

SUBDIVISION AND LAND DEVELOPMENT REGULATIONS

CITY OF NEWPORT

JUNE 19, 1995 (REVISED 2008, 2024)

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SECTION I – GENERAL PROVISIONS

A. Authority

These Subdivision and Land Development Regulations are hereby adopted and enacted in accordance with the provision of the State of Rhode Island Land Development and Subdivision Review Enabling Act, Title 45, Chapter 23, Section 25 through 74, of the General Laws of Rhode Island, as amended in 2023, hereinafter referred to as the Development Review Act; and in accordance with Section 2.68.080 of the Codified Ordinances of the City of Newport, as amended.

B. Planning Board

In accordance with Section 2.68.080 of the Codified Ordinances of the City of Newport, the Planning Board is authorized to adopt, modify and amend regulations and rules governing land development and subdivision projects within the City of Newport to control land development and subdivision of land pursuant to these regulations.

C. Purposes

It is the intent of the Subdivision and Land Development Regulations to aid in the implementation of the adopted Comprehensive Plan for the City of Newport and are designed to further the purposes set forth in the Development Review Act, and for the promotion with the greatest efficiency and economy for the coordinated development of the city and prosperity of its people, particularly in the following ways, each with equal priority and numbered for reference purposes only:

- I. Providing for the orderly, thorough and expeditious review and approval of land developments and subdivisions;
- II. Promoting high quality and appropriate design and construction of land developments and subdivisions;
- III. Promoting the protection of the existing natural and built environment and the mitigation of all significant negative impacts of any proposed development on the existing environment;
- IV. Promoting design of land developments and subdivisions which are well integrated with the surrounding neighborhoods with regard to natural and built features, and which concentrate development in areas which can best support intensive use by reason of natural characteristics and existing infrastructure;
- V. Encouraging local design and improvement standards to reflect the intent of the Comprehensive Plan with regard to the physical character of the various neighborhoods and districts of the City;
- VI. Promoting thorough technical review of all proposed land developments and subdivisions by City officials;

VII. Encouraging local requirements for dedications of public land, impact mitigation, and payment-in-lieu thereof, to be based on clear documentation of needs and to be fairly applied and administered;

VIII. Encouraging the establishment and consistent application of procedures for recordkeeping on all matters of land development and subdivision review, approval and construction, and

D. Consistency

These Subdivision and Land Development Regulations are hereby adopted to further the purposes of the Comprehensive Plan adopted for the City. Any amendment to these Subdivision and Land Development Regulations shall be consistent with the policies and goals of the adopted Comprehensive Plan for the City. In the instance of uncertainty in the construction or application of any section or part of these regulations, the Subdivision and Land Development Regulations shall be construed in a manner that will further the implementation of and not be contrary to, the goals and policies and applicable elements of the Comprehensive Plan and the Development Review Act.

E. Definitions

Where words or phrases used in these regulations are defined in the definitions of either the Rhode Island Comprehensive Planning and Land Use Regulation Act or the Zoning Enabling Act of 1991, or the Development Review Act, they shall have the meaning stated therein.

- (1) Administrative Officer. The Director of Planning, and Development, or designee, shall serve as the Administrative Officer for the purposes of these Subdivision and Land Development Regulations and shall be responsible for the review and approval of qualified applications and/or the coordination of the procedures and policies of these regulations.
- (2) Board of Appeal. The local review authority for appeals of actions of the Administrative Officer, which shall be the Zoning Board of Review constituted as the board of appeal. Or as prescribed in RIGL § 45-23-71. Appeals to the superior court.
- (3) Bond. See Improvement Guarantee.
- (4) Buildable Lot. A lot where construction for the use(s) permitted on the site under the Zoning Code is considered practicable by the Planning Board, considering the physical constraints to development of the site as well as requirements of the pertinent federal, state and city regulations.
- (5) Certificate of Completeness. A notice issued by the Administrative Officer informing an applicant that the application is complete and meets the requirements of City regulations, and that the applicant may proceed with the review process.

- (6) City Engineer. The Director of Public Works or designee.
- (7) Comprehensive Plan. The Comprehensive Plan prepared by the Newport Planning Board with technical assistance from the Newport Planning Department as adopted by the City Council and to which any subdivision and land development regulations adopted shall be in compliance.
- (8) Concept Plan. A drawing with accompanying information showing the basic elements of a proposed land development plan or subdivision as used for pre-application meetings and early discussions, and classifications of the project within the approval process.
- (9) Consistency with the Comprehensive Plan. A requirement of all local land use regulations which means that all such regulations and subsequent actions shall be in accordance with the public policies arrived at through detailed study and analysis and adopted by the City as the Comprehensive Plan.
- (10) Dedication, fee-in-lieu-of. Payments of cash which are authorized in these regulations when requirements for mandatory dedication of land are not met because of physical conditions of site or other reasons.
- (11) Development plan review. Design or site plan review of a development of a permitted use to encourage development to comply with design and/or performance standards of the community, for the following developments:
 - (i) Transient guest facilities.
 - (ii) Any multifamily dwelling use or adaptive reuse involving an increase of three or more dwelling units or when the total number of dwelling units is six or greater.
 - (iii) Any commercial use of ten thousand (10,000) gross square footage or greater.
 - (iv) Any individual restaurant of four thousand (4,000) gross square footage or greater.
 - (v) Any professional or medical office of ten thousand (10,000) gross square footage or greater or combination of professional or medical office in conjunction with other commercial uses such that the total gross square footage is ten thousand (10,000) or greater.
 - (vi) Hospitals, convalescent and rest homes; schools, colleges and universities, including dormitories; museums; libraries; churches; alcohol research and rehabilitation facilities.
 - (vii) Parking areas for more than ten automobiles.
 - (viii) Vacation guest facilities.
 - (ix) Public utilities—Private electrical services.
 - (x) A change in use at the property where no extensive construction of improvements is sought;
- (12) Development Regulation. Zoning, subdivision, land development plan, development plan review, historic district, official map, flood plain regulation, soil erosion control or any other governmental regulation of the use and development of land.

- (13) Division of Land. A subdivision.
- (14) Easement. An interest in land created by grant or agreement, express or implied, which confers right upon the owner (grantee) to profit, benefit, dominion, or lawful use out of or over the estate of another.
- (15) Engineer or Land Surveyor. A Professional engineer or Land Surveyor qualified under Title 5-8 of the General Laws of Rhode Island, 1956, as amended.
- (16) Environmental Constraints. Natural features, resources, or land characteristics that are sensitive to change and may require conservation measures or the application of special development techniques to prevent degradation of the site, or may require limited development, or in certain instances, may preclude development.
- (17) Final Plan. The final stage of land development and subdivision review.
- (18) Final Plat. The final drawing(s) of all or a portion of a subdivision to be recorded after approval by the Planning Board and any accompanying material as required by the Planning Board.
- (19) Floor Area, Gross. Gross floor area shall be the floor area within the perimeter of the outside walls of the building under consideration, without deduction for hallway, stairs, closets, thickness of walls, columns, or other features.
- (20) Improvement. Any natural or built item which becomes part of, is placed upon, or is affixed to, real estate.
- (21) Improvement Guarantee. A security instrument accepted by the City to ensure that all improvements, facilities, or work required by the land development and subdivision regulations, or required by the City as a condition of approval, will be completed in compliance with the approved plans and specifications of a development.
- (22) Land development project. A project in which one or more lots, tracts, or parcels of land or a portion thereof are developed or redeveloped as a coordinated site for one or more uses, units, or structures, including but not limited to, planned development or cluster development for residential commercial, institutional, recreational, open space, or mixed uses. Land development projects are applicable to properties in the Innovation Hub zoning district pursuant to Chapter 17.65 of the City of Newport Code of Ordinances.
 - (i) Minor land development project. A land development project involving any one the following:
 - (a) Seven thousand five hundred (7,500) gross square feet of floor area of new commercial, manufacturing or industrial development; or less, or
 - (b) An expansion of up to fifty percent (50%) of existing floor area or up to ten thousand (10,000) square feet for commercial, manufacturing or industrial structures; or

- (c) Mixed-use development consisting of up to six (6) dwelling units and two thousand five hundred (2,500) gross square feet of commercial space or less; or
 - (d) Multi-family residential or residential condominium development of nine (9) units or less; or
 - (e) Change in use at the property where no extensive construction of improvements are sought;
 - (f) An adaptive reuse project of up to twenty-five thousand (25,000) square feet of gross floor area located in a commercial zone where no extensive exterior construction of improvements is sought;
 - (g) An adaptive reuse project located in a residential zone which results in less than nine (9) residential units;
 - (ii) Major land development project. A land development project which exceeds the thresholds for a minor land development project.
- (23) Maintenance Guarantee. Any security instrument which may be required and accepted by the City to ensure that necessary improvements will function as required for a specific period of time.
- (24) Master Plan. An overall plan for a proposed project site outlining general, rather than detailed, development intentions. It describes the basic parameters of a major development proposal, rather than giving full engineering details. The master plan is required in major land development or major subdivision review only. It is the first formal review step of the major land development or major subdivision process and the step in the process in which the public hearing is held.
- (25) Modification of Requirements. See Section IV, Paragraph C (II).
- (26) Parcel. A lot, or contiguous group of lots in single ownership or under single control, and usually considered a unit for purposes of development. Also referred to as a tract.
- (27) Parking Area or Lot. All that portion of development that is used by vehicles, the total area used for vehicular access, circulation, parking, loading and unloading.
- (28) Phased Development. Development, usually for large-scale projects, where construction of public and/or private improvements proceeds by section(s) subsequent to approval of a master plan for the entire site.
- (29) Physical Constraints to Development. Characteristics of a site or area, either natural or man-made, which present significant difficulties to construction of the uses permitted on that site, or would require extraordinary construction methods.
- (30) Plat. A drawing or drawings of a land development or subdivision plan showing the location, boundaries, and lot lines of individual properties, as well as other necessary information as specified in these regulations.

- (31) Pre-application Conference. An initial meeting between developers and municipal representatives which affords developers the opportunity to present their proposals informally and to receive comments and directions from the representatives.
- (32) Preliminary Plan. A required stage of land development and subdivision review which shall require detailed engineering drawings.
- (33) Public Improvement. Any street or other roadway, sidewalk, pedestrian way, tree, lawn, off-street parking area, drainage feature, or other facility for which the City or other governmental entity is presently responsible, or will ultimately assume the responsibility for maintenance and operation upon the City's acceptance.
- (34) Public hearing. A hearing before the Planning Board which is duly noticed in accordance with § 45-23-42 and which allows public comment.
- (35) Storm Water Detention. A provision for storage of storm water runoff and the controlled release of such runoff during and after a flood or storm.
- (36) Storm Water Retention. A provision for storage of storm water runoff.
- (37) Street. A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles. Streets are further classified by the functions they perform.
- (38) Street, Access to. An adequate and permanent way of entering a lot. All lots of record shall have access to a public street for all vehicles normally associated with the uses permitted for that lot.
- (39) Street, Alley. A public or private thoroughfare primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.
- (40) Street, Cul-de-sac. A local street with only one outlet and having an appropriate vehicular turnaround, either temporary or permanent, at the closed end.
- (41) Street, Limited Access Highway. A freeway or expressway providing for through traffic. Owners or occupants of abutting property on lands and other persons have no legal right to access, except at such points in such manner as may be determined by the public authority having jurisdiction over the highway.
- (42) Street, Private. A thoroughfare established as a separate tract for the benefit of multiple adjacent properties and meeting specific, municipal improvement standards. This definition shall not apply to driveway.
- (43) Street, Public. All public property reserved or dedicated for street traffic.
- (44) Street Classification. A method of roadway organization which identifies a street hierarchy according to function within a road system, that is, types of vehicles served

and anticipated volumes, for the purposes of promoting safety, efficient land use, and design character of neighborhoods and districts. These are the major categories:

- (i) Arterial. A major street that serves as an avenue for the circulation of traffic into, out of, or around the city and carries high volumes of traffic.
 - (ii) Collector. A street whose principal function is to carry traffic between local streets and arterial streets but that may also provide direct access to abutting properties.
 - (iii) Local. Streets whose primary function is to provide access to abutting properties.
- (45) Street, Right-of-way. The area from a lot line to the lot line on the opposite side of said street, including street pavements, curbs, grass and sidewalk areas.
- (46) Street, Stub. A portion of a street reserved to provide access to future development, which may provide for utility connections.
- (47) Subdivider. Any person who (1) having an interest in land causes it, directly or indirectly, to be divided into a subdivision, or who (2) directly or indirectly sells, leases, or develops, or offers to sell, lease or develop, or advertises to sell, lease or develop, any interest, lot, parcel, site, unit, or plat in a subdivision, or who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel, site, unit, or plat in a subdivision.
- (48) Subdivision. The subdivision, of a lot, tract or parcel of land into two or more lots, tracts, or parcels or any adjustment to existing lot lines shall be considered a subdivision. The division of property for purposes of financing constitutes a subdivision.
- (i) Administrative subdivision. Subdivision of existing lots which yields no additional lots for development, and involves no creation or extension of streets. This subdivision only involves division, mergers, mergers and division, or adjustments of boundaries of existing lots.
 - (ii) Minor subdivision. A subdivision creating nine (9) or fewer buildable lots.
 - (iii) Major subdivision. A subdivision creating ten (10) or more buildable lots.
- (49) Technical Review Committee. A committee appointed by the municipality for the purpose of reviewing, commenting, approving and/or making recommendations to the Planning Board or the Administrative Officer.
- (50) Temporary Improvement. Improvements built and maintained by a developer during construction of a development project and prior to release of the improvement guarantee, but not intended to be permanent.

- (51) Vested Rights. The right to initiate or continue the development of an approved project for a specified period of time under the regulations that were in effect at the time of approval, even if, after the approval, the regulations change prior to the completion of the project.
- (52) Waiver of Requirements. See Section IV, Paragraph C (II).

F. Application Requirements

The following items shall be submitted to the Administrative Officer in order to initiate the review process:

I. For Administrative Subdivision

- a. Application form (Application A) filled in its entirety and signed by the property owner(s). If the property is owned by a corporation, partnership, or other entity, articles of incorporation or other documentation to determine who is authorized to sign on behalf of the owner is required to be submitted with the application form.
- b. A notarized letter from the property owner(s) stating that the applicant has been granted the authority to proceed with the application with the owner(s) permission and consent, if applicable.
- c. Application fee
- d. The proposed subdivision plat printed on 11”x17” paper and the digital copy of the plat prepared and signed by a certified engineer or a land surveyor showing the proposed subdivision for initial review. The plat shall contain the following information:
 - (i) Name of the subdivision
 - (ii) Purpose statement, including existing and proposed number of lots
 - (iii) Name and address of record owner and surveyor, date of filing, date of survey, north point and scale;
 - (iv) Names of all abutters as determined from the most recent official tax list;
 - (v) Sufficient data to determine the location, bearing, size, and shape of every lot, boundary and setback line, and to reproduce the same upon the ground (all bearings to be referred to a meridian);
 - (vi) Existing and proposed lines of easements, utilities, including sewerage, and natural water channels.
 - (vii) The location of all existing structures, fences and trees of more than eighteen (18”) inches diameter with a note if they were to be remain or be removed;
 - (viii) The location of monuments;
 - (ix) Note of any restrictive covenants, if applicable; and

- (x) Administrative approval block as on the following graphic located in the bottom right quarter of the plat.

<p>ADMINISTRATIVE SUBDIVISION APPROVAL</p> <p>This subdivision is hereby approved in accordance with Rhode Island General Law §45-23-37 and Section I – General Provisions of the Newport Subdivision Regulations this _____ day of _____, 202_</p> <p>_____</p> <p>Administrative Officer</p>
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- (xi) For recording purposes, submit one (1) mylar and three (3) paper copies in 24"x36" at a scale 1" to 50' or larger, and one (1) digital copy of the approved plan (pdf or CAD).

II. For Minor and Major Subdivision and Land Development Projects

a. Pre-application Conference (required for all major projects)

- (i) A letter requesting a pre-application conference.
- (ii) A copy of the Assessor's plat marked to show the boundary of the land the applicant intends to subdivide plus the boundary of the tract in his ownership or under his control.

b. Master Plan Application (required for major projects)

- (i) Application form (Application B) filled in its entirety and signed by the property owner(s). If the property is owned by a corporation,
- (ii) partnership, or other entity, articles of incorporation or other documentation to determine who is authorized to sign on behalf of the owner is required to be submitted with the application form.
- (iii) A notarized letter from the property owner(s) stating that the applicant has been granted the authority to proceed with the application with the owner(s) permission and consent, if applicable.
- (iv) Application fee
- (v) Project narrative
- (vi) Request(s) for variance and special use permit (Appendix X), if applicable

- (vii) The proposed master plan printed on 11”x17” paper and the digital copy of the plat prepared and signed by a certified engineer or a land surveyor showing the proposed subdivision for initial review showing the following:
1. Name of the subdivision or project
 2. Purpose statement, including existing and proposed number of lots
 3. Name and address of record owner and surveyor, date of filing, date of survey, north point and scale;
 4. Names of all abutters as determined from the most recent official tax list;
 5. Vicinity map showing the relationship of the subdivision/development parcel(s) of the area within a half-mile radius
 6. Sufficient data to determine the location, bearing, size, and shape of every lot, boundary and setback line, and to reproduce the same upon the ground (all bearings to be referred to a meridian);
 7. Existing easements. Proposed easements may be required if requested by the Administrative Officer
 8. The location of all existing structures, fences, stone walls, and trees of more than eighteen (18”) inches diameter with a note if they were to be remain or be removed
 9. Identification of any geologic formations, including boulders, rock outcroppings, cliffs, coastal features etc.
 10. Proposed streets, if any, with accurate areas and dimensions. If proposed, a notation as to whether the proposed street extension or creation is to be public or private
 11. Areas within a flood plain as identified in the FEMA Flood Plain Map, if applicable
 12. Written confirmation and/or permits from any additional required federal, state or local agencies
 13. Note of any protective covenants, if applicable
 14. For land development projects, proposed structures and other site improvements with dimensions or area with proposed use and lot coverage
 15. For land development projects, notation of proposed stormwater management type
 16. For major land development projects, proposed landscaped areas

c. Preliminary Application

- (i) A properly executed application form (Application B) filled in its entirety and signed by the property owner(s). If the property is owned by a corporation, partnership, or other entity, articles of incorporation or other documentation to determine who is authorized to sign on behalf of the owner is required to be submitted with the application form.
- (ii) A notarized letter from the property owner(s) stating that the applicant has been granted the authority to proceed with the application with the owner(s)

permission and consent, if the owner or applicant is different from the approved master plan application.

- (iii) Application fee
- (iv) Project narrative
- (v) Request(s) for alteration to the variance or special use permit granted in the Master Plan phase, if applicable (Appendix X)
- (vi) Written confirmation and/or permits from any additional required federal, state or local agencies
- (vii) The proposed preliminary plat printed on 11”x17” paper and the digital copy of the plat at no smaller scale than 1” to 100’ showing the following:
 1. Name of the subdivision or project;
 2. Purpose statement, including existing and proposed number of lots;
 3. Name and address of record owner, subdivider and designer or surveyor, date prepared, north point, graphic, scale, acreage and number of lots;
 4. Names of all abutters, as determined from the most recent official tax list;
 5. Vicinity map showing the relationship of the subdivision/development parcel(s) of the area within a half-mile radius;
 6. Existing and proposed lines of streets, ways, boundaries, utilities, easements, lots, and public areas within the plat, with adequate dimensions; a notation as to whether the proposed street extension or creation is to be public or private;
 7. Proposed location of monuments;
 8. Proposed land use and existing zoning;
 9. Proposed system of drainage, dimensions of storm sewers, approximate location of water mains, sanitary sewers and drainage structures;
 10. The location of all existing structures, fences, stone walls, and trees of more than eighteen (18”) inches diameter with a note if they were to be remain or be removed;
 11. Identification of any geologic formations, including boulders, rock outcroppings, cliffs, coastal features etc.;
 12. Existing and proposed topography with two-foot contour intervals, elevations based on Newport NAVD 1988 unless otherwise indicated by the Planning Board;
 13. Profiles of proposed streets with adequate ties to existing streets;
 14. Areas within a flood plain as identified in the FEMA Flood Plain Map, if applicable;
 15. A certificate from the Tax Collector of the City of Newport that all taxes due on the land described in such plat have been paid to date and that there are no outstanding tax liens thereon.

16. A sketch map of any remaining part of the subdivider's entire tract shall accompany the plat, showing the location, names and present widths of adjacent existing streets and the proposed general layout of streets in the entire parcel; and
17. A draft of protective covenants, if any, with which the subdivider proposes to regulate and protect the proposed subdivision.
18. For major land development projects, landscape plan showing all significant proposed clearing of land, removal of existing vegetation, re-vegetation, landscaping on streets rights-of-way, and within common areas, with landscaping installation details and related notations;
19. For major land development projects, vehicular, bicycle, and pedestrian circulation diagrams;
20. References shall include the recording numbers and complete titles of the documents used in preparing the plat.

d. Final Submission

- (i) A properly executed application form (Application B) filled in its entirety and signed by the property owner(s). If the property is owned by a corporation, partnership, or other entity, articles of incorporation or other documentation to determine who is authorized to sign on behalf of the owner is required to be submitted with the application form.
- (ii) A notarized letter from the property owner(s) stating that the applicant has been granted the authority to proceed with the application with the owner(s) permission and consent, if the owner or applicant is different from the previous phases of the project.
- (iii) Application fee
- (iv) The proposed final plat printed on 11"x17" paper and the digital copy of the plat. The drawing(s) shall be at least a scale of 1" to 50', or such scale as the Planning Board or the Administrative Officer may prescribe as being adequate to show details clearly and shall contain the following information:
 1. Name of the subdivision or project
 2. Purpose statement, including existing and proposed number of lots
 3. North point and scale;
 4. Name and address of record owner, subdivider, designer or surveyor;
 5. Existing and proposed lines of streets, ways, lots, easements, utilities, including sewage disposal, natural water channels, public areas; proposed names of new streets shall be shown in pencil until the names have been approved by the Planning Board;
 6. Names and addresses of all abutters as determined from the most recent official tax list;

7. Existing fences, structures and trees eighteen (18”) inches or more in diameter that are to remain;
8. Sufficient data to determine the location, direction and length of every street and way, lot line and boundary line, and to establish these lines on the ground;
9. Location of all permanent monuments properly identified as to whether existing or proposed;
10. Location, name and present widths of streets bounding, approaching or within reasonable proximity of the subdivision;
11. Indication of purpose of easements, if any;
12. Existing and proposed topography at a suitable contour interval at City datum;
13. Profiles on the center line of proposed streets at a horizontal scale of one-inch equals forty feet and a vertical scale of one inch equals four feet or other scales acceptable to the Planning Board; all elevations shall refer to the city datum (NAVD 1988); and
14. Proposed layout of storm drainage, water supply and sewage disposal systems.
15. Note of restrictive covenants, if applicable
16. For minor subdivisions, subdivision approval block as on the following graphic located in the bottom right quarter of the plat.

PLANNING BOARD MINOR SUBDIVISION	
This subdivision is hereby approved in accordance with Rhode Island General Law §45-23-38 and Section I – General Provisions of the Newport Subdivision Regulations this _____ day of _____, 202__	
_____ Planning Board Chair	_____ Administrative Officer
Approved for filing this _____ day of _____, 202__	

17. For major subdivisions, subdivision approval block as on the following graphic located in the bottom right quarter of the plat.

PLANNING BOARD MAJOR SUBDIVISION	
This subdivision is hereby approved in accordance with Rhode Island General Law §45-23-39 and Section I – General Provisions of the Newport Subdivision Regulations this _____ day of _____, 202__	
_____	_____
Planning Board Chair	Administrative Officer

18. Dedication form: Streets, Ways, and Public Areas (Appendix Y)
19. A performance bond (or in lieu thereof, a certified check) in an amount determined by the Planning Board to be adequate to cover the cost of the minimum design requirements set forth in these regulations, and approved as to form and sureties by the City Finance Director, conditioned on the completion of such requirements within two years from the date of the bond. The bond will be released when the Director of Planning certifies that the required improvements have been satisfactorily completed; or

Instead of requiring a bond, the Planning Board may approve a subdivision on condition that no lot shall be sold until all improvements required by these regulations are constructed and installed so as to adequately serve such lots. Upon the completion, as certified to the Planning Board by the Director of Planning, of the improvements required to adequately serve all platted lots, or if so requested by the subdivider, any group of ten or more contiguous lots, the Planning Board will execute and deliver to the subdivider a release of restrictions and thereafter the restrictions relating to the lots listed therein shall terminate.

20. One (1) paper and one (1) digital (pdf) copy of any restrictive covenants, if any, to regulate and protect the subdivision.
21. For recording purposes, one (1) mylar and three (3) paper copies in 24"x36" at a scale 1" to 50' or as prescribed by the Planning Board or the Administrative Officer, and one (1) digital copy of the approved plan (pdf or CAD).

G. Pre-application Meetings and Concept Review

- I. One or more pre-application meetings shall be held for all major land development and subdivision applications. Pre-application meetings may be held for administrative and minor applications, upon request of either the Administrative Officer, the Planning Board, or the applicant. Pre-application meetings shall allow the applicant to meet with the Administrative Officer or his agent and, where appropriate, state agencies, for advice as to the required steps in the approval process, the pertinent local plans, ordinances, regulations, rules and procedures and standards which may bear upon the proposed subdivision or land development project.
- II. At the pre-application stage the applicant may request, with reasonable notice, the Planning Board for an informal concept plan review for a development. The purpose of the concept plan review is also to provide the Planning Board input in the formative stages of major subdivision or land development concept design.
- III. Applicants seeking a pre-application meeting or an informal concept review shall submit materials in advance of the meeting(s) as requested by the Administrative Officer or his agent.
- IV. Pre-application meetings shall aim to encourage information sharing and discussion of project concepts among the participants. Pre-application discussions are intended for the guidance of the applicant and shall not be considered approval of a project or its elements.

H. Application for Development and Certification of Completeness

- I. Classification. The Administrative Officer shall advise the applicant as to which category of approval is required project. The following categories of applications may be filed:
 - a. Subdivisions. Administrative subdivision, minor subdivision or major subdivision;
 - b. Land development projects. Minor land development or major land development; and
 - c. Development plan review.
- II. Certificate of Completeness. An application shall be complete for purposes of commencing the applicable time period for action when so certified by the Administrative Officer. In the event such certification of the application is not made within the time period specified in these regulations for the type of application, the application shall be deemed complete for purposes of commencing the review period unless the application lacks information required for such applications as specified in these regulations and the Administrative Officer has notified the applicant in writing of the deficiencies in the application.

- III. Notwithstanding subsections (I) and (II), above, the Planning Board may subsequently require correction of any information found to be in error, and submission of additional information specified in these regulations but not required by the Administrative Officer prior to the certification, as is necessary to make an informed decision.
- IV. Where the review is postponed with the consent of the applicant, pending further information or revision of information, the time period for review shall be stayed and shall resume when the Planning Board determines that the required application information is complete.

I. Administrative Subdivision Review

- I. Submission. Any applicant requesting approval of a proposed administrative subdivision shall submit to the Administrative Officer the items required in these regulations.
- II. Certification. The application shall be certified as complete or incomplete by the Administrative Officer within a fifteen (15) day period from the date of its submission.
- III. Review Process:
 - a. Within fifteen (15) days of certification of completeness, the Administrative Officer shall review the application and approve, deny or refer it to the Planning Board with recommendations. The Administrative Officer shall report its actions to the Planning Board at its next regular meeting for it to be made part of the record.
 - b. If no action is taken by the Administrative Officer within the fifteen (15) days, the application shall be placed on the agenda of the next regular Planning Board meeting.
- IV. Decision. If referred to the Planning Board, the Board shall consider the application and the recommendations of the Administrative Officer and shall either approve, approve with conditions, or deny the application within sixty-five (65) days of certification of completeness. Failure of the Planning Board to act within the time period prescribed shall constitute approval of the administrative subdivision plan and a certificate of the Administrative Officer as to the failure of the Planning Board to act within the required time and the resulting approval shall be issued upon request of the applicant.
- V. Denial of an application by the Administrative Officer shall not be appealable and shall then require the plan to be submitted as a minor subdivision application.
- VI. Approval of an administrative subdivision shall be evidenced by a written decision which shall be recorded with the city clerk.

- VII. Vesting. Approval of an administrative subdivision shall expire ninety (90) days from the date of approval unless within such period a plat in conformity with such approval is submitted for signature and recording.

J. Minor Subdivision and Minor Land Development Review

- I. Application types and review stages.
- a. Applications requesting relief from the City of Newport Zoning Code.
- (i) Applications under this section which require relief which qualifies only as a modification shall proceed by filing a minor subdivision or minor land development application and a request for a modification to the Zoning Officer. If such modification is granted, the application shall then proceed to be reviewed by the Administrative Officer pursuant to the applicable requirements of this section. If the modification is denied or an objection is received, such application shall proceed under unified development review.
 - (ii) Applications under this section which require relief from the literal provisions of the zoning ordinance in the form of a variance or special use permit, shall be reviewed by the Planning Board under unified development review, and a request for review shall accompany the preliminary plan application.
 - (iii) Any application involving a street creation or extension shall be reviewed by the Planning Board and require a public hearing.
- b. Other applications.
- (i) The Administrative Officer shall review and grant, grant with conditions or deny all other applications under this section. The Administrative Officer may utilize the Technical Review Committee for initial review and recommendation.
 - (ii) Review stages. Minor plan review consists of two (2) stages, preliminary and final; provided, that unless otherwise set forth in this section, if a street creation or extension is involved, or a request for variances and/or special use permits are submitted, pursuant to the regulation's unified development review provisions, a public hearing is required before the Planning Board. The Administrative Officer may combine the approval stages, providing requirements for both stages are met by the applicant to the satisfaction of the Administrative Officer.
 - (iii) Certification. For each applicable stage of review, the application shall be certified, in writing, as complete or incomplete by the Administrative Officer within twenty-five (25) days of the submission. If no street creation or extension is required, and/or unified development review is not

requested, and a completed checklist included in the application form is provided as part of the submission, such application shall be certified, in writing, complete or incomplete by the Administrative Officer within fifteen (15) days. The running of the time period set forth in this section will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the Administrative Officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the Administrative Officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission.

- (iv) Decision on preliminary plan. If no street creation or extension or unified development review is required, the Administrative Officer shall approve, deny, or approve with conditions, the preliminary plan within sixty-five (65) days of certification of completeness, or within such further time as is agreed to by the applicant and the Planning Board. If a street extension or creation is required, or the application is reviewed under unified development plan review, the Planning Board shall hold a public hearing prior to approval according to the requirements of these regulations and shall approve, deny, or approve with conditions, the preliminary plan within ninety-five (95) days of certification of completeness, or within such further time as is agreed to by the applicant and the Board.
- (v) Failure to Act. Failure of the Planning Board to act within the time period prescribed shall constitute approval of the preliminary plan and a certificate of the Administrative Officer as to the failure of the Planning Board to act within the required time and the resulting approval shall be issued on request of the applicant.
- (vi) Re-assignment to major review. The Planning Board may re-assign a proposed minor project to major review only when the Planning Board is unable to make the positive findings required in Section I – General Provisions, subsection N. Required Findings.
- (vii) Decision on final plan. Final plans shall be reviewed and approved by the Administrative Officer. The Administrative Officer will report their actions in writing to the Planning Board at its next regular meeting to be made part of the record. The Administrative Officer shall approve, deny, approve with conditions, or refer the application to the Planning Board based upon a finding that there is a major change within twenty-five (25) days of the certificate of completeness.
- (viii) Expiration. Approval of a minor subdivision or a minor land development plan expires in one (1) year from the date of approval unless within such period a plat or plan, in conformity with such approval, and as defined in these regulations, is submitted for signature and recording. Validity may

be extended for a longer period, for cause shown, if requested by the applicant in writing, and approved by the Planning Board.

K. Major Subdivision and Major Land Development Review

I. Review stages.

- a. Major subdivision and major land development review shall consist of three stages of review, master plan, preliminary plan and final plan, following the pre-application meeting(s). Also required is a public hearing at the master plan stage of review or, if combined at the first stage of review.
- b. The Administrative Officer may combine review stages and to modify but only the Planning Board may waive requirements as specified in these regulations. Review stages may be combined only after the Administrative Officer determines that all necessary requirements have been met by the applicant or that the Planning Board has waived any submission requirements not included by the applicant.

II. Master Plan review

- a. Submission requirements
 - (i) The applicant shall first submit to the Administrative Officer the items specified in these regulations for the master plan review stage.
 - (ii) Requirements for the master plan and supporting material for this phase of review shall include, but not be limited to: information on natural and built features of the surrounding neighborhood, existing natural and man-made conditions of the development site, including topographic features, the freshwater wetland and coastal zone boundaries, the floodplains, as well as the proposed design concept, proposed public improvements and dedications tentative construction phasing, and potential neighborhood impacts.
 - (iii) Initial comments will be solicited from the city departments, city-appointed boards and commissions, adjacent communities, state agencies, as appropriate, including the Department of Environmental Management and Transportation, and the Coastal Resources Management Council and federal agencies, as appropriate. The Administrative Officer shall coordinate review and comments by local officials, adjacent communities, and state and federal agencies.
 - (iv) Applications requesting relief from the zoning ordinance.

1. Applications under this chapter which require relief which qualifies only as a modification shall proceed by filing a master plan application under this section and a request for a modification to the Zoning Officer. If such modification is granted, the application shall then proceed to be reviewed by the Planning Board pursuant to the applicable requirements of this section. If the modification is denied or an objection is received as set forth in Chapter 17.108 of the Newport Zoning Code, such application shall proceed under unified development review.
 2. Applications under this section which require relief from the literal provisions of the zoning ordinance in the form of a variance or special use permit, shall be reviewed by the Planning Board under unified development plan review.
- b. Certification. The application shall be certified, in writing, complete or incomplete by the Administrative Officer within twenty-five (25) days of the submission. The running of the time period set forth herein will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the Administrative Officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the Administrative Officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission.
 - c. Technical Review Committee. The Technical Review Committee shall review the application prior to the first Planning Board meeting and shall comment and make recommendations to the Planning Board.
 - d. Public hearing.
 - (i) A public hearing will be held prior to the Planning Board decision on the master plan. If the master plan and preliminary plan review stages are being combined, a public hearing shall be held during the combined stage of review.
 - (ii) Notice for the public hearing is required and must be given at least fourteen (14) days prior to the date of the meeting in a newspaper of local circulation within the municipality. Notice must be mailed to all property owners within the notice area as specified in Section I – General Provisions, subsection M. Public Hearing and Notice.
 - (iii) At the public hearing, the applicant will present the proposed development project. The Planning Board must allow oral and written comments from the general public. All public comments are to be made part of the public record of the project application.
 - e. Decision. The Planning Board shall, within ninety (90) days of certification of completeness, or within such further time as may be consented to by the applicant through the submission of a written waiver, approve of the master

plan as submitted, approve with changes and/or conditions, or deny the application.

- f. Failure to Act. Failure of the Planning Board to act within the time period prescribed shall constitute approval of the master plan and a certificate of the Administrative Officer as to the failure of the Planning Board to act within the required time and the resulting approval shall be issued on request of the applicant.
- g. Vesting.
 - (i) The approved master plan shall be vested for a period of two (2) years, with right to extend for two (2) one-year extensions upon written request by the applicant, who must appear before the Planning Board for the annual review. Thereafter, vesting may be extended for a longer period for good cause shown, if requested by the applicant in writing and approved by the Planning Board. Master plan vesting shall include the zoning requirements, conceptual layout, and all conditions shown on the approved master plan drawings and supporting materials.
 - (ii) The initial four (4) year vesting for the approved master plan shall constitute the vested rights for the development as required by these regulations.

III. Preliminary Plan

- a. Submission requirements.
 - (i) The applicant shall first submit to the Administrative Officer the items specified in these regulations for preliminary plans.
 - (ii) At the preliminary plan review phase, the Administrative Officer shall solicit written comments from local government departments, commissions, or authorities as appropriate.
 - (iii) Prior to approval of the preliminary plan, copies of all legal documents describing the property, proposed easements, and rights-of-way.
 - (iv) Prior to approval of the preliminary plan, an applicant must submit all permits required by state or federal agencies, including permits related to freshwater wetlands, the coastal zone, floodplains, preliminary suitability for individual septic disposal systems, public water systems, and connections to state roads. For a state permit from the Rhode Island Department of Transportation, a letter evidencing the issuance of such a permit upon the submission of a bond and insurance is sufficient, but such actual permit shall be required prior to the issuance of a building permit.

- (v) If the applicant is requesting alteration of any variances and/or special use permits granted by the Planning Board at the master plan stage of review pursuant to unified development review provisions, and/or any new variances and/or special use permits, such requests and all supporting documentation shall be included as part of the preliminary plan application materials.
- b. Certification. The application shall be certified complete or incomplete by the Administrative Officer within twenty-five (25) days so long as a completed checklist of requirements are provided with the submission. The running of the time period set forth herein will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the Administrative Officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event shall the Administrative Officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission.
- c. Technical Review Committee. The Technical Review Committee shall review the application prior to the Planning Board meeting and shall comment and make recommendations to the Planning Board.
- d. Public Notice. Prior to the first Planning Board meeting on the preliminary plan, public notice shall be sent to abutters only at least fourteen (14) days before the hearing.
- e. Public Improvement Guarantees. Proposed arrangements for completion of the required public improvements, including construction schedules and/or financial guarantees shall be reviewed and approved by the Planning Board at preliminary plan approval.
- f. Decision. A complete application for a major subdivision shall be approved, approved with conditions, or denied within ninety (90) days of the date when it is certified complete, or within such further time as may be consented to by the developer through the submission of a written waiver. Provided that, the timeframe for decision is automatically extended if evidence of state permits has not been provided, or otherwise waived in accordance with this section.
- g. Failure of the Planning Board to act within the time period prescribed shall constitute approval of the preliminary plan and a certificate of the Administrative Officer as to the failure of the Planning Board to act within the required time and the resulting approval shall be issued on request of the applicant.
- h. Vesting. The approved preliminary plan shall be vested for a period of two (2) years with the right to extend for two (2), one-year extensions upon written request by the applicant, who must appear before the Planning Board for each annual review and provide proof of valid state or federal permits as applicable. Thereafter, vesting may be extended for a longer period, for good cause shown, if

requested in writing by the applicant, and approved by the Planning Board. The vesting for the preliminary plan approval shall include all general and specific conditions as shown on the approved preliminary plan drawings and supporting material.

IV. **Final Plan**

- a. Submission requirements
 - (i) The applicant shall submit to the Administrative Officer the items required by these regulations for the final plan, as well as all material required by the Planning Board when the application was given preliminary approval.
 - (ii) Arrangements for completion of the required public improvements, including construction schedule and/or financial guarantees.
 - (iii) Certification by the tax collector that all property taxes are current.
 - (iv) For phased projects, the final plan for phases following the first phase, shall be accompanied by copies of as-built drawings not previously submitted of all existing public improvements for prior phases.
- b. Certification. The application for final plan approval shall be certified complete or incomplete by the Administrative Officer within fifteen (15) days. This time period may be extended to twenty-five (25) days by written notice from the Administrative Officer to the applicant where the final plans contain changes to or elements not included in the preliminary plan approval. The running of the time period set forth herein shall be deemed stopped upon the issuance of a certificate of incompleteness of the application by the Administrative Officer and shall recommence upon the resubmission of a corrected application by the applicant. However, in no event shall the Administrative Officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission. If the Administrative Officer certifies the application as complete and determines that further submission to the Planning Board is not required, the final plan shall be considered to be approved.
- c. Decision. The Administrative Officer, or, if referred to it, the Planning Board, shall review, grant, grant with conditions or deny final plan approval. A decision shall be issued within forty-five (45) days after the certification of completeness, or within a further amount of time that may be consented to by the applicant, approve or deny the final plan as submitted.
- d. Failure to act. Failure of the Administrative Officer or, if referred to it, the Planning Board to act within the prescribed period constitutes approval of the final plan and a certificate of the Administrative Officer as to the failure of the to

act within the required time and the resulting approval shall be issued on request of the applicant.

- e. Expiration of approval. The final approval of a major subdivision or land development project shall expire one (1) year from the date of approval with the right to extend for one year upon written request by the applicant, who must appear before the Planning Board for the annual review, unless, within that period, the plat or plan has been submitted for signature and recording. The Planning Board may, for good cause shown, extend the period for recording for an additional period.
- f. Acceptance of Public Improvements. Signature and recording shall constitute the acceptance by the City of any street or other public improvements or other land intended for dedication. Final plan approval shall not impose any duty upon the City to maintain or improve those dedicated areas until the City Council accepts the completed public improvements as constructed in compliance with the plans.
- g. Validity of Recorded Plans. The approved final plan, once recorded, shall remain valid as the approved plan for the site unless and until an amendment to the plan is approved under procedures set forth in these regulations or a new plan is approved by the Planning Board.
- h. Appeal. Decisions under this section shall be considered an appealable decision pursuant to the superior court of Newport County.

L. Unified Development Review

- I. Except for dimensional relief granted by modification as set forth in Chapter 17.108. Variances and Modifications of the Newport Zoning Code, review and decision of variances and special use permits for properties undergoing review by development plan review, land development or subdivision review shall be conducted by the Planning Board with this process known as unified development review. Review of projects submitted under this section shall adhere to the procedures, timeframes and standards of the underlying category of the project as listed in Section I – General Provisions, subsections H through K and R of these regulations, but shall also include the following procedures:
 - a. Minor subdivisions and land development projects. Except for dimensional relief granted by modification, requests for variances and/or for the issuance of special use permits (Appendix X) related to minor subdivisions and land development projects shall be submitted as part of the application materials for the preliminary plan stage of review or if combined, for the first stage of reviews. A public hearing on the application, including any variance and special use permit requests shall be held prior to consideration of the preliminary plan by the Planning Board. The Planning Board shall conditionally approve or deny the request(s) for the variance(s) and/or special use permit(s) before considering the preliminary plan application for the minor subdivision or land development project. Approval of

the variance(s) and/or special use permit(s) shall be conditioned on approval of the final plan of the minor subdivision or land development project.

- b. Development plan review. Except for dimensional relief granted by modification, requests for relief from the literal requirements of the zoning ordinance and/or for the issuance of special use permits (Appendix X) related to development plan review projects shall be submitted as part of the application materials for first stage of review. A public hearing on the application, including any variance and special use permit requests shall be held prior to consideration of the preliminary plan by the Planning Board. The Planning Board shall conditionally approve or deny the request(s) for the variance(s) and/or special use permit(s) before considering the application for the development plan. Approval of the variance(s) and/or special use permit(s) shall be conditioned on approval of the development plan review project.
- c. Major subdivisions and land development projects.
 - (i) Master plan. Except for dimensional relief granted by modification, requests for variances for relief from the literal requirements of the zoning ordinance and/or for the issuance of a special use permit (Appendix X) related to major subdivisions and land development projects shall be submitted as part of the application materials for the master plan stage of review, or if combined, the first stage of review. A public hearing on the application, including any variance and special use permit requests, shall be held prior to consideration of the master plan by the Planning Board. The Planning Board shall conditionally approve or deny the requests for the variance(s) and/or special use permit(s) before considering the master plan application for the major subdivision or land development project. Approval of the variance(s) and/or special use permit(s) shall be conditioned on approval of the final plan of the major subdivision or land development project.
 - (ii) Preliminary plan. During the preliminary plan stage of review, applicants shall have the ability to request alteration of any variance(s) and/or special use permit(s) granted by the Planning Board during the master plan stage of review, and/or to request new variance(s) and/or special use permit(s), based on the outcomes of the more detailed planning and design necessary for the preliminary plan. If necessary, the applicant shall submit such requests (Appendix X) and all supporting documentation along with the preliminary plan application materials. If the applicant requests new or additional zoning relief at this stage a public hearing on the application shall be held prior to consideration of the preliminary plan by the Planning Board. The Planning Board shall conditionally approve, amend, or deny the requests for alteration(s), new variance(s) and/or new special use permit(s), before considering the preliminary plan application for the major subdivision or land development project. Approval of the alteration(s), new variance(s), and/or new special use permit(s) shall be conditioned on

approval of the final plan of the major subdivision or land development project. If the Planning Board denies the request for alteration(s), new variance(s), and/or new special use permit(s), the Planning Board shall have the option of remanding the application back to the master plan stage of review. Alternatively, if the Planning Board denies the request for alteration(s), new variance(s), and/or new special use permit(s), the applicant may consent to an extension of the decision period mandated by Section I chapters I through K of these regulations so that additional information can be provided and reviewed by the Planning Board.

- d. **Public Hearing.** All land development and subdivision applications, and development plan review applications that include requests for variances and/or special use permits submitted pursuant to this section, shall require a public hearing. Unless otherwise provided in these regulations, all applications under this section shall require a single public hearing. Public notice of the hearing shall adhere to the provisions given in Section I – General Provisions, subsection M. Public Hearing and Notice of these regulations.
- e. In granting requests for dimensional variances, the Planning Board shall be bound to the requirements of Chapter 17.108.020, Variances of the Newport Zoning Code relative to entering evidence into the record in satisfaction of the applicable standards.
- f. In reviewing requests for special use permits, the Planning Board shall be bound to the conditions and procedures under which a special use permit may be issued as described in Chapter 17.109, Special Use Permits of the Newport Zoning Code.
- g. **Decision.** The time periods by which the Planning Board must approve or deny applications for variances and special use permits under the unified development review provisions of the local regulations shall be the same as the time periods by which the Board must make a decision on the applicable review stage of the category of project under review.
- h. The expirations period of an approval of a variance or special use permit granted under this section shall be the same as those set forth for the underlying type of project under review.
- i. **Appeals.** An appeal from any decision made pursuant to this section, including requests for the variance(s) and/or special use permits that are denied by the Planning Board, may be taken pursuant to RIGL § 45-23-71, Appeals to the Superior Court.

M. Public Hearing and Notice

- I. Where a public hearing shall be is required, the following applies:
 - a. Public notice of the hearing shall be given at least fourteen (14) days prior to the date of the hearing in a newspaper of local circulation in the City. The same notice shall be posted in the city clerk’s office and one other municipal building in the municipality and the municipality must make the notice accessible on the municipal home page of its website at least fourteen (14) days prior to the hearing. Notice shall be sent to each property owner within 200 feet of the boundary of the project area, by first class mail, of the time and place of the hearing not less than ten (10) days prior to the date of the hearing. Notice shall also be sent to any individual or entity holding a recorded conservation or preservation restriction on the property that is the subject of the application at least fourteen (14) days prior to the hearing. The notice shall also include the street address of the subject property, or if no street address is available, the distance from the nearest existing intersection in tenths (1/10’s) of a mile.
 - b. Public notice shall indicate that dimensional variance(s) and/or special use permit(s) are to be considered for the subdivision and/or land development project.
 - c. The Planning Department shall be responsible of the postings in the municipal buildings and on the municipal website. The applicant shall be responsible for the newspaper and mail notices, the cost of such notices, and shall submit a notarized affidavit to the Planning Department to attest to the mailing.
 - d. Notice of the public hearing shall be sent by the administrative office to the Administrative Officer of the adjacent municipality if (a) the notice area extends into the adjacent municipality, or (b) the development site extends into the adjacent municipality, or (c) there is a potential for significant negative impact on the adjacent municipality.

N. Required Findings

- I. For all administrative, minor, and major development applications, the approval authority shall address each of the general purposes of these regulations and shall make positive findings on the following standard provisions, as part of the proposed project’s record prior to approval:
 - a. The proposed development is consistent with the Comprehensive Plan and/or has satisfactorily addressed the issues where there may be inconsistencies.
 - b. The proposed development is in compliance with the standards and provisions of the City of Newport Zoning Code.

- c. There will be no significant negative environmental impacts from the proposed development, as shown on the final plans, with all required conditions for approval.
- d. Subdivision, as proposed, will not result in the creation of individual lots with such physical constraints to development that building on such lots according to pertinent regulations, codes and building standards would be impracticable. Lots with such physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.
- e. All proposed land developments and all subdivision lots have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered compliance with this requirement.

O. Signing and Recording of Plats and Plans

- I. All approved final plans and plats for subdivisions and land development projects shall be signed by either the Chair or the Secretary of the Planning Board, or the Administrative Officer with the date of approval attesting to the approval by the applicable review authority.
- II. Upon signature, all plans and plats shall be submitted to the Administrative Officer prior to recording and filing in the Department of Planning and Development. The material to be recorded for all plans and plats shall include all pertinent plans with notes thereon concerning all the essential aspects of the approved project design, the implementation schedule, special conditions placed by the City, permits and agreements with state and federal reviewing agencies, and other information as required by the Planning Board.
- III. Other parts of the application record for development projects, including all meeting records, approved preliminary plans, site analyses, impact analyses, all legal agreements, records of the public hearing and the entire final approval set of drawings shall be kept permanently in the Department of Planning and Development.
- IV. The Administrative Officer shall notify the statewide “911” emergency authority and the Newport Police and fire Departments with the information required by each of the authorities.

P. Changes to Recorded Plats and Plans

- I. For all changes to the approved development plans subject to these regulations, an amendment of the final plan is required prior to the issuance of any building permits. Any changes approved in the final plan shall be recorded as amendments to the final plan in accordance with the procedures established for recording of plans in these regulations.

- II. Minor changes to the plans approved at any stage involving no change in use, or number of lots, or drainage requirements, or circulation, or quality or quantity of other site improvements may be approved by the Administrative Officer, whereupon a permit may be issued. Such changes may be authorized without additional public hearings, at the discretion of the Administrative Officer and the Administrative Officer shall transmit the approved changes to the Planning Board. The Planning Board then may either concur with the approval of minor changes or may require a review as a major change, in which case any building permit issued for the said application shall be null and void. Denial of a request for a minor change shall be reviewed to the Planning Board for review as a major change. All such changes shall be made a part of the permanent record of the application. This provision does not prohibit the Administrative Officer from requesting recommendation from either the Technical Review Committee or the Planning Board.
- III. Major changes, changes which are not minor or which are deemed to be major changes by either the Planning Board or the Administrative Officer, may be approved only by the Planning Board and must include a public hearing. The Administrative Officer shall notify the applicant in writing within fourteen (14) days of submission of the final plan application if the Administrative Officer determines the change to be a major change of the approved plans.
- IV. Appeal. Decisions under this section shall be considered an appealable decision pursuant to the superior court of Newport County.

Q. Construction and/or Improvement Guarantees

- I. Planning Board shall approve any and all agreements for the completion of all required public improvements prior to the final plan approval in the form of:
 - a. completion of actual construction of all improvements
 - b. improvement guarantees; or
 - c. a combination thereof.
- II. Where improvements are constructed without a financial guarantee, the work is to be completed prior to final approval. All construction shall be inspected and approved by the Director of Planning and Development under the direction of the Administrative Officer and according to these regulations.
- III. Improvement guarantees shall be in an amount and with all necessary conditions to secure for the City the actual construction and complete installation of all required improvements within the period specified by the Planning Board. The amount shall be based on actual cost estimates for all required public improvements and these estimates shall be reviewed and approved by the Planning Board. The Planning Board may fix the guarantee in a reasonable amount in excess of the estimated costs to anticipate for economic or construction conditions.
- IV. The security shall be in a form acceptable to the Finance Director and shall enable the City to gain timely access to the secured funds, for cause.

- V. In case of subdivisions and land development projects which are being approved and constructed in phases, the Planning Board shall specify improvement guarantee requirements related to each particular phase.
- VI. The Planning Board may also require maintenance guarantees to be provided for a one-(1) year period subsequent to completion, inspection, and acceptance of the improvements(s), unless there are extenuating circumstances.
- VII. Notwithstanding other improvement guarantees, a performance bond, in the form of a certified check, bond, letter of credit, or other acceptable form of surety satisfactory to the Finance Director may be required of the applicant for the proposed drainage system (whether or not it constitutes a public improvement) prior to initiating construction. The amount of the performance bond will be approved by the Utilities Department and be sufficient to cover 100% of the cost of the drainage system.

R. Development Plan Review

- I. Intent. The purpose of development plan review process is to ensure compliance with the comprehensive plan and protect the public health, safety, and general welfare of the community by providing a review of plans for uses which may have significant impact on traffic, municipal services and utilities, the environment, economic development or the public health and safety. Development plan review reviews new development and substantial alteration of existing development in order to ensure a basic standard of building, site and landscape design. Development plan review shall not be used for the purpose of denying an applicant a permitted use of the property as established by the zoning code. The Planning Board shall serve as the review agency of applications for uses requiring a special use permit, a variance, a zoning ordinance amendment and/or a zoning map change which are subject to development plan review. The Technical Review Committee established pursuant to Chapter 2.68.040.B. of the Codified Ordinances of the City of Newport shall assist the Planning Board in its review of said applications by providing advice, comment and recommendations. The Technical Review Committee shall serve as the review agency for uses that are permitted by right which are subject to development plan review.
- II. Uses requiring development plan review:
 - a. Transient guest facilities.
 - b. Any multifamily dwelling use or adaptive reuse involving an increase of three or more dwelling units or when the total number of dwelling units is six or greater.
 - c. Any commercial use of ten thousand (10,000) gross square footage or greater.
 - d. Any individual restaurant of four thousand (4,000) gross square footage or greater.
 - e. Any professional or medical office of ten thousand (10,000) gross square footage or greater or combination of professional or medical office in conjunction with

other commercial uses such that the total gross square footage is ten thousand (10,000) or greater.

- f. Hospitals, convalescent and rest homes; schools, colleges and universities, including dormitories; museums; libraries; churches; alcohol research and rehabilitation facilities.
- g. Parking areas for more than ten automobiles.
- h. Vacation guest facilities.
- i. Public utilities – Private electrical services
- j. A change in use at the property where no extensive construction of improvements is sought;

III. Review authority

- a. All applications for development plan review which require zoning approval, shall be filed with the Zoning Board of Review by submitting a complete application with the zoning officer. The application shall be placed on the next available Zoning Board of Review agenda and shall immediately be forwarded to the Technical Review Committee and Planning Board. Once referred by the zoning officer, development plan review shall begin with a review of the application by the Technical Review Committee which shall be advisory to the Planning Board which shall complete the development plan review. The Planning Board's review with its findings, recommendations and approvals shall be in writing and shall be advisory to the Zoning Board of Review.
- b. For applications for uses which are permitted by right and which are subject to development plan review, complete applications for development plan review shall be filed with the Administrative Officer for the Technical Review Committee.

IV. Guidelines and standards for review.

- a. Prior to granting any development plan review approval or issuing findings or recommendations concerning approval to the Zoning Board of Review, the Planning Board, or in the case of an application for a use permitted by right, the Technical Review Committee, shall find that:
 - (i) The granting of the approval will not result in conditions inimical to the public health, safety or welfare;
 - (ii) The granting of the approval will not substantially or permanently injure the appropriate use of property in the surrounding area or zoning district;

- (iii) The plans for the development comply with the requirements of the zoning ordinance and subdivision regulations, Titles 12, 13 and 15 of the Codified Ordinances of the City of Newport governing public services, streets, sidewalks and public places, parking, buildings and construction as well as laws, ordinances, rules and regulations governing stormwater management. An applicant may seek waivers and modifications of the requirements of the subdivision regulations and variances from the requirements of the zoning ordinance pursuant to provisions authorizing the same.
 - (iv) The plans for the development are consistent with the comprehensive plan; and
 - (v) Conditions, restrictions or required site improvements required to meet these guidelines are incorporated in the written approval or guidelines.
- V. Development plan contents. Development plans required in accordance with this chapter shall contain the following minimum information:
- a. Proposed name of the development.
 - b. Name and address of the owners and applicant/owner's representative of the property.
 - c. Tax assessor's plat and lot number.
 - d. Perimeter boundaries of the entire property with lot area and dimensions indicated.
 - e. Date, scale, north arrow, phasing, and number of sheets.
 - f. Scale shall be one inch equals fifty (50) feet or larger;
 - g. If the project is to be constructed in phases, this should be clearly indicated;
 - h. When more than one sheet is required, a cover sheet drawn to suitable scales shall show the entire site and indicate match lines for each page of the plan.
 - i. A vicinity map which indicates the location of the site in relation to the immediate surrounding area or the entire city.
 - j. Name, address, stamp/seal and signature of the professional preparing the plan.
 - k. Existing and proposed topography at a suitable contour interval.
 - l. All existing or proposed easements and rights-of-way.
 - m. Limit of disturbance, location and square footage of buildings proposed, and breakdown by square footage of intended uses or number of units.
 - n. Layout of proposed parking area, including arrangement and dimensions of parking spaces and drive aisles as well as existing and proposed points of ingress/egress.
 - o. Existing and proposed sewers, watermains, culverts and other underground facilities, indicating pipe sizes, grades, manholes and location, both onsite and offsite.
 - p. Existing and proposed drainage system.
 - q. Location and type of lighting.

- r. Location and dimensions of pedestrian entrances, exits, and walkways.
 - s. Location of any proposed freestanding signs.
 - t. Identification of proposed dumpster pad.
 - u. Identification of any wetland located on the site and flood hazard information, if applicable.
 - v. A landscape plan of existing and proposed trees, shrubs, and other vegetation prepared by a registered landscape architect.
 - w. Stormwater management plan. The development plan shall contain all of the information and meet the requirements of the City of Newport department of utilities' requirements for development plans submitted for development plan review.
 - x. All applicants must provide a copy of any existing institutional master plan or similar plan describing existing and/or anticipated institutional development. The Administrative Officer may require that an institutional master plan be prepared and submitted if the uses on the property are of such a nature that it is reasonably expected that further development thereon may be planned or take place.
 - y. Any additional information deemed necessary by city staff in order to satisfactorily complete review as it pertains to a particular required improvement or other aspect of the proposed development plan. This may include information such as projected average daily water consumption for potable and non-potable purposes; projected average daily wastewater flow; frequency and duration of peak usage of water and sewer facilities; effluent characteristics; water pressure; existing roadway capacity and traffic counts; projected average daily vehicle trips and peak hour trips generated.
- VI. Development plan submission.
- a. Development plans may be submitted by the property owner or owner's representative. The reviewing agency, being the Planning Board or Technical Review Committee as the case may be, shall make the final determination as to the adequacy of the development plan submitted for the purposes of this chapter. A development plan which is not complete and fails to satisfactorily provide the necessary minimum information described in Section 17.88.040 shall not be accepted for review. In such instances, the applicant will be notified in writing by the Administrative Officer within five (5) working days as to the reasons why the proposed development plan is not accepted for review. It shall be necessary for the development plan to be prepared by a professional architect, landscape architect, engineer and/or surveyor who are licensed in the State of Rhode Island.
 - b. Prior to submittal of the development plan, the applicant may be required to attend one or more pre-application conferences with the Administrative Officer.

VII. Filing procedures and processing.

- a. The applicant shall comply with the requirements established by the Administrative Officer for the format and number of copies of the development plan to be submitted for processing and review. At the time the development plan is submitted to the city for review, a fee in accordance with Chapter 2.120 General Fee Schedule shall be paid to the city. After the development plan, related materials and fee have been submitted and is determined to be complete, it shall be processed and reviewed by the reviewing agency, being the Planning Board or Technical Review Committee, as the case may be, in accordance with the provisions of this chapter.
- b. The reviewing agency shall act upon the development plan and related material as submitted by the developer, or as modified by the development review process within forty-five (45) days of its submittal.
- c. Reports of the Technical Review Committee to the Planning Board shall be in writing and be part of the permanent record of the development application. In no case shall the recommendations of the Technical Review Committee be binding on the Planning Board in its activities or decisions. All reports of the Technical Review Committee shall be made available to the applicant prior to the meeting of the Planning Board at which the reports are first considered.

VIII. Required site improvements. Improvements of the following type may be required by the city during the course of development plan review. All such required improvements are to be constructed in accordance with the accepted standards and specifications of the city.

- a. Right-of-way improvements to include pavement widening, curb, gutter, sidewalks and street lights.
- b. Adequate sewage collection and disposal facilities including the provision of manholes or the construction of upgrading of pump stations.
- c. An adequate water supply and distribution system for both fire protection, (including hydrants) and potable purposes.
- d. Improvements to traffic flow and circulation, to include turn and by-pass lanes, signalization, pavement markings, and other traffic control measures.
- e. Drainage improvements for the disposition of storm or natural waters so as not to have a detrimental effect on the property of others or the public right-of-way.
- f. Plantings, trees, shrubs, and vegetation, as well as screening, fences, walls or berms where required by other sections of this zoning code, to provide privacy, protect public safety, and afford aesthetics.
- g. Driveways and entrances to streets for both pedestrian and vehicular access.
- h. Temporary or permanent erosion and sediment control measures.
- i. Easements for the purpose of adequate ingress/egress or the provision of public utilities such as water and sewer.
- j. For new construction or renovations resulting in the upgrading of services, all utilities shall be installed underground.

- IX. Development plan review prerequisite for building permit. No building permit shall be issued to construct, erect or alter any building or structure, or develop, change, or improve land for which a development plan is required, except in accordance with the approved development plan. The approved development plan and any applicable stipulations shall become part of the application for a building permit and shall be binding on any building permit issued.
- X. Construction in accordance with development plan. It shall be unlawful for any person to construct, erect or alter any building or structure, or develop, change or improve land for which a development plan is required, except in accordance with the approved development plan. The city may restrain any unlawful act hereunder by a stop work order, and by appropriate court action.
- XI. Performance requirements.
- a. A certificate of occupancy shall not be issued until all requirements of the development plan are met.
 - b. Where required improvements are of a public nature that are to be subsequently accepted for dedication, maintenance, or operation by the city, and their installation has not been made, in whole or in part, the city may issue a certificate of occupancy provided the applicant furnishes the city a certified check, bond, letter of credit, or other acceptable form of surety satisfactory to the city solicitor. The surety is to be held by the finance director. Estimated construction costs shall be in accordance with the approved development plan and the amount thereof, subject to the approval of the city engineer or other designated official.
 - c. Performance bonds or other sureties established in subsection B of this section shall be released when the city engineer or other designated city official certifies that the requirements set forth have been met.
 - d. Where any improvement is to be accepted for dedication, maintenance, or operation by the city, the applicant may be required to provide a certified check, bond, letter of credit, or other acceptable form of surety in the amount of ten percent of the total costs of the improvements involved to cover the costs of any defects which may occur in such improvements within two years after the date of acceptance by the city. The director of public services shall be responsible for determining when such surety shall be required.
- XII. Revisions. A development plan may be revised or modified provided it is done in accordance with the provisions and procedures of this chapter in the same manner as originally approved. Any substantial modification or revision to a development plan will require re-submittal as for a new plan. Approval of the development plan shall become null and void unless the use of the land has commenced or a building permit issued within one (1) year from the date of approval. Upon the request of the applicant, approval of the development plan may be revalidated for one additional ninety (90) day period if all factors of the original development plan review are the same and the applicant requests revalidation prior to the expiration of the original

approval period. A determination as to what constitutes a substantial modification or revision is to be made by the reviewing agency.

XIII. Appeals. An aggrieved party with respect to a decision of the Technical Review Committee on an application involving a use permitted by right shall have the right to appeal such decision to the Zoning Board of Review. The Zoning Board of Review shall articulate and explain the reasons and basis of each decision. The Zoning Board of Review shall send a copy of the decision to the aggrieved party, and to all parties entering an appearance. An aggrieved party may appeal the decision of the Zoning Board of Review on a matter appealed under this chapter to the superior court of Newport County.

SECTION II – DESIGN STANDARDS

A. Relation to Comprehensive Plan

- I. The proposed subdivision shall conform, as far as practicable, to the Comprehensive Plan as adopted by the City Council.
- II. In considering a proposed subdivision, the Planning Board shall pay due regard to the character of the subdivision, whether open residence, dense residence, business, or industrial.

B. Streets

- I. General Design: The arrangement, character, extent, width, grade, location of all streets shall be considered in their relation to existing and planned streets, side conditions, public conveniences and safety. Due consideration shall also be given by the subdivider to the attractiveness of the street layout in order to obtain the maximum livability of the subdivision. All streets shall be designed so that, in the opinion of the Planning Board, they will provide safe vehicular travel.
- II. Local streets shall be so laid out that their use by through traffic will be discouraged.
- III. Arterial streets: separation may be required by the Planning Board by use of marginal access roads, a planting screen in a non-access reservation, or other suitable treatment.
- IV. Limited access right-of-way: separation of subdivision from limited access row may be required by the Planning Board by use of parallel access roads, planting screen in a non-access reservation or other suitable treatment.
- V. Street extensions or access to adjoining property not yet subdivided shall be provided for in a manner satisfactory to the Planning Board.
- VI. Reserve strips prohibiting access to streets or adjoining property are prohibited except where in the opinion of the Planning Board such strips shall be in the public interest.
- VII. Street jogs shall have centerline offsets of not less than 125 feet.
- VIII. A tangent of at least 100 feet shall be introduced between reverse curves on arterial and major streets.
- IX. The minimum centerline radii of curved local streets shall normally be 200 feet. Greater radii may be required for major and arterial streets.
- X. When connecting street lines deflect from each other at any one point by more than ten (10°) degrees, they shall be connected by a curve with centerline radius of at least 100 feet for local streets; greater radii may be required for major and arterial streets.

- XI. Streets shall intersect as nearly as possible at right angles. No street shall intersect any other street at less than sixty (60°) degrees.
- XII. Property lines at street intersections shall be rounded with a radius of not less than 20 feet, or greater radii as the Planning Board requires.

C. Street Widths. Minimum street rights-of-way shall be as follows:

<u>Street type</u>	<u>Rights-of-way feet</u>
Arterial	80
Major	64
Local	40
Marginal access	40

Greater width shall be required by the Planning Board when deemed necessary for present and future vehicular travel.

D. Street Grade. Street grades, when feasible, shall not exceed the following limits with due allowance for reasonable vertical curves except no street grade shall be less than 0.5%.

<u>Street type</u>	<u>Rights-of-way feet</u>
Arterial	5
Major	5
Local	8
Marginal access	8

E. Dead-end Streets

- I. Dead-end streets shall not be longer than four hundred (400') feet unless in the opinion of the Planning Board greater length is necessitated by local site conditions.
- II. Dead-end streets shall be provided at the closed end with a turn-around having an outside roadway diameter of at least one hundred (100') feet and a property line diameter of at least one hundred fifteen (115') feet.
- III. Dead-end streets are prohibited for major and arterial streets.

F. Sidewalks shall be placed along all major and arterial streets and local streets where necessary for pedestrian safety or in conjunction with schools, playgrounds, shopping centers, or other community facilities.

G. Curbs shall be constructed along the gutterline of all streets for control of storm water run-off and pedestrian safety.

H. Easements

- I. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be not less than fifteen (15') feet wide.
- II. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course. Further width or construction, or both, may be required to provide adequate drainage.

I. Blocks

- I. The length, width, and shape of city blocks shall be determined with due regard to:
 - a. provision of adequate building sites for the type of use contemplated;
 - b. zoning requirements as to lot sizes and dimensions; and
 - c. need for convenient access, circulation and safety of vehicular traffic.
- II. Block lengths shall not exceed twelve hundred (1,200') feet or be less than four hundred (400') feet.

J. Pedestrian Ways a minimum of ten (10') feet in width may be required by the Planning Board to provide pedestrian access to schools, playgrounds or other community facilities.

K. Lots

- I. The shape and orientation of lots shall be appropriate for the location of the subdivision and the type of development contemplated.
- II. Lot sizes, set back lines, and minimum frontage shall conform to the Zoning Ordinance requirements.
- III. All lots shall be served by public sewer and water. Permission to serve lots by private water and sewer systems may be granted subject to the approval of the Board of Health.
- IV. All lots shall have satisfactory access to a public street.
- V. Side lot lines shall be substantially at right angles or radial to street lines.
- VI. Double frontage and reverse frontage lots should be avoided, except where needed to overcome specific disadvantages, such as arterial streets, topography or orientation. A screen planting in a non-access reservation at least ten (10') feet wide shall be provided in such cases.

L. Open Spaces

Before approval of a plan, the Planning Board may also, in proper cases, require the dedication or reservation of such area within the subdivision for a school, playground, or other public use, or for light and air, as they deem suitable to the needs created by the subdivision.

M. Protection of Natural Features

Due regard shall be shown for all natural features, such as large trees, water courses, scenic points, historic spots, and other community assets, which, if preserved, will add attractiveness and value to the property.

N. Utilities

In minor and major subdivisions, all electric utility lines, communications lines, and street lighting lines shall be installed underground. (3/70)

O. Control of Storm Water Runoff

Unmitigated storm water from areas altered by development may pose public health and safety threats. Potential contaminants in storm water runoff may include suspended solids, nitrogen, phosphorus, hydrocarbons, heavy metals, pathogenic organisms (bacteria and viruses), and road salts. In order to protect the health, safety, and general welfare of the residents of Newport, as well as to protect, sustain, and enhance the surface and ground water resources of Newport, drainage and stormwater management practices shall be utilized as directed herein to reduce the impact of these pollutants and to control the flooding impact of storm water runoff.

Storm water management and erosion control measures shall apply to Minor Subdivisions exceeding 20,000 square feet in lot area, and all Major Subdivisions.

P. General Standards

- I. Reduce impervious surface to the greatest extent practicable and retain as much natural undisturbed vegetation as possible.
- II. Maintain natural drainage patterns wherever possible.
- III. Incorporate natural elements into the drainage design (e.g. grass swales, catch basins, etc.)
- IV. Storm drains, catch basins, and related facilities shall be designed to adequately drain all low points along streets, prevent additional water from flowing onto adjacent properties, and intercept storm water runoff along streets.

- V. The drainage system shall be designed to accommodate storm water such that post-construction conditions do not result in an increase in peak runoff rate or volume from extant preconstruction conditions.

- VI. Lot shall be graded consistent with drainage in the immediate area and in such a manner that development of the subject lot will not result in detrimental drainage to another lot or adjacent parcels. All maintenance plans, stormwater design plans, and performance criteria shall conform to Rhode Island stormwater design and installation standards. To the maximum extent possible stormwater design shall utilize modern nonstructural low impact design practices and techniques.

SECTION III – REQUIRED IMPROVEMENTS

A. Required public improvements

The subdivider shall construct all improvements as required by these regulations at his own expense. All required public improvements shall reflect the physical character and design for that district as specified in the Comprehensive Plan.

B. Streets:

Streets shall be constructed in accordance with the standard specifications of the City of Newport.

C. Curbs:

- I. Curbs shall be provided for all streets and intersections and shall be constructed in accordance with the standard specifications of the City of Newport.
- II. Curb cuts shall not be permitted closer than seventy-five (75') feet to the center point of an intersection.

D. Sidewalks:

- I. Construction: sidewalks shall not be less than four (4') feet wide. Greater width may be required by the Planning Board according to the character of the subdivision.
- II. Sidewalks shall be constructed in accordance with the standard specifications of the City of Newport.

E. Driveways:

Driveways shall be constructed in accordance with the standard specifications of the City of Newport.

F. Utilities:

- I. Sewer lines and related equipment, such as manholes and connecting Y's, shall be constructed in conformity with the City of Newport standards and specifications.
- II. Water lines and related equipment, such as hydrants and Main Street off valves, shall be constructed in conformity with the City of Newport standards and specifications.
- III. In minor and major subdivisions, electric utility lines, communications lines and street lighting lines shall be installed underground. (3/70).
- IV. All utility lines shall be so located as to preserve the character and livability of the subdivision.

- V. Adequate disposal of surface water shall be provided for in a manner satisfactory to the Director of Utilities. Catch basins shall be built in conformity to the City of Newport standards. All necessary drains, culverts, and bridgework shall conform to the City of Newport standards and specifications.

G. Street Signs

Street signs shall be provided at all street intersections within the subdivision. Dead-end streets shall be properly signed. Street signs shall conform to the City of Newport standards and specifications.

H. Monuments:

- I. Permanent monuments shall be installed at all street intersections, at all points in changes of direction or curvature of streets, and at other parts where, in the opinion of the Planning Board, permanent monuments are necessary.
- II. No permanent monuments shall be installed until all construction which would destroy or disturb the monuments is completed.
- III. All monuments shall be constructed of granite, minimum dimensions to be four inches square and thirty inches long (4" x 4" x 30").

I. Street Lights: (2/86)

- I. Street lights shall be provided and installed:
 - a. Along arterial or major streets;
 - b. In all residential, commercial and industrial subdivisions;
 - c. Located where the interests of safety and security for persons, property, or traffic are best served by their installation.
- II. Street lighting shall be provided and installed as set forth in the standard specifications of the City of Newport.
- III. The subdivider shall be responsible for the capital costs associated with the installation of required street lights. This amount is to be paid to the City of Newport prior to the approval of the subdivision by the Planning Board.

SECTION IV - ADMINISTRATION

A. The Administrative Officer

- I. Administrative Officer. Also known as the City Review Agent. The Director of Planning and Development, or designee, shall serve as the Administrative Officer for the purposes of these Subdivision and Land Development Regulations.
- II. The Administrative Officer's responsibilities shall include:
 - a. issuing certificates of completeness, failure to act notices, approval notices;
 - b. reviewing and coordinating the review process on applications for subdivisions;
 - c. collecting required fees for applications for subdivision;
 - d. receiving and reviewing for proper form all applications for subdivision;
 - e. transmitting all applications to the Planning Board, Utilities Department and other City officials as is necessary for proper review;
 - f. keeping records on compliance of the subdivision regulations;
 - g. inspecting suspected violations of these regulations and issuing violation notices;
 - h. collecting fees for violations;
 - i. maintaining and updating the text and appendices of the subdivision and land development regulations;
 - j. reviewing the subdivision and land development regulations at regular intervals; and, whenever changes are necessary, identifying the changes and forwarding recommendations to the Planning Board; and
 - k. upon written request and reasonable notice, the Administrative Officer shall, in order to provide guidance and clarification, coordinate the pre-application conference.
- III. The subdivision and land development regulations shall be enforced by the Administrative Officer who is hereby authorized to cause any building, structure, premises or use in connection with an application for subdivision to be inspected or examined, and to order, in writing, remedying of any condition found to exist therein or thereon in violation of any provisions of the subdivision regulations. It shall be the duty of the City Solicitor whenever a violation or contemplated violation of any provisions of the subdivision regulations is brought to his or her attention, to institute due legal proceedings to compel compliance or to restrain the erection, alteration or use of any building, structure or use, altered or used in violation of any of the provisions

of the subdivision regulations. The City may also cause suit to be brought in the supreme court or superior court, or municipal court, including a municipal housing court having jurisdiction in the City, to restrain the violation of, or to compel compliance with, the provisions of the subdivision and land development regulations.

- IV. Whoever violates or fails to comply with any of the provisions of the subdivision and land development regulations or violates the terms and conditions of any action imposed by the Planning Board or any other agency or officer charged in the subdivision regulations with enforcement of any of the provisions shall be fined not more than one hundred (\$100) Dollars for each offense, such fine to inure to the City. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs.
- V. Violations of these regulations shall include any action related to the transfer or sale of land in unapproved subdivisions. Any owner, or agent of the owner, who transfer, sells or negotiates to sell any land by reference to or exhibition of, or by any other use, a plat of the subdivision before the plat has been approved by the Planning Board and recorded in the Land Evidence Office of the City of Newport, shall be in violation of the subdivision and land development regulations and subject to penalties as provided for in these regulations. Violations shall also include noncompliance with any terms or conditions of any action imposed by the Planning Board or of any other agency or officer charged in these regulations with enforcement of any of the provisions of the subdivision and land development regulations.

The City of Newport may enjoin such transfer or sale of agreement by action for injunction brought in the Superior Court of Newport County, or may recover such penalty by an action of the case in any court of competent jurisdiction, or may pursue both of these remedies.

Any sale of land subdivided in violation of the provisions of these rules and regulations shall be voidable at the option of the purchaser thereof, and shall subject the seller thereof to the forfeiture of any and all consideration received or pledged therefore, together with any damages sustained by the purchaser, who may maintain an action in the case to recover any amounts due him under the provisions of this paragraph.

B. Planning Board – Procedures

- I. All records of the Planning Board proceedings and decisions shall be written and kept permanently available for public review. Completed applications for proposed subdivisions and land development projects under review by the Planning Board shall be available for public review.
- II. Participation in a Planning Board meeting or other proceedings by any party shall not be a cause for civil action or liability except for acts not in good faith, intentional misconduct, knowing violation of law, transactions where there is an improper personal benefit, or malicious, wanton, or willful misconduct.

- III. All final written comments to the Planning Board from the Administrative Officer, other City departments and boards, State and Federal agencies and commissions, shall be made part of the permanent record of the development application.
- IV. All votes of the Planning Board shall be made part of the permanent record and shall show the members present and their votes. A decision by the Planning Board to approve any subdivision or land development application shall require a vote for approval by a majority of Planning Board members present at the time of the vote. A decision by the Planning Board to approve a variance or special use permit under unified development review requires a vote for approval by a majority of the Planning Board members that were present at the public hearing at which the request was heard.
- V. All written decisions of the Planning Board shall be recorded in the land evidence records within twenty (20) days after the Planning Board vote. A copy of the recorded decision shall be mailed within one business day of recording, by any method that provides confirmation of receipt, to the applicant and to any objector who has filed a written request for notice with the Administrative Officer.

C. Waivers – Modifications and Reinstatement of Plans

- I. Waiver of Development Plan Approval
 - a. The Planning Board may waive requirements for development plan approval where there is a change in use or occupancy and no extensive construction of improvements is sought. The waiver may be granted only by a decision by the Planning Board finding that the use will not affect existing drainage, circulation, relationship of buildings to each other, landscaping, buffering, lighting, and other considerations of development plan approval, and that the existing facilities do not require upgraded or additional site improvements.
 - b. The application for a waiver of development plan approval review shall include documentation, as required by the Planning Board, on prior use of the site, the proposed use, and its impact.
- II. Waiver and/or Modification of Requirements. The Planning Board shall have the power to grant such waivers and/or modifications from the requirements for subdivision and land development approval as may be reasonable and within the general purposes and intents of the provisions of these regulations. The only grounds for such waivers and/or modifications shall be where the literal enforcement of one or more provisions of these regulations is impracticable and will exact undue hardship because of peculiar conditions pertaining to the land in questions or where such waiver and/or modification is in the best interest of good planning practice and/or design as evidenced by consistency with the City of Newport Comprehensive Plan and the Zoning Code.
- III. In cases where approval deadlines have been exceeded for administrative and minor subdivisions, the applicant shall be required to resubmit the application for subdivision,

unless for good cause shown, the Planning Board, upon request of the applicant, extends the approval deadline for an additional period of time. In cases where approval deadlines have been exceeded for major subdivision applications, the application shall be reinstated at the final plan stage of the review when no major change to plans are proposed, and reinstated at the preliminary plan stage of the review when major changes are proposed.

- IV. The Planning Board shall approve, approve with conditions, or deny the request for either a waiver or modification.

D. Precedence of Approvals

- I. Where an applicant requires both Planning Board approval and City Council approval for a zoning ordinance or zoning map change, the applicant shall first obtain an advisory recommendation on the zoning change from the Planning Board, as well as conditional Planning Board approval for the first approval stage for the proposed project, which may be simultaneous, then obtain a conditional zoning change from the Council, and then return to the Planning Board for subsequent required approval(s).

E. Public Hearing and Notice – Adoption and Amendment

- I. No subdivision regulations shall be adopted, repealed, or amended until after a public hearing has been held upon the question before the Planning Board. The Planning Board shall first give notice of the public hearing by publication of notice in a newspaper of general circulation in the City at least once each week for three (3) successive weeks prior to the date of the hearing, which may include the week in which the hearing is to be held. At this hearing, opportunity shall be given to all persons interested to be heard upon the matter of the proposed regulations. The newspaper notice shall be published as a display advertisement, using a type size as large as the normal type used by the newspaper in its news articles, and shall:
 - a. specify the place of said hearing and the date and time of its commencement;
 - b. indicate that adoption, amendment or repeal of location regulations is under consideration;
 - c. contain a statement of the proposed amendments to the subdivision regulations, which may be printed once in its entirety or may summarize or describe the matter under consideration;
 - d. advise those interested where and when a copy of the matter under consideration may be obtained or examined and copied; and
 - e. state the proposals shown thereon may be altered or amended prior to the close of the public hearing without further advertising as a result of further study or because of the views expressed at the public hearing. Any such alteration or amendment must be presented for comment in the course of said hearing.
- II. Notice of the public hearing shall be sent by first class mail to the city or town Planning Board of any municipality where there is a public or quasi-public water source, or

private water source that is used or is suitable for use as a public water source, located within two thousand (2000') feet of the City boundaries.

- III. Notice of the public hearing shall be sent to the governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water source and/or surface watershed that is used or is suitable for use as a public water source located within either the city or two thousand (2,000') feet of the City boundaries, provided, however, that a map survey has been filed with the Director of Utilities.
- IV. No defect in the form of any notice under this section shall render any regulations invalid, unless such defect is found to be intentional or misleading.
- V. The above requirements are to be construed as minimum requirements.

F. Publication and Availability

- I. Printed copies of these Subdivision and Land Development Regulations shall be available to the general public at a reasonable charge and shall be revised to include all amendments and any appendices.
- II. Upon publication of these regulations and any amendments thereto, the City shall send a copy to the State Law Library.

G. Appeals from Decision of Administrative Officer

- I. Process and timing. An appeal from any decision of the Administrative Officer charged in the regulations with enforcement of any provisions, except as provided in this section, may be taken to the Board of Appeal by an aggrieved party as set forth in this section. Decisions by the Administrative Officer approving or denying minor land development and subdivision projects shall not be subject to this section and shall proceed directly to superior court.
 - a. An appeal to the Board of Appeal from a decision or action of the Administrative Officer may be taken by an aggrieved party within twenty (20) days after the decision has been recorded in the city's land evidence records and posted in the office of the city clerk.
 - b. The appeal shall be in writing and state clearly and unambiguously the issue or decision that is being appealed, the reason for the appeal, and the relief sought. The appeal shall either be sent by certified mail, with a return receipt requested, or be hand-delivered to the Board of Appeal. The city or town clerk shall accept delivery of an appeal on behalf of the Board of Appeal, if the local regulations governing land development and subdivision review so provide.
 - c. Upon receipt of an appeal, the Board of Appeal shall require the Administrative Officer to immediately transmit to the Board of Appeal, all papers, documents,

and plans, or a certified copy thereof, constituting the record of the action that is being appealed.

II. Stay. An appeal stays all proceedings in furtherance of the action being appealed.

III. Hearing.

- a. The Board of Appeal shall hold a hearing on the appeal within forty-five (45) days of the receipt of the appeal, give public notice of the hearing, as well as due notice to the parties of interest. At the hearing the parties may appear in person, or be represented by an agent or attorney. The board shall render a decision within ten (10) days of the close of the public hearing. The cost of any notice required for the hearing shall be borne by the applicant.
- b. The Board of Appeal shall only hear appeals of the actions of an administrative officer at a meeting called especially for the purpose of hearing the appeals and that has been so advertised.
- c. The hearing, which may be held on the same date and at the same place as a meeting of the Board of Appeal, must be held as a separate meeting from any Board of Appeal meeting. Separate minutes and records of votes shall be maintained by the Board of Appeal.

IV. Standards of Review.

- a. As established by this chapter, in instances of a Board of Appeal's review of an Administrative Officer's decision on matters subject to this chapter, the Board of Appeal shall not substitute its own judgment for that of the Administrative Officer but must consider the issue upon the findings and record of the Administrative Officer. The Board of Appeal shall not reverse a decision of the Administrative Officer except on a finding of prejudicial procedural error, clear error, or lack of support by the weight of the evidence in the record.
- b. The concurring vote of three (3) of the five (5) members of the Board of Appeal sitting at a hearing, is necessary to reverse any decision of the Administrative Officer.
- c. In the instance where the Board of Appeal overturns a decision of the Administrative Officer, the proposed project application is remanded to the Administrative Officer, at the stage of processing from which the appeal was taken, for further proceedings before the Administrative Officer and/or for the final disposition, which shall be consistent with the Board of Appeal's decision.
- d. The Board of Appeal shall keep complete records of all proceedings including a record of all votes taken, and shall put all decisions on appeals in writing. The Board of Appeal shall include in the written record the reasons for each decision.

H. Appeals to Superior Court

- I. An aggrieved party may appeal a decision of the Board of Appeals to the Newport County Superior Court; a decision of an Administrative Officer made pursuant to § 45-23-38 or § 45-23-50 where authorized to approve or deny an application; a decision of the Technical Review Committee where authorized to approve or deny an application; or a decision of the Planning Board, by filing a complaint setting forth the reasons of appeal within twenty (20) days after the decision has been recorded and posted in the office of the City Clerk. Recommendations by any public body or officer under this chapter are not appealable under this section. The authorized permitting authority shall file the original comments effect upon by it and constituting the record of the case appealed from, or certified copies thereof, together with such other facts that may be pertinent, with the Clerk of the Court within thirty (30) days after being served with a copy of the complaint. When the complaint is filed by someone other than the original applicant or appellant, the original applicant or appellant and the members of the Planning Board shall be made parties to the proceedings. No responsive pleading is required for an appeal filed pursuant to this section. The appeal shall not stay proceedings upon the decision appealed from, but the court may, in its discretion, grant the stay on appropriate terms and make such other orders as it deems necessary for an equitable disposition of the appeal.
- II. Appeals from a decision granting or denying approval of a final plan shall be limited to elements of the approval or disapproval not contained in the decision reached by the Planning Board at the preliminary stage; providing that, a public hearing has been held on the plan, if required pursuant to this chapter.
- III. The review shall be conducted by the Superior Court without a jury. The court shall consider the record of the hearing before the Planning Board and, if it shall appear to the court that the additional evidence is necessary for the proper disposition of the matter, it may allow any party to the appeal to present the evidence in open court, which evidence, along with the report, shall constitute the record upon which the determination of the court shall be made.
- IV. The court shall not substitute its judgment for that of the Planning Board as to the weight of the evidence on questions of fact. The court may affirm the decision of the Board of Appeals or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of the appellant had been prejudiced because of findings, inferences, conclusions, or decisions which are:
 - a. In violation of constitutional, statutory, ordinance, or Planning Board regulation provisions;
 - b. In excess of the authority granted to the Planning Board by statute or ordinance;
 - c. Made upon unlawful procedure;
 - d. Effected by other error of law;
 - e. Clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or,

- f. Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

I. The Appeal of Enactment or Amendment to Subdivision Regulations

- I. An appeal of enactment or amendment to these regulations may be taken to the Newport County Superior Court by filing a complaint, as set forth herein, within thirty (30) days after the enactment or amendment has become effective. The appeal may be taken by an aggrieved party or by any legal resident or landowner of the city or by any association of residents or landowners of the city. The appeal shall not stay the enforcement of the Subdivision Regulations as enacted or amended, but the court may, at its discretion, grant a stay on appropriate terms including the filing of bonds and other orders as it deems necessary for an equitable disposition of the appeal.
- II. The complaint shall set forth with specificity the area, or areas, in which the enactment or amendment is not consistent with the Comprehensive Land Use Plan, Zoning Code, Comprehensive Planning Act, and Zoning Enabling Act.
- III. The review shall be conducted by the court without a jury. The court shall first consider whether the enactment or amendment of the Subdivision and Land Development Regulations is consistent with the Comprehensive Plan. If the enactment or amendment is inconsistent with the Comprehensive Plan, then the court shall invalidate the enactment or the amendment, or those parts of the enactment or amendment which are not consistent. The court shall not revise the Subdivision and Land Development Regulations to be consistent with the Comprehensive Plan, but may suggest appropriate language is part of the court decision.
- IV. The court may, in its decision, upon motion of the parties or on its own motion, award reasonable attorneys' fees to any party to an appeal, as set forth therein, including the city.

J. Severability

If any provision of the Subdivision Regulations or of any rule, regulation, or determination made thereunder, or the application thereof to any person, agency, or circumstance, is held invalid by a court of competent jurisdiction, the remainder of the Subdivision and Land Development Regulations, rule, regulation, or determination and the application of the provisions to other persons, agencies, or circumstances shall not be affected thereby. The invalidity of any section or sections of these Subdivision and Land Development Regulations shall not affect the validity of the remainder of these Subdivision and Land Development Regulations.