

SECTION I – GENERAL PROVISIONS

A. Authority

These Subdivision 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 1992, hereinafter referred to as the Development Review Act; and in accordance with **Title 16** 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 the subdivision of land within the City of Newport to control subdivision of land pursuant to these regulations.

C. Purposes

It is the intent of the Subdivision 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:

- (1) Providing for the orderly, thorough and expeditious review and approval of land developments and subdivisions;
- (2) Promoting high quality and appropriate design and construction of land developments and subdivisions;
- (3) 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;
- (4) 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;
- (5) 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;

- (6) Promoting thorough technical review of all proposed land developments and subdivisions by City officials;
- (7) 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;
- (8) Encouraging the establishment and consistent application of procedures for recordkeeping on all matters of land development and subdivision review, approval and construction, and
- (9) Providing for the protection of public investment in transportation, water storm water management systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space and other public requirements.

D. Consistency

These Subdivision Regulations are hereby adopted to further the purposes of the Comprehensive Plan adopted for the City. Any amendment to these Subdivision 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 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. Also known as the city Review Agent. The Director of Planning, Zoning, Development & Inspections, or designee, shall serve as the administrative officer for the purposes of these Subdivision Regulations and shall be responsible for the administration and coordination of the procedures and policies of these regulations.
- (2) Administrative Subdivision. Re-subdivision of existing lots which yields no additional lots for development and involves no creation or extension of streets. Such re-subdivision shall only involve divisions, mergers, mergers and division, or adjustments of boundaries of existing lots.

- (3) Board of Appeals. The Zoning Board of Review shall be the board of appeal for the purposes of these Subdivision Regulations on matters of land development or subdivision.
- (4) Bond. See Improvement Guarantee.
- (5) 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.
- (6) 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 approval process.
- (7) City Engineer. The Director of Public Works or designee.
- (8) 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 regulations adopted shall be in compliance.
- (9) 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.
- (10) 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.
- (11) 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.
- (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) 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.
- (23) Major Land Development Plan. Any land development plan not classified as a minor land development plan.
- (24) Major Subdivision. Any subdivision not classified as either an administrative subdivision or a minor subdivision.
- (25) 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.

- (26) Minor Land Development Plan. A development plan for a residential project as defined in these subdivision regulations, provided that such development does not require waivers or modifications as specified in these regulations. All nonresidential land development projects shall be considered a major land development plans.
- (27) Minor Subdivision. A plan for a residential subdivision of land consisting of five (5) or fewer units or lots, provided tat such subdivision does not require waivers or modifications as specified in these regulations.
- (28) Modification of Requirements. See Section IV, Paragraph C (2).
- (29) 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.
- (30) 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.
- (31) 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.
- (32) 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.
- (33) 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.
- (34) 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.
- (35) Preliminary Plan. The required stage of land development and subdivision review which shall require detailed engineering drawings and all required state and federal permits
- (36) Public Improvement. Any street or other roadway, sidewalk, pedestrianway, 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.
- (37) Public Information Meeting. A meeting of the Planning Board preceded by a notice, open to the public and at which the public shall be heard.

- (38) Re-subdivision. Any change of an approved or recorded subdivision plat or in a lot recorded in the Land Evidence Office of the City, or that affects the lot lines of any areas reserved for public use, or that affects any map or plan legally recorded prior to the adoption of the land development and subdivision regulations. For the purposes of these regulations any such action shall constitute a subdivision.
- (39) 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.
- (40) Storm Water Retention. A provision for storage of storm water runoff.
- (41) 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.
- (42) 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.
- (43) 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.
- (44) 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.
- (45) 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.
- (46) 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.
- (47) Street, Public. All public property reserved or dedicated for street traffic.
- (48) 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:
 - (a) 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.

- (b) 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.
- (c) Local. Streets whose primary function is to provide access to abutting properties.
- (49) 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.
- (50) Street, Stub. A portion of a street reserved to provide access to future development, which may provide for utility connections.
- (51) 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.
- (52) Subdivision. The subdivision or re-division, of a lot, tract or parcel of land into two or more lots, tracts, or parcels. Any adjustment to existing lot lines of a recorded lot by any means shall be considered a subdivision. All re-subdivision activity shall be considered a subdivision. The division of property for purposes of financing constitutes a subdivision.
- (53) Technical Review Committee. A committee appointed by the Planning Board for the purpose of reviewing, commenting, and making recommendations to the Planning Board with respect to approval of land development and subdivision applications
- (54) 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.
- (55) 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.
- (56) Waiver of Requirements. See Section IV, Paragraph C (2).

F. Application Requirements

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

1. For Administrative Subdivision

- I. An original drawing and four (4) copies of the record plat prepared by an engineer or a Land Surveyor showing the proposed subdivision.
- II. An application form (See Appendix A) and shall pay the City Clerk the sum of Twenty-five (\$25.00) Dollars to defray the cost of advertising.
- III. The record plat shall be generated on mylar no larger than 24”X 36” at a scale of 1” to 50’, or other scale as the Planning Board may require, and shall contain the following information:
 - a. Name and address of record owner and surveyor, date of filing, date of survey, north point and scale;
 - b. Names of all abutters as determined from the most recent official tax list;
 - c. 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);
 - d. Existing and proposed lines of easements, utilities, including sewerage, and natural water channels.
 - e. The location of all existing structures, fences and trees of more than eighteen (18”) inches diameter; and
 - f. The location of monuments, if any.

2. For Minor and Major Subdivision

I. For Pre-application Conference

- a. A letter requesting a pre-application conference.
- b. 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.

II. Master Plan Preliminary Application

- a. A properly executed application (See Appendix B)
- b. Four (4) prints of a preliminary plat at no smaller scale than 1” to 100’ (plus twelve (12) copies reduced to 8.5” x 11”) and showing the following:

- i. Subdivision name, name and address of record owner, subdivider and designer or surveyor, date prepared, north point, graphic, scale, acreage and number of lots;
- ii. Names of all abutters, as determined from the most recent official tax list;
- iii. Existing and proposed lines of streets, ways, boundaries, utilities, easements, lots, and public areas within the plat, with adequate dimensions;
- iv. Proposed location of monuments;
- v. Proposed land use and existing zoning;
- vi. Proposed system of drainage, dimensions of storm sewers, approximate location of water mains, sanitary sewers and drainage structures;
- vii. All existing fences, buildings and trees eighteen (18) inches or more in diameter;
- viii. Existing and proposed topography with two-foot contour intervals, elevations based on Newport NVGD 1929 unless otherwise indicated by the Planning Board;
- ix. Profiles of proposed streets with adequate ties to existing streets;
- x. 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 for the period of five (5) years preceding the date of such filing and that there are no outstanding tax liens thereon.
- xi. 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
- xii. A draft of protective covenants, if any, with which the subdivider proposes to regulate and protect the proposed subdivision.

III. Final Submission

- a. The record plat shall be one or more drawings, clearly and legibly generated on mylar no larger than 24" X 36." The drawing(s) shall be at least a scale of 1" to 50', or such scale as the Planning Board may prescribe as being adequate to show details clearly and shall contain the following information:
 - i. Subdivision name, suitable space for date filed for final approval, north point and scale, and three lines, three inches long and one inch apart in the lower left-hand corner of each drawing for approval signatures;

- ii. Name and address of record owner, subdivider, designer or surveyor;
 - iii. 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;
 - iv. Names and addresses of all abutters as determined from the most recent official tax list;
 - v. Existing fences, structures and trees eighteen (18”) inches or more in diameter that are to remain;
 - vi. 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;
 - vii. Location of all permanent monuments properly identified as to whether existing or proposed;
 - viii. Location, name and present widths of streets bounding, approaching or within reasonable proximity of the subdivision;
 - ix. Indication of purpose of easements, if any;
 - x. Suitable space to record the action of the Planning Board and the signature of the Planning Board Secretary;
 - xi. Signatures of the city Engineer and the Director of Public Services evidencing that the plans and specifications submitted are in accordance with the ordinances adopted by the City Council for proper sewage disposal;
 - xii. Existing and proposed topography at a suitable contour interval at City datum;
 - xiii. 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 (NVD 1929); and
 - xiv. Proposed layout of storm drainage, water supply and sewage disposal systems.
- b. A completed application form (See Appendix C).
 - c. Dedication form: Streets, Ways, and Public Areas (See Appendix D)
 - d. 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.

- e. Two copies of any restrictive covenants, if any, to regulate and protect the subdivision.

G. Pre-application Meetings and Concept Review

1. One or more pre-application meetings shall be held for all major 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.
2. At the pre-application stage the applicant may request, with reasonable notice, the Planning Board for an informal concept plan review for a subdivision. The purpose of the concept plan review is also to provide the Planning Board input in the formative stages of major subdivision concept design.
3. 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.
4. 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

1. Classification. The Administrative Officer shall advise the applicant as to which approvals are required and the appropriate Board for hearing an application for a subdivision project. The following types of applications may be filed:

- (a) Administrative subdivision
 - (b) Minor subdivision
 - (c) Major subdivision
2. Certificate of Completeness. An application shall be complete for purposes of commencing the applicable time period for action when so certified by the Administrative Office. 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.
 3. Notwithstanding subsections (1) and (2), 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.
 4. 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

1. Submission. Any applicant requesting approval of a proposed administrative subdivision shall submit to the Administrative Officer the items required in these regulations.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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 Review

1. Review States. Minor plan review shall consist of two stages, preliminary and final, provided that if a street creation or extension is involved, a public hearing is required. The Planning Board may combine the approval stages, providing requirements for both stages have been met by the applicant to the satisfaction of the planning officials.
2. Certification. The application shall be certified as complete or incomplete by the Administrative Officer within twenty-five (25) days. In the event such certification of the application is not made within this time period, 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.
3. Re-assignment to Major Review. The Planning Board may re-assign a proposed minor subdivision to major review only when the Planning Board is unable to make the positive findings required by these regulations.
4. Decision. If no street creation or extension is required, the Planning Board 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, 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.
5. 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.
6. Final Plan. The Planning Board may delegate final plan review and approval to the Administrative Officer who shall then report his actions to the Planning Board at its next regular meeting to be made part of the record.
7. Vesting. Approval of a minor subdivision plan shall expire ninety (90) days 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 Review

(i) General Provisions

1. Major subdivision review shall be required of all applications for subdivision approval, unless classified as an administrative subdivision or as a minor subdivision.
2. Major subdivision 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 informational meeting and a public hearing.
3. The Planning Board may vote to combine review stages and to modify and/or waive requirements as specified in these regulations. Review stages may be combined only after the Planning Board determines that all necessary requirements have been met by the applicant.

(ii) Master Plan

1. The applicant shall first submit to the Administrative Officer the items specified in these regulations for the master plan review stage. 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.
2. Initial comments shall 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.
3. Certification. The application shall be certified complete or incomplete by the Administrative Officer within ninety (90) days. In the event such certification of the application is not made within this time period, 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.

4. Informational Meeting. A public informational meeting shall be held prior to the Planning Board decision on the master plan, unless the master plan and preliminary plan approvals are being combined, in which case the public informational meeting shall be optional, based upon Planning Board determination.
 - a. Public notice for the informational meeting is required and shall be given at least seven (7) days prior to the date of the meeting in a newspaper of general circulation within the City. Postcard notice shall be mailed to the applicant and to all property owners within 200' of the subject property.
 - b. At the public informational meeting, the applicant shall present the proposed subdivision project. The Planning Board shall allow oral and written comments from the general public. All public comments shall be made part of the public record of the project application.
5. Decision. The Planning Board shall, within one hundred twenty (120) days of certification of completeness, or within such further time as may be consented to by the applicant, approve of the master plan as submitted, approve with changes and/or conditions, or deny the application.
6. 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.
7. Vesting. The approved master plan shall be vested for a period of one (1) year, with a one (1) year extension upon written request by the applicant, who must appear before the Planning Board for the annual review. 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. The initial two-year vesting for the approved master plan shall constitute the vested rights for design standards for the subdivision as required by these regulations.

(iii) Preliminary Plan

1. Certification. The application shall be certified complete or incomplete by the Administrative Officer within sixty (60) days. In the event such certification of the application is not made within this time period, 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.

2. Public Hearing. Prior to Planning Board decision on the preliminary plan, a public hearing, which adheres to the requirements of these regulations, shall be held.
3. 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.
4. Decision. A complete application for a major subdivision shall be approved, approved with conditions, or denied within one hundred twenty (120) days of the date when it is certified complete, or within such further time as may be consented to by the developer. 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.
5. Vesting. The approved preliminary plan shall be vested for a period of one (1) year and 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

1. Certification. The application for final plan approval shall be certified complete or incomplete by the Administrative Officer within forty-five (45) days. 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.
2. Referral to the Planning Board. If the Administrative Officer determines that an application for final approval does not meet the requirements of these regulations or by the Planning Board at preliminary plan approval, the Administrative Officer shall refer the final plans to the Planning Board for review. The Planning Board shall, within forty-five (45) days of the certification of completeness of the preliminary plan, or within such further time as may be consented to by the applicant, approve or deny the final plan as submitted. Failure of the Planning Board to act within the time period prescribed shall constitute approval of the final 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.

3. Recording. The final approval of a major subdivision shall expire one (1) year from the date of approval unless, within that period, the plat or plan shall have been submitted for signature and recording. The Planning Board may, for good cause shown, extend the period for recording for an additional period.
4. 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.
5. 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.

L. Public Hearing and Notice for Subdivision Applications

1. A public hearing shall be required for a major subdivision or where a street creation or extension require a public hearing for a minor subdivision.
2. Public notice of the hearing shall be given at least fourteen (14) days prior to the date of the hearing in a newspaper of general circulation in the City. Notice of the date, time and place of the hearing shall be sent by certified mail, return receipt requested, not less than ten (10) days prior to the date of the hearing, to the applicant and to each owner of the properties within two hundred (200') feet of the subject property.
3. 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.
4. The cost of all such notices shall be borne by the applicant.

M. Required Findings

For all administrative minor and major subdivision applications, the Planning Board shall address each of the general purpose of these regulations and shall make positive findings on the following standard provisions, as part of the proposed subdivision's record prior to approval:

1. The proposed subdivision is consistent with the Comprehensive Plan and/or has satisfactorily addressed the issues where there may be inconsistencies.
2. The proposed development is in compliance with the standards and provisions of the City of Newport Zoning Code.
3. There will be no significant negative environmental impacts from the proposed subdivision, as shown on the final plans, with all required conditions for approval.
4. 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.
5. All proposed subdivision lots shall 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.

N. Signing and Recording of Plats and Plans

1. All approved final plans and plats for subdivisions shall be signed by either the Chairman or the Secretary of the Planning Board, with the date of approval and attesting to the approval by the Planning Board.
2. Upon signature, all plans and plats shall be submitted to the Administrative Officer prior to recording and filing in the Department of Planning, Zoning, Development & Inspections. 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 subdivision 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.
3. Other parts of the application record for subdivision, 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, Zoning, Development & Inspections.

4. 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.

O. Changes to Recorded Plats and Plans

1. For all changes to the approved plans of subdivisions 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 plats in these regulations.
2. Minor changes 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. All such changes shall be made a part of the permanent record of the application 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.
3. 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 follow the same review and public hearing process required for approval of preliminary plans.

P. Construction and/or Improvement Guarantees

1. 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.
2. 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, Zoning, Development & Inspections under the direction of the Administrative Officer and according to these regulations.
3. 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.

4. 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.
5. In case of subdivisions which are being approved and constructed in phases, the Planning Board shall specify improvement guarantee requirements related to each particular phase.
6. 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.
7. 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.

SECTION II – DESIGN STANDARDS

A. Relation to Comprehensive Plan

1. The proposed subdivision shall conform, as far as practicable, to the Comprehensive Plan as adopted by the City Council.
2. 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

1. 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.
2. Local streets shall be so laid out that their use by through traffic will be discouraged.
3. 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.
4. 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.
5. Street extensions or access to adjoining property not yet subdivided shall be provided for in a manner satisfactory to the Planning Board.
6. 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.
7. Street jogs shall have centerline offsets of not less than 125 feet.
8. A tangent of at least 100 feet shall be introduced between reverse curves on arterial and major streets.
9. The minimum centerline radii of curved local streets shall normally be 200 feet. Greater radii may be required for major and arterial streets.

10. 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.
11. Streets shall intersect as nearly as possible at right angles. No street shall intersect any other street at less than sixty (60°) degrees.
12. 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:

1. 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.
2. 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.
3. 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:**
1. 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.
 2. 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:**
1. 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.
 2. 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:**
1. The shape and orientation of lots shall be appropriate for the location of the subdivision and the type of development contemplated.
 2. Lot sizes, set back lines, and minimum frontage shall conform to the Zoning Ordinance requirements.
 3. 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.
 4. All lots shall have satisfactory access to a public street.

5. Side lot lines shall be substantially at right angles or radial to street lines.
6. 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.

A. General Standards

1. Reduce impervious surface to the greatest extent practicable and retain as much natural undisturbed vegetation as possible.
2. Maintain natural drainage patterns wherever possible.

3. Incorporate natural elements into the drainage design (e.g. grass swales, catch basins, etc.)
4. 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.
5. 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.
6. 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.** 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:**
1. Curbs shall be provided for all streets and intersections and shall be constructed in accordance with the standard specifications of the City of Newport.
 2. Curb cuts shall not be permitted closer than seventy-five (75') feet to the center point of an intersection.
- D. Sidewalks:**
1. 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.
 2. 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:**
1. 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.
 2. 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.
 3. In minor and major subdivisions, electric utility lines, communications lines and street lighting lines shall be installed underground. (3/70).

4. All utility lines shall be so located as to preserve the character and livability of the subdivision.
5. 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:

1. 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.
2. No permanent monuments shall be installed until all construction which would destroy or disturb the monuments is completed.
3. All monuments shall be constructed of reinforced concrete or granite, minimum dimensions to be six inches square and thirty-two inches long (6" x 6" x 32").

I. Street Lights: (2/86)

1. 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.
2. Street lighting shall be provided and installed as set forth in the standard specifications of the City of Newport.
3. 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

1. 1. Administrative Officer. Also known as the City Review Agent. The Director of Planning, Zoning, and Development, or designee, shall serve as the Administrative Officer for the purposes of these Subdivision Regulations
2. 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 regulations;
 - j. reviewing the subdivision 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.
3. The subdivision 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 regulations.

4. Whoever violates or fails to comply with any of the provisions of the subdivision 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.
5. 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 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 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

1. All records of the Planning Board proceedings and decisions shall be written and kept permanently available for public review. Completed applications for proposed subdivisions under review by the Planning Board shall be available for public review.
2. 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.
3. 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.

4. 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 application shall require a vote for approval by a majority of the current Planning Board membership.

C. Waivers – Modifications and Reinstatement of Plans

1. 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.
2. 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 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.
3. 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.
4. The Planning Board shall approve, approve with conditions, or deny the request for either a waiver or modification.

D. Precedence of Approvals

1. Where an applicant requires both a variance from the Zoning Board of Review and Planning Board approval, the applicant shall first obtain an advisory recommendation from the Planning Board, as well as conditional Planning Board approval, for the first approval stage for the proposed subdivision, which may be simultaneous, then obtain conditional Zoning Board of Review relief, and then return to the Planning Board for subsequent required approval(s).
2. Where an applicant requires both a special-use permit under the Zoning Code and Planning Board approval, the applicant shall first obtain an advisory recommendation from the Planning Board, as well as conditional Planning Board approval for the first approval stage for the proposed subdivision, which may be simultaneous, then obtain a conditional special-use permit from the Zoning Board of Review, and then return to the Planning Board for subsequent required approval(s).

E. Public Hearing and Notice – Adoption and Amendment

1. 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. Written notice, which may be a copy of the newspaper notice, shall be mailed to the Associate Director of the Division of Planning of the Rhode Island Department of Administration at least two (2) weeks prior to the hearing. 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.

2. 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.
3. 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.
4. 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.
5. The above requirements are to be construed as minimum requirements.

F. Publication and Availability

1. Printed copies of these subdivision regulations shall be available to the general public at a reasonable charge and shall be revised to include all amendments and any appendices.
2. Upon publication of these regulations and any amendments thereto, the City shall send a copy to the Rhode Island Department of Administration's Division of Planning and to the State Law Library.

G. Appeals to the Board of Appeals

1. An appeal from any decision of the Planning Board or the Administrative Officer may be taken to the Board of Appeals.
2. An appeal to the Board of Appeals from a decision or action of the Planning Board or Administrative Officer may be taken by an aggrieved party. Such appeal must be taken within twenty (20) days after the decision has been recorded and posted in the office of the City Clerk.
3. The appeal shall be in writing and shall state clearly and unambiguously the issue or decision which is being appealed, the reason for the appeal, and the relief sought. The appeal shall either be sent by certified mail, with the return receipt requested, or shall be hand delivered to the Board of Appeals.
4. Upon receipt of an appeal, the Board of Appeals shall require the Planning Board or the Administrative Officer to transmit fourth with to the Board of Appeals, all papers, documents and plans, or a certified copy thereof, constituting the record of the action which is being appealed.

5. An appeal shall stay all proceedings in furtherance of the action being appealed.
6. The Board of Appeals shall hold a public hearing on the appeal within forty five (45) days of the receipt of the appeal, give public notice thereof, as well as due notice to the parties of interest. At the hearing any party may appear in person, or may be represented by an agent or attorney. The Board of Appeals 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 appellant.
7. The Board of Appeals shall only hear appeals of the actions of the Planning Board or the Administrative Officer at a meeting called especially for the purpose of hearing such appeals and which has been so advertised.
8. The hearing, which may be held on the same date and at the same place as a meeting of the Zoning Board of Review, must be held as a separate meeting from any Zoning Board of Review meeting. Separate minutes and records of votes shall be maintained by the Board of Appeals.
9. In instances of a Board of Appeals review of a Planning Board or Administrative Officer decision on matters subject to these regulations, the Board of Appeals shall not substitute its own judgment for that of the Planning Board or Administrative Officer, but must consider the issue upon the findings and record of the Planning Board or the Administrative Officer. The Board of Appeals shall not reverse a decision of the Planning Board or the Administrative Officer except the on finding of prejudicial procedural error, clear error, or lack of support by the weight of the evidence in the record.
10. The concurring vote of three (3) of the five (5) members by the Board of Appeals, shall be necessary to reverse any decision of the Planning Board or the Administrative Officer.
11. In the instance where the board of appeal overturned the decision of the Planning Board or the Administrative Officer, the proposed project application shall be remanded to the Planning Board or the Administrative Officer, at the stage of processing from which the appeal was taken, for further proceedings before the Planning Board or the Administrative Officer and/or for the final disposition, which shall be consistent with the Board of Appeals decision.
12. The Board of Appeals 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

1. An aggrieved party may appeal a decision of the Board of Appeals to the Newport County Superior Court 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. The Board of Appeals 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 faxes 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 Board of Appeal shall be made parties to the proceedings. 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.

2. The review shall be conducted by the Superior Court without a jury. The court shall consider the record of the hearing before the Board of Appeals 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.
3. The court shall not substitute its judgment for that of the Board of Appeals 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 Board of Appeal 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

1. 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.

2. 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.
3. The review shall be conducted by the court without a jury. The court shall first consider whether the enactment or amendment of the Subdivision 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 Regulations to be consistent with the Comprehensive Plan, but may suggest appropriate language is part of the court decision.
4. 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 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 Regulations shall not affect the validity of the remainder of these Subdivision Regulations.