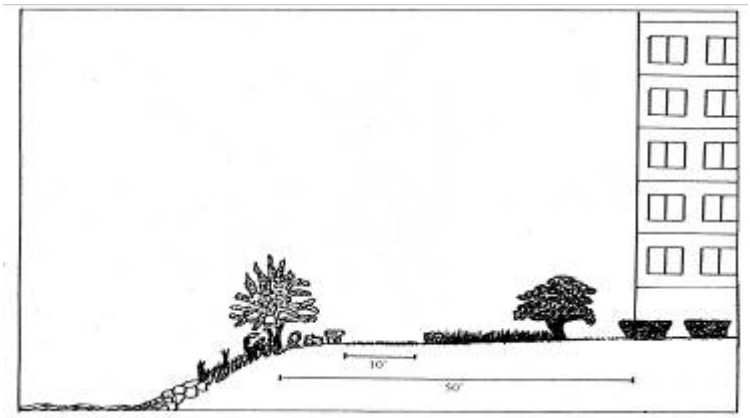
1. Riprap revetments shall be constructed with appropriately sized quarry stone in accordance with the standards specified in § 1.3.1(G) of this Subchapter. The revealed base of a revetment shall not be further seaward than the mean high water line (MHWL). Revetments should be designed to account for sea level rise.

2. Existing shoreline protection structures may be utilized where consistent with § 1.3.1(N) of this Subchapter. In some locations within the Metro Bay Region there are existing bulkheads and seawalls constructed of local granite material. The historic value of structural shoreline protection shall be preserved or restored wherever feasible.

3. When the RICRMC finds seawall structural shoreline protection to be necessary, construction materials other than steel shall be used wherever possible. When steel is necessary, the seawall shall be faced with a similar material used for other seawalls (e.g., granite blocks) in the vicinity for consistency of appearance. Additionally, seawalls should be designed to account for sea level rise.

4. When structural shoreline protection is deemed necessary, all such structures must meet the requirements of § 1.3.1(G) of this Subchapter. To prevent revetment failure, trees and shrubs must not be planted directly on the revetment, but may be planted on vegetated slopes above the revetment. No stormwater treatment or public access shall be included upon the revetment.

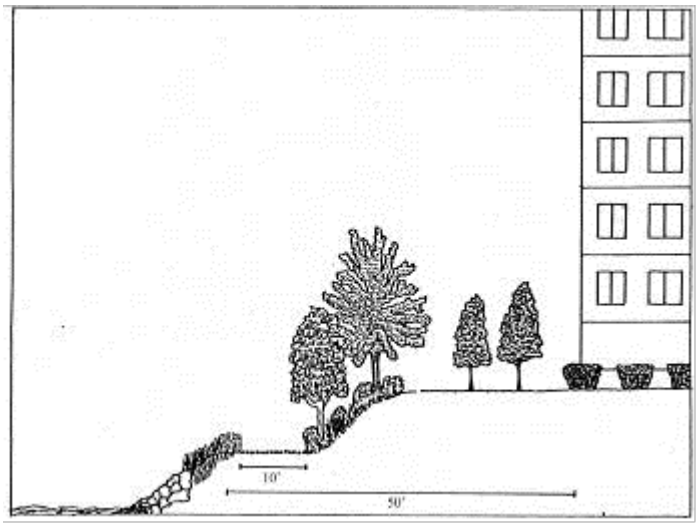
5. Figure 3: Hypothetical site plan showing a vegetated revetment on a site with parking on the ground level of the new structure. Drawing by Thomas VanHollebeke.



6. Terracing is permissible within the greenway and setback (see Figure 7 of this Part), however, all slopes within the greenway must be properly stabilized and vegetated. Rip-rap or other armored slopes shall not be incorporated as part of the greenway. Accordingly, revetments or armored slopes shall be located seaward or landward of the greenway. In addition,

all slope designs and treatments may be designed as specified in the Rhode Island Soil Erosion and Sediment Control Handbook (2016). See: http://www.dem.ri.gov/programs/bnatres/water/pdf/riesc-handbook16.pdf.

7. Figure 4: Hypothetical site plan showing a terraced UCG. Drawing by Thomas VanHollebeke.



H. Prohibitions

1. Upon completion of a project (or phase of a project) and its Urban Coastal Greenway, the following activities and uses shall be prohibited within the UCG:

   a. Petrochemical Storage;

   b. Storage of other hazardous materials;

   c. Parking or automobile storage within the UCG;

   d. Application of chemicals (e.g., pesticides, fertilizers, etc.) that have not been approved by the RICRMC;

   e. Storage or stockpiling of mulch, compost, or other organic materials;

   f. Storage or stockpiling of construction materials;

   g. Fueling and servicing of equipment and other motorized vehicles; and

   h. Recycling of construction materials.

2. No structure, building, roof, or skywalk subject to the UCG may be constructed over tidal waters with the exception of public infrastructure or public access in accordance with the requirements set forth in § 1.1.8 of this Subchapter. See § 5.5(D) of this Part for water-dependent use exemption.

3. At no time shall any residential or commercial activity usurp the full use and enjoyment of the UCG. This includes the placement of decks, patios, or restaurant/cafe tables, even on a temporary basis, within the UCG.

4. Prohibitions may only be relieved through Special Exceptions granted by the Council in accordance with § 1.1.7 of this Subchapter.

5.6 Residential Zone (formerly § 160)

A. Policy

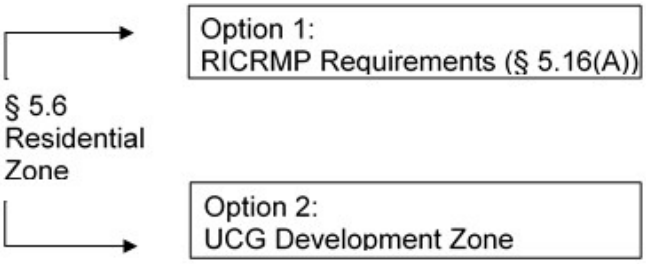
1. The Urban Coastal Greenways requirements do not apply to single or two-family residences within the Residential Zones. When an applicant wishes to undertake new construction or alteration of an existing single or two-family structure within a Residential Zone, it is the policy of the RICRMC to apply the setback and buffer requirements in accordance with §§ 1.1.9 and 1.1.11, respectively, of this Subchapter.

2. Applicants proposing to construct or alter any commercial development or multi-residential (equal to or greater than 3 units) project within a Residential Zone may choose either of the following options:

   a. Option 1: The project must meet the setback and buffer requirements of §§ 1.1.9 and 1.1.11 of this Subchapter. (See § 5.16(A) of this Part); or

   b. Option 2: The project must meet the Development Zone standards of § 5.9 of this Part.

B. Figure 5: Decision tree for residential zone requirements



5.7 Area of Particular Concern Zone (formerly § 170)

A. Policy

1. Within the APC Zone, it is the policy of the RICRMC to maintain and restore natural vegetated coastal buffers with maximum widths to protect the valuable habitats and/or contiguous vegetated corridors contained within the zone. The Council does not support projects that propose to alter existing natural areas having high environmental value for habitat, recreation, or scenic quality, as delineated on the Urban Coastal Greenway HPCA and HPRA Map (See § 5.16(D) of this Part). Accordingly, projects that propose to alter these habitats are inconsistent with this policy, and are strongly discouraged.

2. Applicants have a choice of either Option 1 (standard buffer width) or Option 2 (variance request) as detailed below for projects located in the APC Zone.

3. Any public access plans should be consistent with § 1.3.6 of this Subchapter.

4. Projects under either option must meet the 15% minimum vegetative cover and stormwater management requirements.

B. Standards

1. Option 1: Standard buffer width.

   a. All development proposals within the APC Zone that completely meet the requirements under this option will be processed as Category A applications in accordance with the RICRMP.

   b. Applicants choosing this option must adhere to the standard buffer width as determined in § 5.16(B) of this Part. In addition, all structures must be set back 25 feet from the inland edge of the buffer.

   c. The buffer must be comprised of a mix of native plant species and must remain in a natural and undisturbed state. At the discretion of the CRMC, limited buffer zone management activities may be authorized only when it is clearly demonstrated that the habitat quality of the affected area will not be diminished.

   d. The applicant must provide a public access plan in accordance with § 1.3.6 of this Subchapter.

   e. Under Option 1, variances to the buffer width are not permissible.

2. Option 2: Variance request.

   a. All development proposals within the APC Zone seeking a buffer variance shall be processed as Category B applications in accordance with the RICRMP.

   b. An applicant may only reduce the standard APC Zone buffer width through the granting of a variance by the RICRMC in accordance with § 5.11 of this Part. At no time shall any applicant provide a buffer less than 50% of the required buffer width as determined in § 5.16(B) of this Part (Appendix 2). Furthermore, the minimum buffer width within an APC Zone shall be twenty-five (25) feet.

   c. Any proposals for a buffer less than 50% of the required APC Zone buffer width shall require a Special Exception in accordance with § 1.1.8 of this Subchapter.

   d. All structures must be set back 25 feet from the inland edge of the buffer.

   e. In the event that a buffer variance is approved, the applicant must compensate for the difference between the required buffer width and any reduced buffer width at twice the rate described in § 5.13(A) of this Part. Variance requests for APC zone buffers may not use the compensation measures described in § 5.13(B) of this Part to meet their obligations under this section.

C. Figure 6: Decision tree for area of particular concern zone requirements

§ 5.7 Area of Particular Concern Zone

Option 1: Standard Buffer Width
- Category A Application
- Buffer width determined in § 5.16(B) of this Part plus 25' construction setback
- Buffer composed of natural vegetation using native species
- Buffer to remain undisturbed. Buffer management only with CRMC approval
- Project must meet stormwater requirements and 15% vegetative cover
- Applicant should provide public access in accordance with § 1.3.6 of this Subchapter

Option 2: Variance Request to Reduce Buffer Width
- Category B Application
- Must follow Variance procedure in § 5.11 of this Part herein
- If variance request is approved, buffer width may be reduced up to fifty per cent (50%) of the required buffer width as determined by § 5.16(B) of this Part (Appendix 2) in UCG Policy, but not less than 25-feet. 25-foot setback still required. Applicant must also compensate for any reduction in buffer width as described in § 5.13 of this Part herein
- Project must meet stormwater requirements and 15% vegetative cover
- Applicant should provide public access in accordance with § 1.3.6 of this Subchapter
- Buffer composed of natural vegetation using native species
- Buffer to remain undisturbed. Buffer management only with CRMC approval

5.8 Inner Harbor and River Zone (formerly § 180)

A. Policy

1. It is the policy of the RICRMC to allow reduced UCG widths within this zone, due to the spatial constraints and existing hardscapes within these highly urbanized corridors, as well as the preexisting public access available there. Proposed developments within the Inner Harbor and River zone that will incorporate existing hardscapes shall strive to achieve the maximum vegetation practicable within the Urban Coastal Greenway.

B. Prohibitions

1. Within the Inner Harbor and River zone and upon completion of a project (or phase of a project) and its Urban Coastal Greenway, the following activities and uses shall be prohibited within 50 feet of the shoreline:

    a. Petrochemical storage;

    b. Storage of other hazardous materials;

    c. Application of chemicals (e.g., pesticides, fertilizers, etc.) that have not been approved by the RICRMC;

    d. Storage or stockpiling of mulch, compost, or other organic materials;

    e. Storage or stockpiling of construction materials;

    f. Fueling and servicing of equipment and other motorized vehicles; and

    g. Recycling of construction materials.

C. Standards

1. The majority of parcels located within the Inner Harbor and River Zone are separated from the coastal feature by an existing public roadway or sidewalk system. In some portions of the IHR Zone, there are no public roadways or sidewalks along the river (e.g., the area west of Hemlock Street). Accordingly, project options will be determined by the proximity and existence of public roadways and sidewalks as follows below. Applicants have the option of having projects reviewed under and adhering to the setback and buffer requirements set forth in §§ 1.1.9 and 1.1.11 of this Subchapter in lieu of the other UCG options below. Nevertheless, in such cases applicants must still comply with the 15% vegetative cover and stormwater management standards in § 5.5.1(A) of this Part. Projects located within the Capital Center District will be subject to Option C.

2. IHRZ-A: Public roadway and/or pathway exist between the project and coastal feature

    a. Option A: Standard UCG Width (20 feet).

        (1) All development proposals within the IHRZ that completely meet the requirements under this option will be processed as Category A applications in accordance with the RICRMP provided there are no substantive objections during the 15-day public notice period.

(2) The standard Urban Coastal Greenway width within the Inner Harbor and River Zone under Option A shall be twenty (20) feet. If the distance between the inland edge of the coastal feature and the lot line is greater than twenty (20) feet, the applicant must still satisfy the 15% vegetation and stormwater requirements described in § 5.5.1(A)(3) of this Part, and any other applicable RICRMP requirements.

(3) All structures must be set back appropriately from the inland edge of the UCG to meet the criteria specified in § 5.5.1(A)(3)(d) of this Part.

(4) All of the standards specified within §§ 5.5.1 and 5.10 to 5.15 of this Part shall apply, with the following exceptions:

(AA) Public access requirements shall be met in accordance with § 5.5.1(E) of this Part and may be contained within the setback.

(BB) Where existing public access pathways and/or public roads occur between the coastal feature and the development parcel(s), the primary (alongshore) public access and construction setback requirements may be waived at the discretion of the CRMC.

(CC) Where public roads and/or sidewalks are immediately adjacent to the sides of the development perpendicular to the coastal feature, these public roads and/or sidewalks may count toward the Urban Coastal Greenway secondary public access requirements at the discretion of the CRMC. Roads must be usable for pedestrian and/or emergency vehicle access, as appropriate.

3. IHRZ-B: Public roadway or walkway does not exist between the project and coastal feature

a. Option B-1: Standard UCG Width (50 feet).

(1) All development proposals within the IHRZ that completely meet the requirements under this option will be processed as Category A applications in accordance with the RICRMP provided there are no substantive objections during the 15-day public notice period.

(2) Where there is no existing public infrastructure (roads and/or sidewalks) between the coastal feature and the proposed development at the time of promulgation of the Urban

Coastal Greenway Regulations, the standard Urban Coastal Greenway width shall be fifty (50) feet.

(3) All structures must be set back appropriately from the inland edge of the UCG, to meet the criteria specified in § 5.5.1(A)(3)(d) of this Part.

(4) All of the standards specified within §§ 5.5.1 and 5.10 to 5.15 of this Part shall apply.

b. Option B-2: Compact UCG Width (20 feet).

(1) All development proposals within the IHRZ that completely meet the requirements under this option will be processed as Category A applications in accordance with the RICRMP provided there are no substantive objections during the 15-day public notice period.

(2) Under this option, the UCG width may be reduced to a minimum of twenty (20) feet. If an applicant chooses this option, then they must provide compensation in accordance with § 5.13 of this Part. Compensation options will be available at such time as the Rhode Island General Assembly establishes a compensation statute; reductions in regulatory requirements provided by the compensation provision are not available until the trust is set up.

(3) All structures must be set back appropriately from the inland edge of the UCG, to meet the criteria specified in § 5.5(A)(3)(d) of this Part.

(4) All of the standards specified within §§ 5.5.1 and 5.10 to 5.15 of this Part shall apply. Furthermore, the applicant must also provide twice (2X) the area (in square feet) of public amenities that are required in § 5.5.1(E) of this Part. For example, if the area of the primary public access path within a UCG on a project site is 1600 square feet (8’ wide by 200’ long path), then the applicant in this case would have to provide an additional 1600 sq. ft. in public amenities. Some examples of additional public amenities include, but are not limited to: pedestrian bridges, canoe/kayak launching ramps or docks, observation platforms adjacent to tidal waters, etc. This access may be distributed around the development site or otherwise as approved by the RICRMC. Bridge designs must have sufficient clearance for recreational uses of the rivers and tidal waters.

4. IHRZ-C: Capital Center District

a. Option C: Capital Center District (CCD).

(1) All development proposals within the IHRZ that are located within the CCD shall be reviewed in accordance with the Memorandum of Understanding between the CRMC and the Capital Center Commission dated February 2005.

(2) Under this option, the standard Urban Coastal Greenway width shall be 20 feet. Projects will be processed administratively as Category A applications.

(3) Projects within the CCD may seek a reduction in the UCG width up to a 25% for a total width not less than 15 feet. These variance requests may be granted administratively with concurrence of the CRMC Chairman.

(4) All of the other UCG requirements specified in §§ 5.5.1 and 5.10 to 5.15 of this Part shall apply to the project. This includes stormwater management and 15% vegetative cover requirements specified in § 5.5.1(A)(3) of this Part and compensation in accordance with § 5.13 of this Part for any reduction from the 20-foot standard UCG width. Compensation options will be available at such time as the Rhode Island General Assembly establishes a compensation statute; reductions in regulatory requirements provided by the compensation provision are not available until the trust is set up.

5.9 Development Zone (formerly § 190)

A. Policy

1. It is the policy of the RICRMC to establish a continuous UCG within the areas designated as development zones that will satisfy the overall goals of the urban coastal greenway policy, as well as the specific development standards described in § 5.5.1 of this Part.

B. Standards

1. All development proposals within the development zone that completely meet the requirements under one of the options below (Options 1-4) will be processed as Category A applications in accordance with the RICRMP provided there are no substantive objections during the 15-day public notice period. Applicants have the option of having projects reviewed under and adhering to the setback and buffer requirements set forth in §§ 1.1.9 and 1.1.11 of this Subchapter in lieu of the other options offered below. Regardless of the option selected, however, applicants must still comply with the 15% vegetative cover and stormwater management standards in §§ 5.5.1(A)(3) of this Part.

2. Option 1: Standard buffer width.

   a. Applicants choosing this option must adhere to the standard buffer width as determined in § 5.16(B) of this Part (Appendix 2). In addition, all structures must be set back 25 feet from the inland edge of the buffer.

   b. The buffer must be comprised of a mix of native plant species and remain in a natural and undisturbed state.

   c. Variances to the buffer width are not permissible under Option 1.

   d. The applicant must provide a public access plan in accordance with § 1.3.6 of this Subchapter.

3. Option 2: Standard UCG Width (100 feet).

   a. The standard urban coastal greenway width within a development zone shall be one hundred (100) feet. All structures must be setback from the inland edge of the UCG in accordance with § 5.5.1(A)(3)(d) of this Part.

   b. All of the standards specified within §§ 5.5.1 and 5.10 to 5.15 of this Part shall apply.

   c. The project should provide public access in accordance with § 5.5.1(E) of this Part.

   d. If applicants choose not to install and maintain public access, then mitigation must be provided in accordance with § 5.10 of this Part.

4. Option 3: Compact UCG Width (50 feet).

   a. Applicants may choose a compact UCG width of fifty (50) feet, however, compensation must be provided in accordance with § 5.13 of this Part for the difference in width between Option 2 and 3. Compensation options will be available at such time as the Rhode Island General Assembly establishes a compensation statute; reductions in regulatory requirements provided by the compensation provision are not available until the trust is set up.

   b. All structures must be setback from the inland edge of the UCG in accordance with § 5.5.1(A)(3)(d) of this Part.

   c. All of the standards specified within §§ 5.5.1 and 5.10 through 5.15 of this Part shall apply.

d. The project should provide public access in accordance with § 5.5.1(E) of this Part.

e. If applicants choose not to install and maintain public access, mitigation must be provided in accordance with § 5.10 of this Part.

5. Option 4: Small lot exemption (Compact UCG – less than 50 feet).

a. It is the policy of the RICRMC to allow for a compact UCG width of not less than 25 feet for qualifying small Development Zone lots due to the spatial constraints inherent on very small lots. In order to meet the vegetation target and on-site stormwater management requirements for Urban Coastal Greenways, designs for small lots are encouraged to include LID treatments, such as green roofs, bioretention areas, and stormwater recycling.

b. Small Lots shall be defined as lots with a depth of less than 300 feet. Lot depth shall be measured as the shortest distance from the front lot line to the rear lot line. For lots where the front and rear lot lines are not parallel, the average lot depth shall be determined by measuring the distance between the midpoints of the front and rear lot lines.

(1) "Front lot line" shall be the lot line that demarcates the inland limit of the lot.

(2) "Rear lot line" shall be the lot line along the shore.

c. Development zone lots may qualify for a Small Lot Exemption if they are lawfully established lots as of October 10, 2006 and whose shallow depth of less than 300 feet may constrain their ability to meet the UCG standards as measured from the inland edge of a coastal feature, as set forth by the RICRMC.

d. The Urban Coastal Greenway width within Small Lots shall be no less than twenty-five (25) feet. All structures must be setback from the inland edge of the UCG in accordance with § 5.5.1(A)(3)(d) of this Part.

e. Applicants must provide compensation in accordance with § 5.13 of this Part for the difference between the required width in Options 3 (50 feet) and the Option 4 width (between 25-49 feet). Compensation options will be available at such time as the Rhode Island General Assembly establishes a compensation statute; reductions in regulatory requirements provided by the compensation provision are not available until the trust is set up.

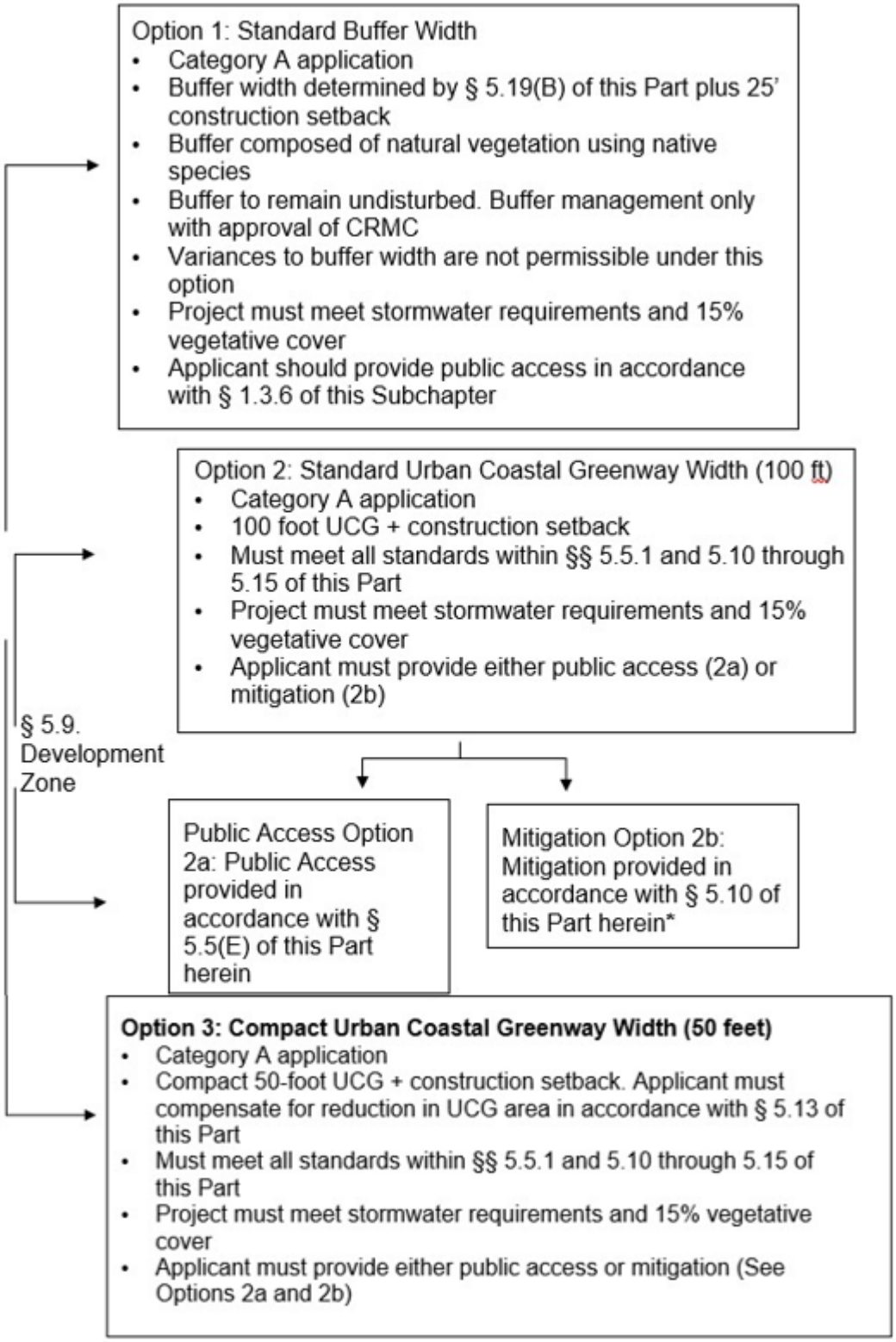
f. All of the standards specified within §§ 5.5.1 and 5.10 through 5.15 of this Part shall apply, with the following exceptions:

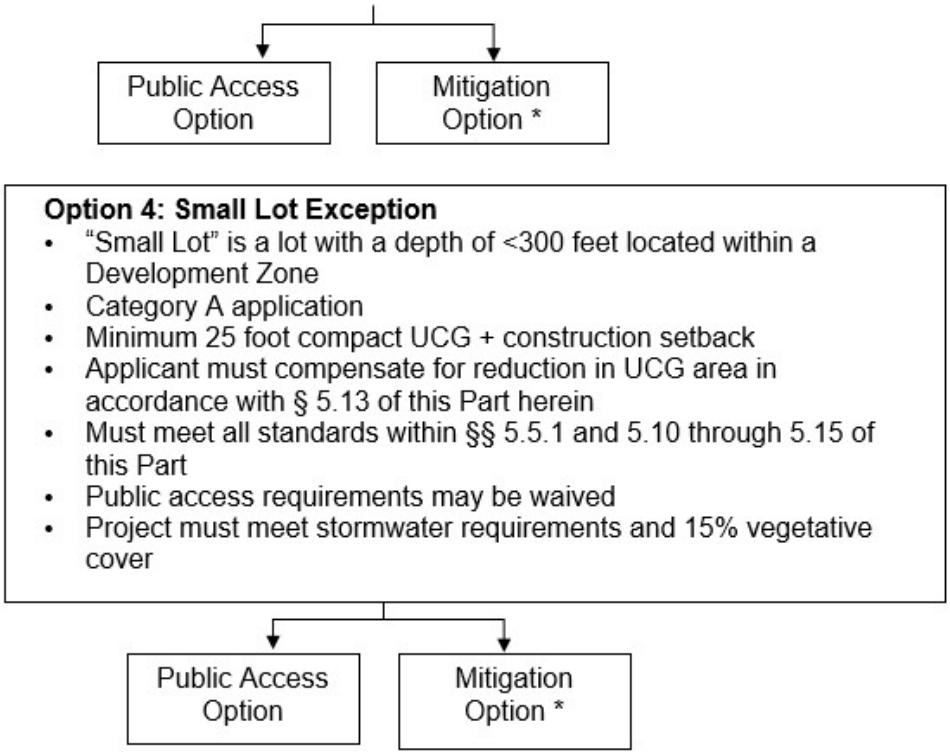
(1) Where existing public access pathways and/or public roads occur between the coastal feature and the development parcel(s), the primary (alongshore) public access and construction setback requirements may be waived.

(2) Where public roads are immediately adjacent to the sides of the development perpendicular to the coastal feature, these public roads may count toward the Urban Coastal Greenway secondary public access requirements. The road(s) must be usable for pedestrian and/or emergency vehicle access, as appropriate.

(3) Small lots may be excluded from the requirement for additional public parking spaces per 100 feet of linear shoreline (See § 5.5.1(E)(1)(h) of this Part).

C. Figure 7: Decision tree for development zone requirements





1. * - Mitigation: coastal wetland restoration projects require a separate Category B application

5.10 Mitigation Requirements in Lieu of Public Access (formerly § 200)

A. When an applicant chooses to adhere to the setback and buffer requirements of §§ 1.1.9 and 1.1.11 of this Subchapter, rather than the UCG requirements with public access, the applicant must mitigate for any public access that would have been installed as part of a UCG on the development site. This mitigation shall consist of the purchase and establishment of a habitat conservation or habitat restoration project. The area to be conserved or restored must be an identified High Priority Conservation Area (HPCA) or High Priority Restoration Area (HPRA) within the Metro Bay SAMP boundary, preferably within the municipality in which the development project is located.

B. Mitigation shall occur on a 2:1 basis. Specifically, the area to be restored must be twice the difference between the buffer width required under § 5.19(B) of this Part (Appendix 2) and the urban coastal greenway width proposed for the site. The restoration must be completed and its success secured for a minimum of one (1) growing cycle before a development project may proceed. The applicant must post a performance bond with the Council for a period to be determined on a case-by-case basis and may be up to 48 months to ensure successful restoration. The bond shall be of a sufficient amount to cover the total restoration

cost plus the hiring of a consultant manager to oversee any subsequently needed construction work to complete the restoration project as approved.

C. The completed mitigation and appropriate documentation, including legal documentation of a permanent conservation easement on the mitigation site, must be presented to the RICRMC before the proposed development may proceed.

5.11 Variance Requests (formerly § 210)

A. Applicants may request a variance under the following options only. Variance requests must be submitted in writing and meet the six criteria listed below in § 5.11(B) of this Part.

1. APC Zone Option 2

2. IHRZ Capital Center District

B. The application shall be granted an Assent only if the Council or Executive Director, as applicable, finds that the applicant has met the following six criteria:

1. The proposed alteration conforms to applicable goals and policies in §§ 1.2 and 1.3 of this Subchapter (Coastal Resources Management Program – Red Book).

2. The proposed alteration will not result in significant adverse environmental impacts or use conflicts, including but not limited to, taking into account cumulative impacts.

3. Due to conditions at the site in question, the applicable standard cannot be met.

4. The modification requested by the applicant is the minimum variance to the applicable standard necessary to allow a reasonable alteration or use of the site.

5. The requested variance to the applicable standard is not due to any prior action of the applicant's predecessors in title. With respect to subdivisions, the Council will consider factors as set forth in § 5.11(C) of this Part below in determining the prior action of the applicant.

6. Due to the conditions of the site in question, the standard will cause the applicant an undue hardship. In order to receive relief from an undue hardship an applicant must demonstrate inter alia the nature of the hardship and that the hardship is shown to be unique or particular to the site. Mere economic diminution, economic advantage, or inconvenience does not constitute a showing of undue hardship that will support the granting of a variance.

C. In reviewing requests for buffer zone variances for subdivisions of five (5) lots or less, the Council will review on a case-by-case basis the extent to which prior action of the applicant or its predecessor in title created or caused the need for the variance, whether the applicant has created the need for the variance by the subdivision, and whether the subdivision complies with local zoning requirements.

D. Relief from a standard does not remove the applicant's responsibility to comply with all other UCG and RICRMP requirements.

E. Prior to requesting approval for a CRMC variance, in those instances where a variance would be obviated if a variance for a setback were acquired from the local municipality, the applicant must first exhaust his remedies before the local municipality.

5.12 Brownfield Redevelopment with the Metro Bay Region (formerly § 220)

A. Urban Coastal Greenway policies on brownfields (formerly § 220.1)

1. RIDEM-designated brownfield sites shall receive additional consideration with regard to UCG requirements. The Council has established a maximum application fee of $5000 for all DEM-designated brownfield development projects (See § 10-00-1.4.6(A)(21) of this Title)

2. Brownfield sites pose unusual economic constraints, given the common need for remediation that may result in significant expense to the developer. The Council encourages thoughtful redevelopment of these contaminated sites, and believes that it is possible to proceed with such redevelopment in a manner that improves the natural environment while allowing for the fiscal realities of such an endeavor.

3. It is therefore the policy of the RICRMC to require the maximum UCG width practicable within brownfield sites while allowing for flexibility in the implementation of the UCG on these sites, based upon the applicant meeting the criteria defined in § 5.5.1 of this Part for vegetation targets, stormwater treatment and public access. See the Urban Coastal Greenway Design Manual (http://www.crmc.ri.gov/samp_mb/UCG-Design-Manual.pdf) for recommended approaches to stormwater treatment and habitat improvement in brownfield sites.

B. Urban Coastal Greenway standards on brownfields (formerly § 220.2)

1. Brownfield sites shall adhere to the urban coastal greenway standards and policies regarding setbacks, view corridors, and public safety as stated in this document to the maximum extent practicable.

2. All development proposals for brownfield sites within RICRMC's jurisdiction shall require a pre-application meeting including the applicant, his/her planning and design staff, and representatives of the RICRMC, the Rhode Island Department of Environmental Management (RIDEM) Offices of Waste Management and Water Resources, and the municipality of jurisdiction. This meeting shall take place after RIDEM has notified RICRMC that the review of the investigation is complete. It is intended that this pre-application meeting be the first step in the remedial design process after a brownfield development proposal has been submitted, and is further intended to streamline the multi-agency regulatory process for proposed developments on these sites. Agency (RICRMC and RIDEM) and municipal representatives at this pre-application meeting will consider the applicant's proposed designs to ensure that the proposal satisfies RICRMC's Urban Coastal Greenway requirements, the RIDEM's brownfield and stormwater requirements, and the municipality's zoning ordinances.

3. Where the Executive Director, in consultation with DEM Site Remediation staff and CRMC staff, determines that a particular UCG standard poses a risk or is impractical due to site remediation requirements, the Executive Director may waive or reduce such requirement.

4. An applicant may request of RIDEM, that a proposal that satisfies the requirements of the Urban Coastal Greenway policy be used to offset some or all of the State's Natural Resource Damage Claims at the site (including claims for additional assessment).

5. Under circumstances at a brownfield site where it is desirable to limit infiltration, traditional stormwater infiltration techniques shall not be used in the Urban Coastal Greenway. The goal of total on-site stormwater treatment will still apply on brownfield sites, although the constraints of each site will be taken into consideration during the application process. Applicants are therefore encouraged to utilize vegetative stormwater management techniques such as green roofs and rain gardens with shallow-rooting plants, as well as alternative landscaping/land shaping (i.e., raised planting beds) to allow for the maximum possible on-site treatment of stormwater. Refer to the Urban Coastal Greenway Design Manual (http://www.crmc.ri.gov/samp_mb/UCG-Design-Manual.pdf) for descriptions of recommended alternatives and reference sources for additional technical information regarding the implementation of those alternatives. These alternative stormwater abatement techniques shall protect the integrity of the containment cap/structure and be approved by the RICRMC and the RIDEM.

5.13 Compensation Options for Urban Coastal Greenway Requirements (formerly § 230)

A. Compensation is required whenever an applicant reduces an Urban Coastal Greenway from the standard UCG width for the applicable zone or requests a variance under the UCG regulations. In addition, the applicant must still meet the general UCG requirements regarding shoreline features, vegetation targets, public access, and minimum width as listed in § 5.5.1 of this Part. Similarly, the minimum 15% vegetation requirement and the stormwater management requirements for the development sites must be met in § 5.5.1(A)(3) of this Part regardless of whether or not compensation options are utilized. Compensation options will be available at such time as the Rhode Island General Assembly establishes a compensation statute; reductions in regulatory requirements provided by the compensation provision are not available until the trust is set up.

B. The compensation requirements are intended to accommodate a continuous Urban Coastal Greenway around the urban coastline of Narragansett Bay, as articulated in Section 270 of the CRMC Metro Bay SAMP guidance document. Compensation options for a reduced UCG width may include:

1. Urban Coastal Greenways Trust (Note: Trust not established by the General Assembly)

   a. In no case shall the Urban Coastal Greenway width be less than the minimum width defined within the applicable zone. When compensation is required, the applicant shall pay a fee into the Urban Coastal Greenways Trust. In order to calculate this fee, the RICRMC shall establish the representative waterfront value per acre for each Metro Bay Region municipality based upon professional appraisals of representative coastal parcels within each municipality. These values will be reassessed by the RICRMC every 12 months. The representative waterfront value will be multiplied by 50-percent to obtain the final dollar amount that shall be levied per square foot of UCG lost in a given municipality.

   b. Compensation fees paid to the Trust shall be used only for the acquisition of property interests (fee simple, conservation easements, and other lesser interests) that serve the purposes of coastal habitat conservation or coastal habitat restoration within designated HPCA or HPRA (See § 5.16(D) of this Part (Appendix 4)) within the Metro Bay Region. The CRMC shall prioritize the use of these funds based upon three factors:

      (1) Habitat quality ranking where a ranking of “C4” or “R3” denotes highest conservation or restoration priority and “C1” or “R1” denotes lowest priority, as described in § 5.16(C) of this Part (Appendix 3);

(2) High Priority Conservation Areas (HPCAs) within Area of Particular Concern zones shall have priority over HPCAs within other Urban Coastal Greenway zones; and

(3) Presence of a suitable HPCA. Restoration activities for High Priority Restoration Areas shall only be funded through this program if the CRMC determines that a suitable HPCA is not available. In the case where no suitable HPCA is available, habitat restoration of HPRAs shall be prioritized in the same manner described above for HPCAs.

2. Other possible compensation measures

a. At the discretion of RICRMC, an applicant may use one or a combination of the following measures to compensate for a reduction in the required UCG width. The compensation measures shall be equal or greater in value to the fee that would otherwise be contributed to the Urban Coastal Greenways Trust and must truly create new and additional public benefits.

(1) Creation of non-stormwater management wetlands such as new salt marsh or other appropriate coastal wetland areas. The establishment of non-stormwater management wetlands shall be on-site or adjacent to the development wherever possible, or in other areas within the Metro Bay Region SAMP boundary, as deemed appropriate in consultation with the RICRMC. Additionally, such projects must meet the bonding requirements of § 5.10(B) of this Part. The RICRMC will endeavor to pre-identify areas for these non-stormwater management wetlands projects.

(2) Restoration of an existing degraded wetland. The mitigation via restoration of degraded wetlands shall be on-site or adjacent to the development wherever possible, or in other areas within the Metro Bay SAMP boundary, as deemed appropriate in consultation with the RICRMC. Additionally, such projects must meet the bonding requirements of § 5.10(B) of this Part. The RICRMC will endeavor to pre-identify areas for these wetland restoration projects.

(3) Increase opportunities for public recreational use of coastal waters on the development site. This could be accomplished through the construction of a public canoe or kayak rack along the shoreline, accessible from the secondary public access pathway on the site. This option does not include construction of marinas.

(4) Increase amenities for public access pathways within the UCG. This might include enhancement of the pathway through the placement of benches, lookout points, bicycle paths, fishing piers or platforms, fish cleaning facilities, or interpretive signage.

(5) Purchase of land to establish UCG connections within the Metro Bay SAMP boundary. This may be accomplished through direct purchase of land or through conservation easements, with the intent of establishing continuous public access throughout the Metro Bay Region.

5.14 Urban Coastal Greenway Management and Maintenance Requirements (formerly § 240)

A. The owner of record of a property with an Urban Coastal Greenway is responsible for maintaining the UCG in accordance with the operative RICRMC Assent, unless the UCG is transferred to another agent (i.e., the municipality, a land trust, etc.) with that agent's agreement to provide maintenance. The Council shall be the beneficiary of any urban coastal greenway easements, and all easements shall be placed in the land evidence records of the municipality of jurisdiction.

B. All alterations within established Urban Coastal Greenways or alterations to natural vegetation (i.e., areas not presently maintained in a landscaped condition as of October 10, 2006) within the Council's jurisdiction may be required to submit an urban coastal greenway management plan for the Council's approval that is in compliance with the requirements of this section and the design guidance recommended within the Council's most recent edition of the "Urban Coastal Greenway Design Manual" (http://www.crmc.ri.gov/samp_mb/UCG-Design-Manual.pdf). Urban coastal greenway management plans shall include a description of all proposed alterations and methods of avoiding problem areas such as the proper placement and maintenance of pathways. Applicants should consult the Council's most recent edition of "Urban Coastal Greenway Design Manual" when preparing an urban coastal greenway management plan.

C. No encroachments shall be allowed within the UCG at any time.

D. Penalties: failure to adhere to these policies will result in enforcement action including fines, liens, restoration, and/or voiding of the Council Assent.

5.15 Maintenance and Monitoring of Innovative Stormwater Technologies (formerly § 250)

A. The RICRMC encourages the use of effective, innovative techniques to achieve runoff reduction, pollutant abatement, and hazard mitigation. Accordingly,

experimental technologies to achieve these goals may be implemented within the urban coastal Greenway, at the discretion of the Council.

B. New proprietary stormwater treatment technologies may be used provided they are approved pursuant to the Technology Assessment Protocol (TAP) for Innovative and Emerging Technologies as detailed in the most recent version of the RIDEM RI Stormwater Design and Installation Standards Manual.

C. If the proprietary stormwater treatment device fails, retrofit or repair must commence immediately. Provisions shall be made on the development site to insure that a proven treatment practice can be accommodated and inserted on-site if an innovative technology fails.

D. It will be the responsibility of the property owner (or the appropriate surrogate, such as a homeowners' association) to ensure the inspection and maintenance of these experimental technologies on a regular basis, as approved by the RICRMC.

5.16 Appendices

A. Appendix 1: Coastal Buffer Zone Designations for the Residential Development Zone

Lot size (square feet)	Required buffer width (feet) for development in CRMC water types 3, 4, 5 and 6.	Required construction setback (feet)
< 10,000	15	25
10,000 – 20,000	25	25
20,001 – 40,000	50	25
40,001 – 60,000	75	25
60,001 – 80,000	100	25
80,001 – 200,000	125	25
> 200,000	150	25

B. Appendix 2: Standard Coastal Buffer Width Requirements for Development within the Metro Bay SAMP Boundary.

Lot size (square feet)	Required buffer width (feet)
≤ 20,000	25
20,001 – 40,000	50
40,001 – 60,000	75
60,001 – 80,000	100
> 80,000	150

C. Appendix 3: Habitat Quality Ranking Criteria for High Priority Conservation and Restoration Areas.

1. One of the phases of the Metro Bay SAMP development process was to evaluate and classify open land within the SAMP boundary that might be considered for future development or redevelopment. Assessments were made without regard to property boundaries; instead this analysis looked at continuous blocks of habitat which may have contained more than one type of habitat. For example, one block might include a forest, a freshwater shrub swamp, and fringing salt marsh. The value of land as a biological community was the first consideration. Though many criteria could have been used to rank parcels of land, this analysis focused on the maturity and composition of the plant community as an index to habitat quality.

2. The following flowchart illustrates the ranking process for habitat quality. Please note that least valuable habitat has a rank of "1", and more valuable habitats are indicated by successively higher numbers.

Habitat Value	Poor →						Good
Vegetation Characteristics	Barren	<	All Exotic Vegetation	<	Mixture of Exotic and Native Vegetation	<	Mature Native Vegetation
Ranking	1	<	2	<	3	<	4

3. Supplementary information was also considered: the habitat's use by wildlife as observed during site visits or as previously noted by other biologists or naturalists; the use by state or federally listed species (resident or migratory); and the geographic relationship (linkage) of the parcels to other habitat, or recognized conservation and recreational lands as identified in the State Conservation and Recreational Openspace GIS data layer (Scorp90.shp). If the existing habitat quality on a parcel of land was poor, its potential to be restored and its importance if it were restored were considered. Good candidate restoration sites would include barren lots in the center of an otherwise high quality habitat corridor, sites that buffer important habitat or sites that could eventually serve to lengthen a habitat corridor. Most restoration sites, however, contained the lowest quality habitat and were therefore the least important to conserve. In some cases isolated parcels were identified that were vegetated with exotic species or isolated from other sites. These sites, while ranking low in habitat quality, were important to residential communities for scenic or recreational purposes. A separate ranking category was created for these sites.

4. Habitat was evaluated and ranked at 237 sites. Detailed field data were collected for 53 sites regarding species composition, dominant vegetation in the upper and understory, and estimated basal diameter of largest trees and/or dominant trees. An additional 63 sites were classified through "windshield surveys" that assessed species composition and maturity. Using 1997 and 2002 aerial orthophotos obtained from RIGIS, we classified habitat in the remaining 121 sites by photo-interpretation based on the visual signatures established during site visits. Based on our findings we developed the following ranking system for undeveloped lands in the Metro Bay SAMP area:

5. Conservation Zone

    a. Sites with good habitat quality earmarked for conservation

    b. In most cases native species are dominant

    c. Rank:

        (1) Vegetated with shrubby or small trees

        (2) Maturing woods or woody fringe with most trees ≤1ft diameter

        (3) Mature system: woods with many trees >1ft diameter, or emergent wetlands (salt marsh or fresh)

        (4) Exceptional example of mature ecosystem

6. Restoration Zones

   a. Potential site for restoration

   b. In most vegetated areas exotic species are dominant

   c. Rank:

      (1) Paved or barren – no vegetation

      (2) Partially vegetated with grass or shrubs

      (3) Completely, or almost completely, vegetated with grass, shrubs, or trees

7. Scenic or Recreation Zone

   a. Significant unprotected lands

   b. Native or exotic vegetation

   c. Rank:

      (1) Mowed grass, may have shrubs, beside highway – no safe access

      (2) Vegetated (green) patch in city neighborhood

      (3) Vital scenic or recreational value – contributes to character or identity of neighborhood

8. Linkage

   a. Habitat and greenway linkage – examining connectivity of wildlife habitat corridors or scenic/recreation areas

   b. Rank:

      (1) Isolated land (0)

      (2) Land within 100 ft of other identified links or the waterfront (1)

      (3) Land that meets at least one of the following criteria (2):

         (AA) A “central link:” identified links separated by no more than 100 ft from two other links, or one link and the waterfront, or a link that has a perimeter more than ½ way surrounded by land identified as a link

(BB) A link within 100 ft of recognized conservation or recreational land (SCORP lands, private preserves, land trust holdings), a link within 100 ft. of adjacent links that connect it to recognized conservation or recreational land.

(4) A central link (defined in § 5.16(C)(8)(b)((3))((AA)) of this Part) that forms part of a habitat corridor or potential greenway containing recognized conservation or recreational lands (3)

9. Evaluation

a. Type of analysis at each site

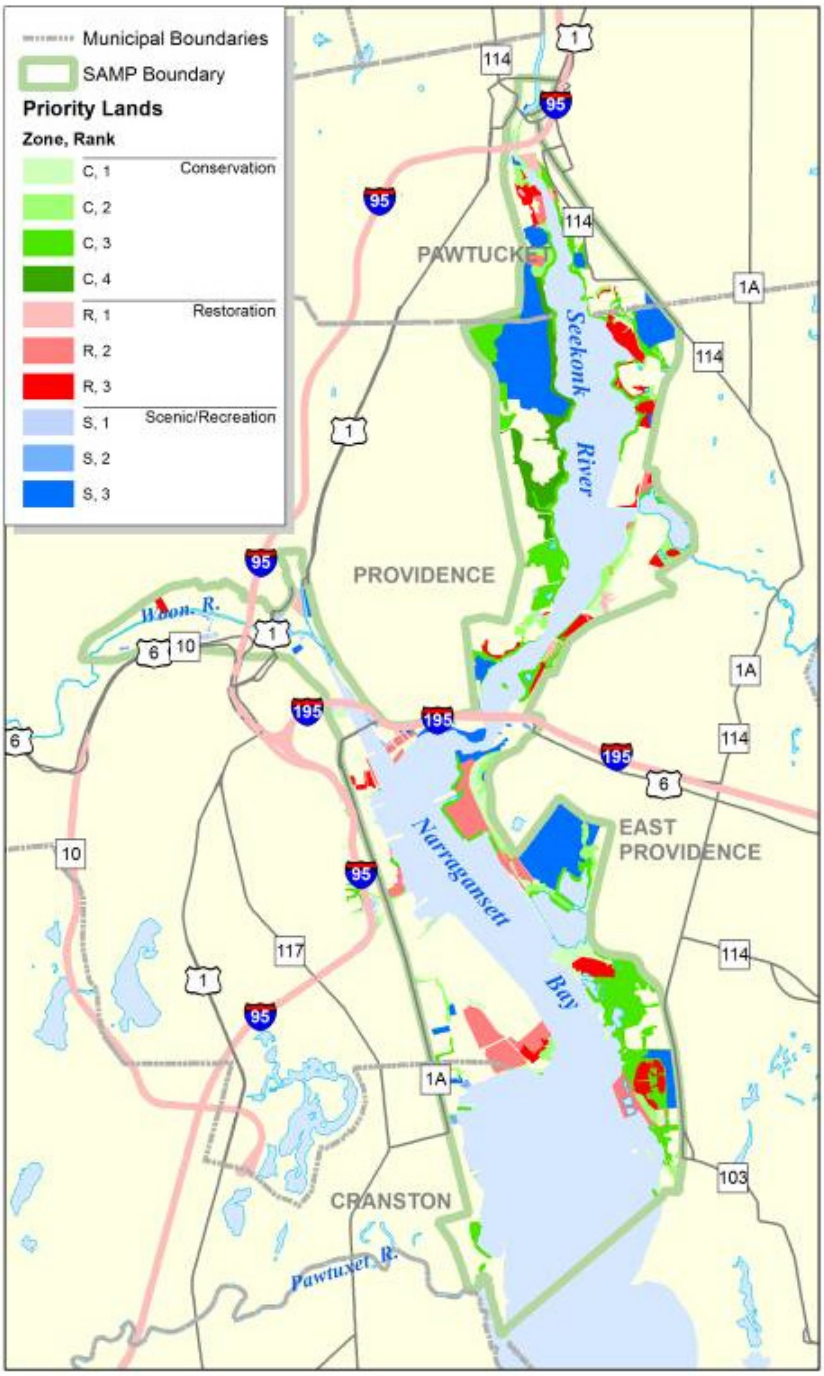
b. Rank:

(1) Photo-interpretation (2003 and 1997 RIGIS orthophotos)

(2) “Windshield survey” looking from outside in (1 and 2)

(3) Site visit (1, 2, and 3)

D. Appendix 4: Map of High Priority Conservation Areas (HPCAs) and High Priority Restoration Areas (HPRAs) in the Metro Bay Region.



Online version:
http://edc.maps.arcgis.com/apps/MapSeries/index.html?appid=16a00ec4a7ab45fd992e7327a2047dfd&folderid=51a9e35a774c426ca844938a6492e2fe