

PROPOSED AMENDMENTS
to the
LAND DEVELOPMENT AND SUBDIVISION REGULATIONS

Draft No. 4, May 2006

NOTE: New language is indicated in <i>bold italics</i> . Deleted language is indicated as a strikethrough .

ARTICLE I. – AUTHORITY AND INTENT

A. Authority

These Subdivision and Land Development Regulations are adopted pursuant to the authority contained in Title 45, Chapter 23, Sections 25 through 74 of the Rhode Island General Laws, known as the Rhode Island Development and Subdivision Review enabling Act of 1992.

B. Purpose

The purpose of these regulations is to establish procedural and substantive provisions for the subdivision and development of land that will, consistent with the provisions of the Hopkinton Comprehensive Community Plan and the Hopkinton Zoning Ordinance, accomplish the following:

1. Protect the public health, safety and welfare of the community;
2. Provide for the orderly, thorough and expeditious review and approval of subdivisions and land development projects;
3. Promote high quality, and appropriate design and construction of subdivisions and land development projects *that preserve the rural character of the Town*;
4. Protect existing natural and built environments and mitigate the significant negative impacts of proposed development on those environments; *and, wherever possible, to enhance the nature of the natural environment through the development process*;
5. Promote subdivision and land development designs that are well-integrated into surrounding neighborhoods, and concentrate development in areas that can best support intensive use because of natural characteristics and existing infrastructure;
6. Provide for design and construction standards that are appropriate to the community;

7. Require measures for mitigating the impact of new development on the community that are based on clear documentation of needs and are fairly applied and administered;
8. Direct the development of land consistent with state of the art practices that promote and foster growth in a manner that protects the Town's distinctive character while at the same time accommodating economic growth;
9. Guide land development with an emphasis on siting subdivision improvements so as to allow for the maximum preservation of existing natural features;
10. Insure that proposed designs institute best management practices that acknowledge existing site constraints and the natural setting.

11. Encourage development consistent with the policies, goals and objectives of the Town's Comprehensive Plan, particularly with regard to the protection of interconnected networks of open space and greenway systems

12. Encourage the ecological enhancement and restoration of disturbed site conditions on land proposed for development.

C. Construction and Intent

1. These regulations are not intended to supersede, abrogate, or interfere with any provision of any ordinance of the Town of Hopkinton, except Chapter 18, which shall be repealed by these regulations.
2. Sections I-III and V-XIV of these regulations are intended to provide general requirements applicable to all subdivisions ***and land development projects***. Section IV of these regulations, governing ~~Residential Cluster Developments,~~ ***Conservation Developments***, Residential Compounds, ***and*** certain Minor Subdivisions, ~~and Land Development Projects~~, are intended to provide regulations that are supplementary to the general requirements. In the event of a conflict between general regulations and a regulation to a specific type of subdivisions, the more specific regulation shall be controlling.
3. These regulations are intended to be interpreted so as to be consistent with, and further the implementation of, the Comprehensive Community Plan and the Rhode Island Land Development and Subdivision Review Enabling Act of 1992, ***as amended***. Consistency with the Comprehensive Plan means in accordance with the goals, policies, procedures, maps and other policy statements in the plan.
4. If any section or subsection of these regulations is held invalid by a court of competent jurisdiction, such invalidity shall not affect the validity of the remainder of these regulations.

D. Effective Date

These regulations shall take effect upon passage, and shall supersede all other *land development and* subdivision regulations in effect at the time of such adoption.

E. Vested Rights-Continuation of Prior Regulations

1. **Final Approvals** – Any subdivision *or land development project* which at the time of adoption of these amendments, has received final approval, or final approval with conditions, from the Planning Board, may initiate or construct any part of the development, or record said plans in accordance with the Subdivision Regulations in effect at the time final approval was granted. The Planning Board, may, in its discretion, grant extensions to any such final approval in accordance with the procedure for such extensions as set forth in the Regulations in effect at the time of final approval.

In the event that a subdivision approved under prior Regulations is not recorded and construction initiated within one (1) year from the effective date of these Regulations, a one (1) year extension, with one (1) additional extension, may be granted by the Planning Board.

Appeals from a decision regarding the application status and vested rights of any subdivision shall be made to the Platting Board of Appeal as herein provided.

2. **Preliminary Approvals** – Any subdivision *or land development project* which, at the time of adoption of these amendments, has received preliminary approval, or preliminary approval with conditions, from the Planning Board, may continue to be reviewed by the Planning Board in accordance with the Subdivision Regulations in effect at the time preliminary approval was granted provided any one of the following conditions have been met:
 - a. The final plat, including all material required in the *applicable* Final Plat Checklist, is filed with ~~the Planning Department,~~ ***and has been certified as complete by the Administrative Officer*** within one (1) year from the date of preliminary approval; ***or within one year from any such other time period granted as an extension by the Planning Board; or,***
 - b. The subdivision is located within an area and is of a nature to be within the jurisdiction of the Rhode Island Department of Environmental Management (RIDEM); and the preliminary plans as approved by the Planning Board have been filed with RIDEM for approval as required by the Freshwater Wetlands Act; ~~or,~~
 - c. ~~The applicant has expended significant monies in the preparation of preliminary subdivision plans in an amount that, if preliminary approval~~

were to become void and re-application under the revised subdivision regulations were to be required, a significant economic hardship would result. The Planning Board shall determine what constitutes “significant economic hardship.”

3. ***Master Plan Approvals*** - Any major subdivision or land development project which, at the time of adoption of these amendments, has received master plan approval, or master plan approval with conditions, from the Planning Board, may continue to be reviewed by the Planning Board in accordance with the Subdivision Regulations in effect at the time master plan approval was granted provided any one of the following conditions have been met:

a. *The preliminary plat, including all the material required in the applicable Preliminary Plat Checklist, is filed with, and has been certified as complete by the Administrative Officer within one (1) year from the date of master plan approval or within one year from any such other time period granted as an extension by the Planning Board; or,*

b. *The subdivision or land development project is located within an area and is of a nature to be within the jurisdiction of the Rhode Island Department of Environmental Management (RIDEM) and the master plans as approved by the Planning Board have been filed with RIDEM for approval as required by the Freshwater Wetlands Act;*

3. 4. ***Other Status*** – Any subdivisions or land development project which, at the time of adoption of these Regulations, has not received final, or preliminary or master plan approval; or which has been reviewed by submitted to the Planning Board for either preliminary or master plan review but no approval Certificate of Completeness therefore has been granted issued; or which has received preliminary or master plan approval more than one year prior to the date of adoption of these regulations and no extension or reinstatement of approval has been granted by the Planning Board; or for which only pre-application conference(s) has (have) been conducted, shall be required to be reviewed under the revisions to the Subdivision and Land Development Regulations Land Development and Subdivision Regulations adopted on November 29, 1995 (insert date of adoption) pursuant to the Rhode Island Land Development and Subdivision Reviewing Enabling Act of 1992, as amended thereafter.

Appeals from a decision regarding the application status and vested rights of any subdivision shall be made to the Platting Board of Appeal as herein provided.

ARTICLE II – DEFINITIONS

The following words or phrases, when used in these regulations, shall have the following meaning, unless otherwise specifically provided:

Administrative Officer – The municipal official to administer the land development and subdivision regulations and to coordinate with local boards and commissions, municipal staff, and state agencies. For the Town of Hopkinton it shall be the Town Planner.

Administrative subdivision – Re-subdivision of existing lots that yield 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.

Agricultural land – Land suitable for agriculture by reason of suitability of soil or other natural characteristics or past use for agricultural purposes. Agricultural land includes that defined as prime farm land or additional farm land of statewide importance for Rhode Island by the soil conservation service of the United States Department of Agriculture.

Applicant – A person who applies to the Planning Board for subdivision approval.

Area of Special Flood Hazard – Areas designated on the Official Zoning Map as being within a High Flood Danger (HFD) zoning district; and areas designated on the Town’s official Flood Insurance Rate Maps as being located within zones V1-V30, and zone A.

Bond – A type of improvement guarantee.

Buffer – *Land which is maintained in either a natural or landscaped state, and is used to screen and/or mitigate the impacts of development on surrounding areas, properties or rights-of-way. Refer to Section IV.A.14.*

Buildable Lot – A lot where construction for the use(s) permitted on the site under the Zoning Ordinance is considered practicable by the Planning Board, considering the physical constraints to development of the site as well as the requirements of pertinent federal, state and local regulations.

Certificate of Completeness – A notice issued by the Administrative Officer informing the applicant that the application is complete and meets the requirements of these regulations, and that the applicant may proceed with the approval process.

Concept Plan – A drawing with accompanying information showing the basic elements of a proposed subdivision or land development plan, as used for pre-application

meetings and early discussion, and classification of the project within the approval process.

Conservation Development – *A type of land development project which utilizes prescribed site planning techniques to conserve open land, protect site features and provide flexibility in the siting of structures, services and infrastructure. See Article IV, Section A.*

Conventional Subdivision - *A subdivision in which all land being subdivided is dedicated to either development lots or street right of way, with no common open space. Not a Conservation Development.*

Cul-de-sac – The terminus of a street that has only one outlet, laid out to provide a circular or other type of turn-around for vehicles at the close end. See Article XIII.

Dedication, fee in-lieu-of – Payments of cash which are authorized in the local regulations when requirements for mandatory dedication of land are not met because of physical conditions of the site or other reasons. The conditions under which such payments will be allowed and all formulas for calculating the amount shall be specified in advance in the local regulations.

Development - *The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance; or any change in use, or alteration or extension of the use, of land.*

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.

Division of Land – A subdivision.

Dwelling Unit – *A structure or portion thereof providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and containing a separate means of ingress and egress.*

Easement – The right of a party to use all or part of the property of another for a specific purpose.

Endorsement – The signature of the Administrative Officer or Planning Board Chairperson on an approved plat, permitting recording of the plat or as further provided in Article VI.

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. See also physical constraints to develop.

Final Plan – The final stage of subdivision or land development review.

Final Plat – The final drawing(s) of all or a portion of a subdivision or land development project, and any accompanying materials, to be recorded in the Land Evidence Records after approval by the Planning Board.

Floodplain or Flood Hazard Area – An area that has one percent (1%) or greater chance of inundation in any given year, as delineated by the Federal Emergency Management Agency pursuant to the National Flood Insurance Act of 1968, as amended (P.L. 90-448) [42 U.S.C. 4011 et. Seq.]

Hammerhead – The terminus of a street, laid out to provide a turn-around area for vehicles. See Article XIII.

Improvement – Any natural or built site, that becomes part of, is placed upon, or is affixed to real estate.

Improvement Guarantee – A security instrument accepted by the Finance Director or equivalent, to ensure that all improvements, facilities, or work required by these regulations, or as a condition or approval, will be completed in compliance with the approved plans and specifications.

Land Development Project – A project in which one or more lots, tracts, or parcels of land are to be developed or redeveloped as a coordinated site for a complex of uses, units, or structures, including but not limited to, planned development, ~~and/or~~ cluster *and/or conservation* development for residential, commercial, institutional, recreational, open space, and/or mixed uses as may be provided for in the zoning ordinance.

Land Disturbing Activity – Any physical land development activity which includes such actions as clearance of vegetation, moving or filling of land, removal or excavation of soil or mineral resources or similar activities.

Land Suitable for Development – The total land area, less land unsuitable for development.

Land Unsuitable for Development – ~~When calculating the number of residential building lots or units permitted on any parcel, land included in all of the following categories shall be considered unsuitable for development and shall be deducted from the minimum building acreage of the parcel:~~

- a. ~~Fresh water wetlands, including that area of perimeter wetland within fifty (50) feet of the edge of any bog, marsh, swamp or pond; or any~~

~~applicable 100-foot or 200-foot riverbank wetlands, as defined by Rhode Island General Laws Section 2-1-20 (1987), as amended.~~

~~b. Areas within a High Flood Danger Zone, as defined by Section 33 of the Hopkinton Zoning Ordinance, as amended.~~

~~c. Land within any publicly or privately held easement on which aboveground utilities, including but not limited to electrical transmission lines, are constructed.~~

~~d. Land with slopes in excess of fifteen percent (15%)~~

Land which has environmental constraints or physical constraints to development. See Article III, Section C.

Lot – Either: 1) The basic development unit for determination of lot area, depth and other dimensional regulation; or 2) A parcel of land whose boundaries have been established by some legal instrument such as recorded deed or recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

Maintenance Guarantee – A security instrument accepted by the Finance Director or equivalent, to ensure that all improvements, facilities, or work required by these regulations, or as a condition of approval, will function as required for a specific period of time.

Major Land Development Plan – Any land development project not classified as a minor land development plan, and any land development project that includes non-residential development.

Major Subdivision – Any subdivision not classified as either an administrative subdivision or a minor subdivision.

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, but may include general site information. It is required for review of major land development projects and major subdivisions.

Minor Land Development Plan – A development plan for a residential project as defined in local regulations, provided that such development does not require waivers or modifications as specified in this act. All non-residential land development projects shall be considered as major land development plans.

Minor Subdivision – A plan for residential development that requires the subdivision of land into buildable lots, does not propose more than five (5) lots or dwelling units, and does not require any waivers from, or modifications to, these regulations.

Non-buildable Lot – A parcel of land recorded in the Land Evidence Records that is created or reserved for a purpose other than present or future construction of buildings or structures.

Open Space - Any tract or contiguous tracts of undeveloped land, where the undeveloped land serves to enhance agricultural values, or land in its natural state that conserves forests, enhances wildlife habitat or protects ecosystem health; including open space land in a land development project, including a conservation development, that is protected from development under the provisions of the Zoning Ordinance and/or Land Development and Subdivision Regulations.



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.

Parking Area or Lot – All that portion of land development project that is used by vehicles, the total area used for vehicular access, circulation, parking, loading and unloading.

Phase – A portion or a subdivision or land development to be developed, or sold as lots, at a particular time, as part of an effort to coordinate population growth with the availability of facilities and services.

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.

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. See also environmental constraints.

Planning Board – The official planning agency of the Town of Hopkinton.

Plat – A drawing or drawings of land development project of subdivision showing the location, boundaries, and lot lines of individual properties, as well as other necessary information as specified in these regulations.

Pre-application Conference – An initial meeting between developers and municipal representatives that affords developers the opportunity to present their proposals informally and to receive comments and directions from the municipal officials and others.

Pre-application Meeting – A meeting with the Planning Board, either required or requested, to allow developers the opportunity to present their proposals in order to receive comments and directions.

Preliminary Plan – The stage of land development and subdivision review that requires detailed engineering drawings and all required state and federal permits.

Prime Farmlands and Farmlands of Statewide Importance – Those lands which meet the applicable criteria, as established by the U.S.D.A, Soil Conservation Service. Specific map units are listed in the Soil Conservation Service fact sheet “Identification of Important Farmlands”, issued 1980 as amended. See also “Agricultural Land”.

Public Improvement – Any street or other roadway, sidewalk, pedestrian way, tree, lawn, off-street parking area, drainage feature, or other facility for which the Town of Hopkinton or other governmental entity is presently responsible, or will ultimately assume responsibility for maintenance and operation upon municipal acceptance.

Public Informational Meeting – A meeting of the Planning Board, preceded by notice, open to the public and at which the public shall be heard.

Residential Development – Development consisting entirely of single-family or multiple-family dwelling units. A dwelling unit is a structure or portion thereof providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation and containing a separate means of ingress and egress.

Re-subdivision – Any change of an approved or recorded subdivision plat or in a lot recorded in the Land Evidence Records, 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 these regulations.

Right-of-Way – Any strip of land, including surface, overhead, or underground, granted by deed or easement, for construction and maintenance according to designated use, such as for drainage, electric power, telegraph and telephone lines, gas, oil, water and other pipelines, highways and other roadways, including right of portage, sewers, flowage or impoundment or surface and tunnels.

Sketch Plan Overlay Sheet – *A scaled drawing that illustrates conceptual layouts of house lots, buildings, streets and conservation areas.*

Specimen Vegetation – *Rhode Island Natural Heritage Program plant species listed as either state endangered, state threatened, state interest species of concern, or state extirpated; plant species providing habitat for animal species listed by the Heritage program in the above mentioned categories; species such as American Holly (*Ilex opalca*) and Rhododendron (*Rhododendron maximum*) which are at the limits of their natural range; any species such as American Elm (*Ulmus Americana*) and*

American Chestnut (Castenata dentate) whose population has been drastically reduced by disease, insects or habitat destruction.

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.

Storm Water Retention – A provision for storage of storm water runoff.

Street – A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles.

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.

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 and in such manner as may be determined by the public authority having jurisdiction over the highway.

Street, private – A thoroughfare established as a separate tract for the benefit of multiple, adjacent properties and meeting specific municipal improvement standards. Driveways are excluded from this definition.

Street, public – All public property reserved or dedicated for street traffic.

Street right-of-way – The entire area to be dedicated for street use, including the pavement or travel surface, and the areas on both sides of the pavement or travel surface that may be reserved for installation of sidewalks, utilities, drainage improvements or other purposes.

Street, stub – A portion of a street reserved to provide access to future development, which may provide for utility connections.

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 volume, for the purposes of promoting safety, efficient land use and the design character of neighborhoods and districts. Local classifications shall use the following as major categories: ***and are further described in Article XIII, Section B.***

a. arterial. A major street that serves as an avenue for the circulation of traffic into, out of, or around the municipality and carries high volume of traffic.

b. collector. A street whose principal function is to carry traffic between local streets and arterial street but that may also provide direct access to abutting properties.

c. local. Streets whose primary function is to provide access to abutting properties.

Subdivider – A person who:

- a. having an interest in land, causes it, directly or indirectly, to be divided into a subdivision, or who:
- b. 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:
- c. engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision of any interest, lot, parcel, site, unit or plat in subdivision.

Subdivision – The division 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.

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 completion of the project.

Viewshed - *The primary area which can be viewed from a defined observation point. To determine the extent of the viewshed, important vantage points and significant features should be identified. The area that can be seen from those points should be designated as the viewshed.*

Yield Plan – *A plan of a conventional (as opposed to a Conservation) subdivision or land development project that depicts the maximum number of single family building lots or dwelling units that could reasonably be built on a parcel of land under current zoning, taking into account physical constraints to development, such as wetlands, steep slopes, or other land unsuitable for development.*

ARTICLE III – GENERAL REQUIREMENTS

A. General Requirements

The requirements listed below shall be applicable to all subdivisions submitted for approval, unless otherwise specifically provided. Prior to approval of any subdivision or land development project, (if Planning Board approval is required) the Board shall make positive findings on all of the standards listed below, as part of the proposed project's record. If a negative finding for any of these standards is made, the Planning Board shall have grounds for denial of the project design.

1. Each subdivision shall be consistent with the requirements of the Hopkinton Comprehensive Community Plan and/or shall satisfactorily address the issues where there may be inconsistencies;

a. Alternative Development. Where deemed possible and practical, the Planning Board may require the submission of appropriate plans to demonstrate the feasibility of creating other types of subdivisions. If the Planning board determines that such an alternative development is in the best interest of the town, the applicant may be required to develop the property in an approved alternative fashion. *See Article IV, Section A.2.*

b. Criteria. The Planning Board may require an approved alternative type of development in instances where the following goals of the Comprehensive Plan will be further realized:

1. Land use policies that maintain quality of life and rural character of the town.
2. Encourage development of residential uses, light industry, small business, and public facilities into village areas.
3. Encourage agricultural uses and the preservation of wildlife habitat.
4. Preserve the smaller villages and the surrounding undeveloped areas.
5. Encourage the acquisition adjacent to existing large open space parcels.
6. Promote controlled residential growth that serves the needs of the community while preserving Hopkinton's environmental and historic assets and scenic quality.

2. Each lot in the subdivision shall conform to the standards and provisions of the Hopkinton Zoning Ordinance. Provided, however, that lots not being created for the purpose of the present or future development need not meet the area and other dimensional requirements of Section 6 of Zoning Ordinance provided that:

a. A notation is shown on the recorded plat that the lot being created is not a buildable lot; and,

b. A conservation or preservation easement pursuant to Title 34, Chapter 39 of the Rhode Island General Laws, as amended, is granted to the Town of Hopkinton prohibiting any such present or future development.

3. There will be no significant negative environmental impacts from the proposed development as shown on the final plan, 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 those lots according to pertinent regulations and building standards would be impracticable. See definition of "*buildable lot*". 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 land developments and all subdivision lots shall have adequate and permanent legal access to a public street. Lot frontage on a public street without physical access shall not be considered compliance with this requirement.

6. Each subdivision shall provide for safe circulation of pedestrian and vehicular traffic, for surface water run-off control, for suitable building sites, and for preservation of natural, historical, or cultural features that contribute to the attractiveness of the community; and,

7. The design and location of streets, building lots, utilities, drainage improvements and other improvements in each subdivision shall minimize flooding and soil erosion.

8. The open space within conservation developments meets the standards and requirements of these Regulations with regard to amount, location, use, nature and design.

B. Phasing of Major Land Developments and Major Subdivisions

1. When a Major Land Development or Major Subdivision is submitted for Master Plan approval as provided in Section C.4.c. of Article V, the Planning Board shall review the adequacy of existing and projected future public improvements, services and facilities which may be impacted by the proposed

development in its entirety. If the Planning Board determines that such improvements, services and facilities, including but not limited to water supply, sewerage, streets and associated drainage facilities, schools, recreational facilities, and ~~fire~~ fire and police protection will not be adequate to serve the residents of the subdivision or development at the time of recording of the plat, the Planning Board shall have the authority to establish a rate of development of the entire subdivision by requiring it to be built in phases. The Planning Board may establish a planning rate that recognizes the growth rate contributions of all approved subdivisions in the town when establishing any subdivision's phasing plan.

2. When an application is submitted for Master Plan approval, the applicant shall submit to the applicable municipal, state or private agency as provided in the Master Plan Checklist for Major Land Developments and Major Subdivisions, a copy of the Master Plan narrative report for their review and comment. Each agency so notified by the applicant, proof of which shall be presented to the Administrative Office, shall be requested to provide its comments in writing to the Planning Board. Comments shall be received from each agency prior to the date of the informational meeting. If comments are not received by the Administrative Officer by that date, it shall be assumed that the agency does not wish to comment.

If the public informational meeting on the master plan and the public hearing on the preliminary plan are combined as provided in Article V, Section C.4.f., all comments from reviewing agencies shall be received prior to the date of the public hearing.

3. Each department or agency to which such a request for comment is made may deliver to the Administrative Officer in addition to the written correspondence, any supplementary material, which may describe:

- a. An estimate of the impact of the subdivision on the facilities and/or services provided by the department or agency;
- b. Whether existing facilities and/or services are adequate to serve the subdivision's residents;
- c. Whether plans for the necessary improvements to existing facilities and/or services are included in the town's Capital Improvement Program or are otherwise planned; and,
- d. An estimate of how long it would take to provide any necessary improvements to existing facilities and/or services.

4. Based on the responses received from the various departments and agencies, the Planning Board shall establish, at the time of master plan approval, a rate of

development of the entire subdivision or development that will be adequate to serve the residents of the subdivision or development. The Planning Board may require that improvements be installed, or lots sold, in two or more phases.

5. If phasing is required, the Planning Board shall approve the entire master plan first. Thereafter, the applicant shall be required to submit plans for the preliminary and/or final review and/or approval indicating the development of the entire site in two or more phases as required by the Planning Board in Section B.4. of this Article, above. In such review and approval, the Board may, in its discretion, impose conditions for determining the physical limits of phases, for allowing progression to additional phases, for allowing two (2) or more phases to proceed in review or construction simultaneously, for interim public improvements or construction conditions, for changes to master or preliminary plans, and may include other provisions as necessitated by special conditions.

6. The master plan documents may contain information on the physical limits of the phases, the schedule and sequence of public improvement installation, improvement guarantees, and the work and completion schedules for approvals and construction of the phases.

C. Land Unsuitable for Development – as defined herein

When calculating the Basic Maximum Number of Dwelling Units permitted in any subdivision or land development project (see Article IV, Section A.8), land included in all of the categories listed below shall be considered unsuitable for development and shall be deducted from the minimum building acreage of the parcel. Individual building lots may contain Land Unsuitable for Development, but the area of Land Unsuitable for Development may not be counted toward the minimum required lot area as specified in the Zoning Ordinance.

a. Fresh water wetlands, including that area of perimeter wetland within fifty (50) feet of the edge of any bog, marsh, swamp or pond; as defined by Rhode Island General Laws Section 2-1-20 (1987), as amended.

b. Areas within a High Flood Danger Zone, as defined by Section 33 of the Hopkinton Zoning Ordinance, as amended.

c. Land within any publicly or privately held easement on which above ground utilities, including but not limited to electrical transmission lines >69KV; and below ground utilities, excluding drainage easements, are constructed.

d. Land with slopes in excess of twenty-five percent (25%)

D. Dedication of Land for Public Purposes

1. Subdivider Must Provide Open Space

The Planning board may require that land ~~developments~~ **development projects** and subdivisions of land to dedicate a portion of the land for the purpose of providing open space, conservation, park and recreational facilities to serve present and future residents of the proposed land development or subdivision. Open space, conservation and recreation lands shall be suitable for use as open space and or park/recreation services considering factors such as size, shape, topography, wetlands, geology, historical or archeological features, access and location. ***Land dedicated under the provisions of this Section may be dedicated to the Town or, in the case of a conservation development or residential compound, to an agency or organization as provided in Article IV, Section A.12. The Planning Board shall decide the entity to which land shall be dedicated.***

2. Relationship to Comprehensive Plan

No dedication of land to the public or payments-in-lieu of such dedications shall be required unless the need for such is documented in the adopted Hopkinton Comprehensive Community Plan, the Hopkinton Recreation, Conservation and Open Space Plan, or the Capital Improvement Program (CIP). The requirement for dedication of land for open space, conservation, park and recreation facilities shall be based upon the policies and standards set forth in the above plans or in the CIP and shall reflect the character defined for the neighborhood or district in which the subdivision is located by the Comprehensive Community Plan. The nature of the land dedication must reflect the character of the land being subdivided and must be suitable for the intended use.

3. Amount of Land to be Dedicated

The minimum amount of land to be dedicated shall be based upon the following formula:

$$\begin{array}{rcccccc} \text{Amount} & & \text{Number} & & \text{Persons} & & \text{Land} \\ \text{Dedicated Land} = & & \text{of DU's in the} & \text{X} & \text{per} & \text{X} & \text{Need (3)} \\ \text{(Acres)} & & \text{Subdivision (1)} & & \text{DU (2)} & & \text{(.01 Acres)} \end{array}$$

- (1) The maximum number of dwelling units in all phases of the land development project or subdivision
- (2) Persons per Dwelling Unit. See subsection 8 below.
- (3) Land Need. See subsection 7 below.

4. Fee-in-Lieu of Land Dedication

The Planning Board may require in place of dedication of land a cash contribution or combination of land and cash. The amount of such fee shall be

based upon ~~fair~~ **fair** market value of the amount of developed land which otherwise be required to be dedicated.

$$\begin{array}{rcl} \text{Fee-in-lieu} & & \text{Fair Market} \\ \text{Of land dedication} = & \text{value per acre of} & \text{X} & \text{Amount of} \\ & \text{developed land} & & \text{land to be dedicated} \end{array}$$

5. Fair Market Value

Fair Market Value of the land shall be established by the Town of Hopkinton Tax Assessor, who shall base the valuation assuming approval of the subdivision plat. The Tax Assessor shall review recent sales of comparable vacant land in Hopkinton and near by towns to establish Fair Market Value of the dedication land. If a subdivider objects to such amount of valuation, he/she may obtain an appraisal of the property by a qualified real estate appraiser which appraisal may be acceptable to the Planning Board and the Hopkinton Tax Assessor if found to be reasonable.

6. Ownership of Land

~~Land dedications required by this Section may be made by transfer of fee simple ownership to any of the following, as determined by the Planning Board.~~

- ~~a. The Town of Hopkinton~~
- ~~b. A private Homeowner's Association~~
- ~~c. A private non profit conservation or recreation group~~

Land dedicated under the provisions of this Section may, subject to the approval of the Planning Board, be dedicated by transfer of fee simple ownership to the Town or, in the case of a conservation development, to an agency or organization as provided in Section IV.A.12.d.

7. Land Need

The Actual need for open space, conservation and open space lands as expressed in acres per 1,000 population in the Plan for Recreation, Conservation & Open Space. The 1994 Town-wide need averages 10 acres per 1,000 **population** or .01 acres per person.

8. Persons ~~per~~ **per** Dwelling Unit

The applicant may provide an estimate of the projected number of persons per dwelling unit (D.U.) in the proposed land development project or subdivision and shall state the basis for such an estimate. The Planning Board shall review

and approve of such estimate. Otherwise, the figure ~~2.85~~ **2.64** persons per household from the ~~1990~~ **2000** census shall be used.

E. Impact Statement

1. The Planning Board shall have the authority to require the applicant to prepare an Impact Statement (IS) to assess the potential short and long term affects of the proposed subdivision or land development project. An Impact Statement shall be required if the Board finds that there is reasonable expectation that the proposed subdivision or land development project will have significant negative environmental impact on natural and/or manmade systems located on the property that is the subject of the application; ~~or~~ upon nearby properties; upon natural systems; ~~or~~ upon nearby manmade resources; **or upon municipal services and/or facilities.**

2. The Board shall make findings of fact in writing and shall identify the environmental resources and manmade resources it finds to be potentially threatened. The Board’s findings shall be made part of the record of the application.

3. An IS required under this Section shall include research and documentation describing and assessing short and long term environmental **and/or other** impacts which may include but **are** not limited to impacts upon **the following**:

- ~~freshwater wetlands~~ ————— ~~traffic/roads~~
- ~~natural heritage sites~~ ————— ~~soils~~
- ~~noise and air quality~~ ————— ~~vegetation~~
- ~~solid waste generation~~ ————— ~~wildlife~~
- ~~historic/archaeological areas~~ — ~~groundwater~~
- ~~schools~~
- ~~police/fire/lighting~~

<i>Environmental Impacts</i>		<i>Other Impacts</i>
• <i>groundwater - available water supply quantity</i>	• <i>native / invasive species</i>	• <i>taxes</i>
• <i>groundwater – available water supply quantity</i>	• <i>landscaping</i>	• <i>historical / archaeological</i>
• <i>groundwater recharge</i>	• <i>wildlife presence</i>	• <i>police, fire or public safety</i>
• <i>groundwater pollution</i>	• <i>wildlife corridors / migration</i>	• <i>emergency or EMS</i>
• <i>ISDS</i>	• <i>interconnected greenways</i>	• <i>public works</i>
• <i>innovative / advanced treatment</i>	• <i>noise</i>	• <i>schools</i>
• <i>fertilizer, other non-point source pollution</i>	• <i>air quality</i>	• <i>recreation</i>
• <i>impervious surface</i>	• <i>vegetation</i>	• <i>traffic / roads</i>
• <i>soil erosion control</i>	• <i>pre-existing environmental</i>	• <i>public transportation</i>

	<i>threats</i>	
<ul style="list-style-type: none"> • <i>stormwater control</i> 	<ul style="list-style-type: none"> • <i>soils</i> 	<ul style="list-style-type: none"> • <i>utilities</i>
<ul style="list-style-type: none"> • <i>stormwater pollution control</i> 	<ul style="list-style-type: none"> • <i>construction activity</i> 	<ul style="list-style-type: none"> • <i>solid waste generation</i>
<ul style="list-style-type: none"> • <i>stormwater thermal pollution control</i> 	<ul style="list-style-type: none"> • <i>scenic / visual landscape</i> 	
<ul style="list-style-type: none"> • <i>freshwater wetlands function</i> 	<ul style="list-style-type: none"> • <i>traffic</i> 	
<ul style="list-style-type: none"> • <i>vernal pools, micro-habitats</i> 	<ul style="list-style-type: none"> • <i>off-road motorized vehicles</i> 	
<ul style="list-style-type: none"> • <i>natural heritage sites</i> 	<ul style="list-style-type: none"> • <i>outdoor lighting</i> 	
<ul style="list-style-type: none"> • <i>rare / exemplary species</i> 	<ul style="list-style-type: none"> • <i>natural heritage sites</i> 	

4. If an IS is required, the applicant shall be so informed at the preliminary meeting for a minor subdivision, or the Master Plan stage for a major subdivision and shall be advised at that meeting as to the specific information that the IS must contain.

5. For any subdivision or land development project for which an IS is required, the Board shall have the authority to impose conditions on approval that, based on the findings and analysis of the IS, are reasonably necessary to minimize adverse impacts that the development may have on the natural or manmade environment, ***or upon municipal services and/or facilities.***

6. All Impact Statements shall be referred to the Conservation Commission for their review and comment.

ARTICLE IV – SPECIAL REQUIREMENTS

NOTE: The existing provisions of IV.A. Residential Cluster Developments is deleted in its entirety and replaced with the following:

A. CONSERVATION DEVELOPMENT

1. Definition and Purpose

A Conservation Development is a type of land development project which utilizes prescribed site planning techniques to conserve open land, protect site features and provide flexibility in the siting of structures, services and infrastructure. In a conservation development, a percentage of the buildable land is set aside as open space in conformance with the Comprehensive Plan; buildings and developed areas are concentrated in specific areas on the site; and development plans are reviewed in accordance with procedures set forth within the Land Development and Subdivision Regulations. Under conservation development, there is no increase in the number of lots or dwelling units that would be permitted under conventional subdivision or development except where ordinance provisions include incentive bonuses for certain types or conditions of development.

Pursuant to and consistent with Section _____ of the (Zoning Ordinance, Town Code?), the purposes of this section, Conservation Development, are:

- a. To conserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, floodplains, wetlands, aquifers and their recharge areas, and agricultural lands, by setting them aside from development;*
- b. To preserve historical and archaeological resources;*
- c. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including sewage disposal systems and wells, and to reduce length of roads, utility runs, and the amount of paving required for residential development;*
- d. To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the population diversity of the community may be maintained;*
- e. To implement adopted municipal policies to conserve a variety of irreplaceable and environmentally important resources as set forth in the Comprehensive Plan,*
- f. To provide reasonable incentives for the creation of a greenway system within the Town;*
- g. To implement adopted land use, transportation and community service policies, as set forth in the Comprehensive Plan,*
- h. To protect areas of the Town with productive agricultural soils to encourage continued or future agricultural use by conserving blocks of land large enough to allow for efficient farm operations;*

- i. To create neighborhoods with direct visual and/or physical access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity;*
- j. To provide for the maintenance of open land set aside for active or passive recreational use, stormwater drainage or conservation lands;*
- k. To conserve and create scenic views and preserve the rural character of the Town;*
- l. To provide a buffer between new development and existing streets, neighborhoods, active farmland and adjacent park or conservation land.*

2. Applicability

- a. In accordance with the standards set forth in this Section IV. A, the Planning Board may require all major or minor subdivisions or land development projects to be developed as a Conservation Development, whether a subdivision or not, except as provided in subsection A.2.b and c. of this Article, below.*
- b. Administrative subdivisions and subdivisions that create lots which are not for the purpose of present or future development shall not be required to be developed as a Conservation Development.*
- c. The Planning Board may require or allow Conservation Developments only in the following zoning districts: R1 and RFR-80.*
- d. If an applicant requests approval of a conventional subdivision or a residential compound, the Planning Board shall first require the applicant to submit a plan(s) of a conservation development for the property proposed for development, following the requirements and procedures for conservation developments provided in this section. As a comparison, the applicant shall also submit plan(s) for the alternative type of development requested. If the Board finds that the alternative form of development meets the general purposes and required standards for subdivisions and land development projects set forth in Article III, Section A, and after consideration of the purposes of conservation developments set forth in Article IV, Section A.1., herein, the Board may permit the application to be reviewed in a form other than conservation development. The Board shall make this determination no later than the master plan stage of review for major subdivisions and major land development projects, or no later than the preliminary stage of review for minor subdivisions and minor land development projects.*

3. Procedures

Applications for Conservation Development approval shall be made in accordance with the procedures for approval of a major or minor subdivision or land development project based on the number of lots or dwellings in the development as provided in Article V. of these Regulations.

4. Design Process

The design of a Conservation Development shall follow the design process specified in the following steps. For guidance in preparing plans for proposed conservation developments, applicants are encouraged to follow the design and review process described in The Rhode Island Conservation Development Manual, RI Department of Environmental Management, June, 2003 and subsequent amendments thereto, which are attached hereto as an Addendum.

When the Master Plan is submitted for major land development projects or subdivisions, or preliminary plans for minor land development projects or subdivisions, applicants shall demonstrate to the Planning Board that this design process was considered in determining the layout of proposed streets, building locations, and open space.

Step 1 - Analyze the Site

The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other and strategies for protection. For pre-application meetings, the applicant shall submit the information required by the Pre-Application Checklist. For master plan meetings, this information shall be submitted in the form of an Existing Resources and Site Analysis Map, as specified in Section IV.A.17, herein.

Step 2 - Evaluate Site Context

The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., street and pedestrian trail networks), and cultural (e.g., open spaces, recreational opportunities) connections to surrounding land uses and activities. This information shall be submitted in the form of a Site Context Map, as specified in Section IV.A.6, herein.

Step 3 - Designate Potential Conservation Areas

The third step is to identify the areas on the site to be preserved on the site as open space. The open space may include portions of the site that are unsuitable for development or which constitute the most sensitive and noteworthy resources of the site. Where appropriate, areas that serve to extend neighborhood open space networks to/from surrounding property shall be identified. The designation of open space shall reflect consistency with the Hopkinton Comprehensive Plan.

Step 4 - Determine Maximum Number of Units

At the pre-application stage, the applicant and Planning Board shall agree upon an initial number of dwelling units that will be permitted in the conservation development or subdivision, using the Yield Plan approach as described in Section IV.A.8. The number of units may be changed by the Planning Board during subsequent stages of review, as more information is provided, until the final Basic Maximum Number of Dwelling Units is determined.

Step 5 - Locate Development Areas and Explore Conceptual Alternatives

As part of the Pre-Application submission, the applicant shall show alternative proposed development layouts in the form of a Sketch Plan(s), or Sketch Plan Overlay

Sheet(s), as described in Section IV.A.5. A minimum of three (3) conceptual alternative plans shall be shown, which shall be substantially different from one another. The Planning Board shall review how each alternative impacts the viability of the development plan, versus the benefits to the Town of one or another approach. This sketch plan shall be further refined for re-submission and discussion between the Board and applicant during subsequent stages of review, as an overlay to the Existing Resources and Site Analysis Map (Section IV.A.17).

Step 6 - Locate the House Sites

The sixth step is to locate building sites, using the proposed open space as a base map as well as other relevant data on the Existing Resources and Site Analysis Map. The design shall take into account the potential negative impacts of residential development on nearby conservation areas as well as the potential positive benefits of such locations to provide attractive views and visual settings for residences, with emphasis on consistency with Hopkinton's rural character.

Step 7 - Lay Out Streets, Trails and Other Infrastructure

Upon designation of the building sites, a street plan shall be designed to provide vehicular access to each building, complying with the standards of Article XIII herein and bearing a logical relationship to topographic conditions. Detailed information regarding stormwater drainage, water supply and sewage disposal, trails, sidewalks and other infrastructure are also provided during this step.

Step 8 – Design and Program Open Space

Details regarding the use, design, ownership and management of proposed open spaces shall be developed during the review process. Starting with conceptual proposals at the early stages of review, the function of open space areas shall be developed and refined. Based on review by the Planning Board and other reviewers, these concepts shall be clarified during the review process to establish as clear an approach to the use and maintenance of open space as it does for development areas.

Step 9 - Draw in the Lot Lines

Upon completion of the preceding 8 steps, the next step is to draw in the lot lines to delineate the boundaries of individual residential lots (if applicable).

Step 10 - Establish Ownership and Management of Open Space and Other Community Elements

At the time of preliminary review for major land development projects or major subdivisions, or at the time of final review for minor land development projects or minor subdivisions, a more detailed open space use and management plan as described in Section IV.A.12.g shall be submitted.

5. Sketch Plan Overlay Sheet

The design process described above shall be documented by the applicant and presented to the Planning Board. To expedite this process, a conceptual sketch plan(s) for development shall be presented as overlay sheets to be superimposed on top of more detailed site surveys and environmental data (at the same scale).

At the pre-application stage of review, the initial sketch plan may be presented as an overlay to survey plans, topographic maps or aerial photographs of the parcel(s) proposed for development. As an alternative, if detailed site information and surveys are not available, a separate diagrammatic sketch plan may be presented.

At the preliminary stage of review for minor land development projects and subdivisions, and at the master plan stage of review for major land development projects and subdivisions, the sketch plan of development shall be presented as an overlay to the Existing Resources and Site Analysis Map.

6. Site Context Map

A map showing the location of the proposed development within its neighborhood context shall be submitted. The Site Context Map, which may be superimposed on an aerial photograph, shall be drawn to a scale of 1"= 400' or as necessary to show the area within one-half mile of the subdivision parcel. It shall show the locations of all streets, existing lot lines, and zoning district boundaries. Existing developed areas, open spaces, conservation areas, parks, wetlands, rivers and streams, agricultural areas, Rhode Island Natural Heritage Areas, flood plains or flood hazard areas, and significant public facilities shall be indicated on this Map. Topography at 10-foot contour intervals (from USGS maps) shall be shown.

A separate soils map of the surrounding area shall be prepared. If present, agricultural land (see definition in Article II) and any very poorly drained soils shall also be shown on the Site Context Map.

7. Lot Dimensional Requirements

Applicants are encouraged to modify lot area, shape, and other dimensional characteristics within a Conservation Development. A Conservation Development may be developed with dwelling units on separate lots, a single lot, or a combination thereof. Where dwellings are proposed to be located on individual lots, the following minimum dimensional regulations shall be applicable to dwellings within a Conservation Development.

<i>Use</i>	<i>Minimum Lot Area (sq. ft.)</i>	<i>Minimum Lot Frontage and Width (ft.) (see Note)</i>	<i>Minimum Front Yard Depth (ft.)</i>	<i>Minimum Rear Yard Depth (ft.)</i>	<i>Minimum Side Yard Depth (each side) (ft.)</i>	<i>Maximum Percentage of Lot Covered by Impervious Surfaces</i>
<i>Single Household Dwelling</i>	<i>30,000¹</i>	<i>125</i>	<i>30</i>	<i>40</i>	<i>10</i>	<i>15%</i>
	<i>20,000²</i>	<i>100</i>	<i>30</i>	<i>30</i>	<i>10</i>	<i>20%</i>
	<i>15,000³</i>	<i>90</i>	<i>30</i>	<i>30</i>	<i>10</i>	<i>25%</i>

<i>Two Household Dwelling</i>	40,000 ¹	150	40	40	20	15%
	30,000 ²	125	40	40	20	20%
	20,000 ³	100	40	40	20	25%
<i>3-4 Household Dwelling</i>	80,000 ¹	200	40	40	30	10%
	60,000 ²	175	40	40	27.5	15%
	40,000 ³	150	40	40	25	20%

Notes:

1. *Both ISDS and well on lot*
2. *Either ISDS or well off lot; or ISDS and public water*
3. *Both ISDS and well off lot. May include common sewage disposal system and community well.*

The Planning Board may authorize, through a request for waiver, modifications to the above lot frontage and width as provided in Section 6.1 of the Zoning Ordinance.

8. Basic Maximum Number of Dwelling Units

The Basic Maximum Number of dwelling units allowed on a parcel of land proposed for development as a Conservation Development is defined as the maximum number of dwellings that could reasonably be expected to be developed as a conventional subdivision upon that parcel under a Yield Plan as defined herein. The applicant shall have the burden of proof with regard to the reasonableness and feasibility of the design and of the engineering specifications for such Yield Plan; provided, however, that the Planning Board's determination of the Basic Maximum Number shall be conclusive.

Yield Plans shall be prepared as conceptual layout plans in accordance with the Pre-application Checklist (Checklist B). Yield plans shall show proposed streets, lots, rights-of-way, land unsuitable for development and other pertinent features. Although the Yield Plan must be drawn to scale, it need not be based on a field survey. However, it must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of Land Unsuitable for Development (Article III, Section C), existing easements or encumbrances and the suitability of soils for subsurface sewage disposal.

The Yield Plan shall also reflect the dimensional standards for uses being proposed, as contained in the Zoning Dimensional Regulations in Section 6, or other applicable dimensional requirement of the Zoning Ordinance. The Yield Plan must identify how conventional lots or uses could be developed having the required area, frontage and other dimensional requirements of the Zoning Ordinance. Although lots shown in the Yield Plan may contain land unsuitable for development as defined in Article III.C, this area shall not be counted towards the minimum lot area as provided in the Zoning Ordinance.

On sites served by Individual Sewage Disposal Systems (ISDS), density shall be further determined by evaluating the number of dwellings or other uses that could be supported by ISDS on lots in a conventional subdivision. Lots or dwelling units shown on a Yield Plan shall not include dwellings proposed to be serviced by an ISDS that requires the granting of a variance by the RI Department of Environmental Management. The Planning Board shall determine the suitability of the parcel to be developed as a conventional subdivision, based on the soils information provided by the applicant, upon observations made during the site visit to the property, and/or upon other evidence available to the Board at any time during the development review process.

At the pre-application stage of review, the Planning Board shall discuss the Basic Maximum Number of lots/dwelling units permitted in a development. This initial determination shall not be binding upon the Board or applicant, but shall provide guidance and direction to the applicant regarding the maximum number of lots or dwelling units that appear to be feasible, taking into account the physical constraints to development present on the site.. The applicant shall use this initial determination as the basis for submission of more detailed information during subsequent stages of review. Upon further investigation and upon receipt of more detailed soils and environmental information as may be provided in subsequent stages of review, the Planning Board may increase or reduce the number of lots/dwelling units contained in the initial Basic Maximum Number. For all developments, the final Basic Maximum Number shall be established by the Planning Board at the final stage of review.

In developments that require alterations to be made to freshwater wetlands, the Board may establish an initial Basic Maximum Number contingent upon confirmation by the RI Department of Environmental Management that such alterations are permitted under the provisions of the Freshwater Wetlands Act.

9. Types and Location of Buildings

A Conservation Development may consist of any combination of single household and multi-household residential structures. A multi-household structure, however shall not contain more than four (4) dwelling units. The Planning Board may require the development plan to show the location of building footprints, and their relation to driveways and streets, and may approve, approve with modification, or deny such locations. For all 2, 3 and 4-unit dwellings, the applicant shall be required by the Planning Board to submit exterior building elevations and schematic architectural plans for its review and approval. The Board shall review these drawings for conformity with the design guidelines set forth herein and in the Comprehensive Plan. In lieu of drawings, or to supplement drawings, the Board may permit specific written architectural standards or codes for typical building appearance to be submitted by the applicant for review and approval.

For the purposes of applying the Basic Maximum Number, a single household dwelling shall be counted as one dwelling, a two household dwelling shall be counted as two dwellings, a three household dwelling shall be counted as three dwellings and a four household dwelling shall be counted as four dwellings.

Lots having reduced area or frontage shall not have frontage on a street other than one created by the Conservation Development; provided, however, that the Planning Board may waive this requirement if it finds that such reduced lot(s) are consistent with existing development patterns in the neighborhood.

10. Stormwater Management

The stormwater management system for a Conservation Development shall conform to the Town's Land Development and Subdivision Regulations, with particular regard for the need to encourage infiltration and groundwater recharge as opposed to detention or retention basins. See Article XIII, Section D.

11. Parking

Each dwelling unit shall be served by off-street parking as provided in Section 28 of the Zoning Ordinance; provided, however, that this requirement may be waived by the Planning Board where on-street parking, or parking in approved parking lots or structures is determined to be acceptable. Spaces in garages, or in driveways in front of garages may be counted in any computation of required parking.

12. Open Space

Every Conservation Development shall provide protected open space in accordance with the following standards:

- a. The open space shall be established as a lot or lots separate and distinct from the lots intended for residential and accessory uses, and from land dedicated as street rights-of-way.*
- b. The minimum amount of required open space area shall be based on a percentage of the land suitable for development in the entire Conservation Development as provided in the table below. None of the minimum required open space area shall be devoted to land unsuitable for development as defined in Article III, Section C. of these regulations.*

<i>Zoning District</i>		<i>Minimum Amount of Required Open Space</i>
<i>RFR-80</i>		<i>60%</i>
<i>R-1</i>	<i>Both ISDS and well on lot</i>	<i>30%</i>
<i>R-1</i>	<i>Either ISDS or well off lot; or ISDS and public water</i>	<i>55%</i>
<i>R-1</i>	<i>Both ISDS and well off lot.</i>	<i>60%</i>

- c. This minimum required area shall be in addition to any open space used for*

stormwater drainage facilities. Provided, however, that the Planning Board may allow stormwater drainage facilities to count toward the minimum required open space area if it finds that the drainage areas are designed as a fully integrated part of an overall open space landscape plan which incorporates trails, active or passive parks, landscaped site features, streambelts or greenways, and are designed to facilitate infiltration and recharge of water, and that such facilities are not in conflict with the intent and purpose of a Conservation Development as stated in Section A.1 of this Article, or with the general purposes of these Regulations.

- d. *The Planning Board shall determine which entity shall own the open space in a conservation development. Open space provided by a Conservation Development for public or common use, shall either (1) be conveyed to the Town and accepted by the Town for park, open space, agricultural, or other permitted use or uses; or (2) be conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space or resource protection; or (3) be conveyed to a corporation or trust owned or to be owned by the owners of lots or units within the Conservation Development or owners of shares within a cooperative development. If such a corporation or trust is used, ownership shall pass with conveyances of the lots or units; or (4) remain in private (non-common) ownership if the use is limited to agriculture, habitat or forestry, and, in accordance with the Comprehensive Plan and Zoning Ordinance, that private ownership is necessary for the preservation and management of the agriculture, habitat or forest resources. The Planning Board may limit the amount of open space that may remain in private ownership where necessary to contribute to a connecting greenway system or to provide public access to open space, as provided in the Comprehensive Plan.*
- e. *In any case where the land is not conveyed to the Town, a deed restriction, in perpetuity, enforceable by the Town or by any owner of property in the land development project in which the land is located, shall provide that the land shall be kept in the authorized condition(s) and not be built upon or developed. Buildings, structures, parking areas or other impervious improvements which are accessory to and subordinate to a permitted open space use, may be located on any open space lot provided that, in all cases, they occupy no more than five (5) percent of the total open space area of the Conservation Development.*

In addition, in any case where the land is not conveyed to the Town, the development rights and other conservation easements on the land may be held, in perpetuity, by a nonprofit organization, the principal purpose of which is the conservation of open space or resource protection.

- f. *All open space, regardless of whether it is conveyed to the Town, shall be protected against further development and unauthorized alteration, in perpetuity, by appropriate deed restrictions, and by the grant of a conservation or preservation restriction to the Town, pursuant to Title 34, Chapter 39 of the Rhode Island General Laws, as amended. In addition,*

the perpetual maintenance of all open space shall be guaranteed by appropriate deed restrictions, and by the grant of a conservation or preservation restriction to the Town, pursuant to Title 34, Chapter 39 of the Rhode Island General Laws, as amended. The Planning Board or Administrative Officer shall approve the form and content of all deed restrictions at the time of final approval of the subdivision. Every deed restriction providing a maintenance guarantee shall contain the following provision:

"If the owners, or their successors or assigns fail to maintain the open space, the Town may perform any reasonable and necessary maintenance and enforce the payment for such costs, including reasonable attorneys' fees, by an action at law or in equity against the owners or their successors or assigns. All aforementioned costs shall act as a lien on the property and may be recorded in the land evidence records of the Town"

- g. The Planning Board shall specifically require plans to be submitted for their review and approval, for the use, management and maintenance of all open space areas within any Conservation Development. Areas proposed to fulfill the minimum open space requirement within a Conservation Development shall not be excavated or regraded, except as permitted by the Planning Board. Disturbance to the natural contours of the land shall be minimized to the greatest extent possible. Existing natural vegetation and any significant natural or man-made features shall be preserved except as permitted by the Planning Board to create or enhance areas of landscaping, parks, recreation, conservation, forestry or wildlife habitat. These disturbances shall be specifically shown on the open space use plan.*

At the time of Master Plan review by the Planning Board for major subdivisions or land development projects, or preliminary review for minor subdivisions or land development projects, the applicant shall submit a separate open space use plan containing:

- 1) the general location and area of all proposed open space;*
- 2) the general proposed use(s) of the open space;*
- 3) existing topography and existing ground cover of open space areas;*
- 4) the location and nature of any existing buildings, structures, stone walls or other unique natural and/or historic features;*
- 5) areas of open space from which existing vegetation will be removed or altered and areas which are proposed to be disturbed or otherwise graded, excavated or altered from their existing natural state;*
- 6) generalized proposals for the regrading, revegetating and/or landscaping of proposed disturbed areas;*
- 7) the location and nature of any proposed buildings, structures, parking areas or roadways, impervious areas recreation areas and,*

8) areas proposed to be left in their existing natural states without any disturbance.

At the time of preliminary review by the Planning Board, a more detailed management plan that specifies the use of the open space shall be submitted for review and approval, which may be combined with any required grading plans, landscaping plans, soil erosion plans or drainage plans required for preliminary approval.

The Planning Board shall require final construction plans to show proposed open space use(s) and alterations required as a condition of final approval.

- h. Clearing and excavation of open space areas may be permitted only for the installation of stormwater retention or detention facilities, other drainage facilities, ISDS or water supply wells, or for permitted park, open space, recreational or agricultural uses in accordance with a plan approved by the Planning Board.*

In addition, no commercial earth removal, even if permitted by the Zoning Ordinance, in the zoning district in which the development is proposed, shall be permitted within any open space areas. In approving an open space use plan, the Board may permit grading that includes removal of earth materials. The Board shall, however, clearly indicate, as a condition of preliminary approval, the approximate quantities of material and the general areas from which earth removal is authorized, and shall only authorize the minimal amount of earth removal required to grade the land for the intended purpose.

13. Open Space Design Review Standards

- a. List of Resources to Be Conserved - The design of open space lands in any Conservation Development shall reflect the standards set forth in this subsection IV.A.13 and, to the fullest extent possible, incorporate any of the following resources if they occur on the parcel (not listed in order of significance):*

1) Stream channels, floodplains, wet soils, swales, springs, and other freshwater wetland areas, including adjacent buffer areas that may be required to ensure their protection;

2) Special aquatic sites, vernal pools and significant natural areas of species listed as endangered, threatened, or of special concern, such as those listed in the Statewide Natural Heritage Inventory;

3) Moderate to steep slopes, particularly those adjoining watercourses and ponds, where disturbance and resulting soil erosion and sedimentation could be detrimental to water quality;

4) Healthy woodlands, particularly those performing important ecological functions such as soil stabilization and protection of streams, wetlands, and wildlife habitats;

5) Areas where precipitation is most likely to recharge local groundwater resources because of topographic and soil conditions affording high rates of infiltration and percolation;

6) Hedgerows, groups of trees, location and species of large individual trees of botanic significance, and other vegetation features representing the site's rural past;

7) Active agricultural uses, pastures, croplands;

8) Prime farmland soils and farmland soils of statewide importance;

9) Historic structures and sites, including stone walls, to the greatest extent possible;

10) Visually prominent topographic features such as knolls, hilltops and ridges;

11) Geologic features such as eskers or kettle holes;

12) Scenic viewsheds as seen from public roads (particularly those with historic features);

13) Existing trails connecting the parcel to other locations in the Town;

14) Wellhead protection areas.

b. Other Design Considerations - The configuration of proposed open space lands set aside for common use in a Conservation Development shall comply with the following standards:

1) They shall be free of all structures except historic buildings or structures, stone walls, and structures related to open space uses. The Planning Board may grant approval of structures and improvements required for storm drainage, sewage treatment, Individual Sewage Disposal Systems (ISDS) and water supply within the open space provided that such facilities would not be detrimental to the purpose for which the open space is proposed. The Board may permit subsurface sewage disposal beds (either individual or common) to be located within open space areas.

- 2) They shall be directly accessible to the largest practicable number of lots or dwellings within the development. Nonadjoining lots shall be provided with safe and convenient pedestrian access to open space land;*
 - 3) They shall be suitable for active or passive recreational uses to the extent deemed necessary by the Planning Board, without interfering with adjacent dwelling units, parking, driveways, and roads;*
 - 4) They shall be interconnected wherever possible to provide a continuous network of greenway lands within and adjoining the subdivision;*
 - 5) They shall provide buffers to adjoining parks, preserves or other protected lands;*
 - 6) They shall provide for pedestrian pathways for use by the residents of the development. Consideration shall be given to providing for public access on such trails if they are linked to other publicly accessible pathway systems within the Town or region. Provisions should be made for access to the open space lands, as required for land management and emergency purposes;*
 - 7) Whenever possible, they shall be undivided by public or private streets, except where necessary for proper traffic circulation;*
 - 8) They shall be suitably landscaped either by retaining existing natural cover and wooded areas and/or according to a landscaping plan to protect open space resources;*
 - 9) They shall be consistent with the Comprehensive Community Plan.*
- c. Uses Permitted Within Open Space Areas - The open space in a Conservation Development shall be devoted only to conservation purposes or for park, recreation and agricultural purposes. Stormwater drainage areas, ISDS and well placement may also be allowed if permitted by the Planning Board in accordance with IV.A.12-13. The Planning Board may deny any of the uses listed below if it finds that the proposed use is excessive, active or likely to produce impacts on the surrounding area or natural environment that would make it incompatible with the proposed residential use of the property or surrounding areas.*

The following specific uses are permitted:

- 1) conservation of land and other natural resources;*
- 2) agriculture, to include use categories 101-105 as provided in the Zoning Ordinance. The prohibition of any such use (N) or the requirement to*

obtain a special use permit (S) as provided in the District Use Table in Section 5 shall apply;

- 3) private wells and Individual Sewage Disposal Systems for uses within the Conservation Development;*
- 4) community wells and sewage disposal systems for uses within the Conservation Development;*
- 5) subdivision parks; and,*
- 6) subdivision community centers.*

14. Buffer Areas

If property abutting the proposed Conservation Development contains developed residential building lots, or if there are existing residential structures within one hundred (100) feet of the perimeter of the Conservation Development, the following conditions must be met:

- a. Structures in the Conservation Development must be located to meet at least the minimum rear yard setback of the underlying zoning district in which the Conservation Development is located, and,*
- b. A permanent buffer along the perimeter of the Conservation Development shall be established, providing for the preservation of existing trees or other vegetation or for the planting of new vegetation having adequate density, height and type of vegetation, in order to provide an all-season visual and audio screen between the Conservation Development and adjacent land uses. This buffer may be provided in either of two alternative forms, to be determined by the Planning Board:
 - 1) A separate open space lot or lots as provided in subsection 12 above, entitled Open Space; or,*
 - 2) A permanent easement along the perimeter of the Conservation Development to be located along the rear or side property line of the proposed lot or lots that abut the perimeter of the Conservation Development. Said easement shall run in favor of the Town and shall be for conservation or open space purposes only. Where such easements are located on privately owned lots, they shall not be counted toward the minimum required open space area.**
- c. The width of the required perimeter buffer shall be at least fifty (50) feet provided, however, that the Planning Board may reduce this width to a minimum of ten (10) feet. In making this determination, the Planning Board shall consider the following factors:
 - 1) the nature of adjacent land uses existing at the time of master plan review(or preliminary review for a minor subdivision or land development project);*
 - 2) the nature of proposed or projected future land uses on adjacent property;**

3) *the physical characteristics of adjacent property (e.g., wetlands, slopes, stone walls, etc.);*

4) *the ownership of adjacent property (e.g., private, public, non-profit conservation, etc.);*

5) *the zoning of adjacent property;*

6) *the land use classification of adjacent property as provided on the Comprehensive Plan Land Use Plan Map.*

If lots on the outer perimeter of the proposed Conservation Development are not contiguous to developed residential building lots outside the Conservation Development, the above provisions regarding rear yard setbacks shall not apply. However, the requirement for a permanent buffer along the perimeter property line shall apply unless the Planning Board specifically waives this requirement.

Lots on the outer perimeter of the proposed Conservation Development, which are directly adjacent to a public street, must be separated from said public street by a thickly wooded buffer or screen of at least one hundred (100) feet in depth along the entire street frontage, except for any necessary access streets. On sites where there is little or no existing vegetation along an existing public street, consideration shall be given to creation of a new parallel street separated from the existing public street by a foreground meadow (see Figure 11).

If development within the Conservation Development is such that individual building lots are not being created (i.e., subdivision) but that buildings are proposed to be located on a single lot (i.e., condominium) or combination thereof, the provisions stated above with regard to buffer areas shall be interpreted to apply to the setback, screening and location of individual buildings.

15. Streets

Streets within a Conservation Development may be publicly or privately owned and maintained and shall conform to the standards of Article XIII, Section B. Street Design Standards of these Regulations. Streets shall be designed to conform to the standards of the Town where the street is or may be ultimately intended for dedication and acceptance by the Town. Private streets shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or such other means or entity as may be approved by the Planning Board.

16. Decision

The Planning Board may approve, approve with conditions, or deny an application for a Conservation Development upon finding that the Conservation Development meets the purposes of these Land Development and Subdivision Regulations, after consideration of the general requirements set forth at Article III, Section A, and after consideration of the purposes set forth in Article IV, Section A.1., herein.

17. Existing Resources and Site Analysis Map

Applications for subdivisions and land development projects, except administrative subdivisions and subdivisions that create lots which are not for the purpose of present

or future development, whether or not proposed to be developed as a conservation development, shall be required to prepare an Existing Resources and Site Analysis Map. The purpose of this Map is to provide the Planning Board with a comprehensive analysis of existing conditions, both on the proposed development site and within 500 feet of the site. Conditions beyond the parcel boundaries may be described on the basis of existing published data available from governmental agencies, and from aerial photographs.

The Planning Board shall review the Map to assess its accuracy, conformance with municipal ordinances, and likely impact upon the natural and cultural resources on the property. Unless otherwise specified by the Planning Board, such plans shall generally be prepared at the scale of 1" = 100' or 1" = 200', whichever would fit best on a single standard size sheet (24" x 36"). The following information shall be included in this Map:

A. Topography and Slopes

- 1. Topography, the contour lines of which shall generally be at 10-foot intervals, interpolated from U.S.G.S. published maps. More detailed topographic mapping determined by photogrammetry or on-site survey shall be required in areas proposed for development. The determination of appropriate contour intervals shall be made by the Administrative Officer, who may require greater or lesser intervals on exceptionally steep or flat sites. Slopes between 15 and 25 percent and exceeding 25 percent shall be clearly indicated by shading on the map, and the area thereof in acres shall be indicated. Topography for major subdivisions shall be prepared by a professional land surveyor from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official U.S.G.S. benchmarks.*

B. Natural Resources Inventory

- 1. The location and delineation of ponds, streams, ditches, drains, special aquatic sites, vernal pools, natural drainage swales, 100-year floodplains and freshwater wetlands, as defined in the Zoning Ordinance. Additional areas of wetlands on the proposed development parcel shall also be indicated, as evident from testing, visual inspection, or from the presence of wetland vegetation.*
- 2. Vegetative cover conditions on the property according to general cover type including cultivated land, agricultural land, permanent grass land, meadow, pasture, old field, hedgerow, woodland and wetland. Trees with a caliper in excess of eighteen inches DBH (diameter at breast height), if located within an area proposed for disturbance or alteration shall also be indicated. Vegetative types shall be described by plant community, relative age and condition. Specimen vegetation as defined in Article II shall be identified.*
- 3. Soil series, types and map units, as mapped by the U.S. Department of Agriculture, Soil Conservation Service in the latest published soil survey for the State, and accompanying data published for each soil relating to its suitability*

for construction and for septic suitability

4. *Geologic formations on the proposed development parcel, including rock outcroppings, cliffs, kettle holes, eskers, etc. based on available published information or more detailed data obtained by the applicant.*
5. *Ridge lines of existing hills and watershed boundaries shall be identified.*

C. Cultural Resources Inventory

1. *All existing man-made features including but not limited to streets, driveways, farm roads, woods roads, buildings, foundations, walls, wells, drainage fields, dumps, excavated areas, utilities, and storm and sanitary sewers.*
2. *Location of all historically significant sites or structures on the tract, including but not limited to cemeteries, stone walls, cellar holes and foundations, and known archaeological resources.*
3. *A viewshed analysis showing the location and extent of views both from and within the proposed development parcel as well as views into the property from adjacent public or private streets and properties. See definition in Article II.*

D. Recreational Resources Inventory

1. *Location of trails that have been in public use (pedestrian, equestrian, bicycle, etc.).*
2. *Boat launches, stream access locations and water trails*
3. *Existing play fields and recreation areas*

E. Utilities and Infrastructure

1. *Location of all easements and other encumbrances of property which are or have been filed of record with the Land Evidence Records of the Town.*
2. *Location of all streets and utilities*

18. Incentives

The Planning Board may award a zoning incentive so as to increase the number of dwelling units beyond the Basic Maximum Number; provided, however, that the maximum number of permitted dwellings in the Conservation Development site shall not be increased by a factor of more than 1.3. An incentive may be awarded in the following circumstances:

- a. *The number of single household dwelling units having one (1) or fewer bedrooms, including so-called “studio units” may be increased by a factor of 1.2 for the purpose of calculating the Basic Maximum Number; and/or,*
- b. *The number of single household dwelling units having a maximum of two (2) bedrooms may be increased by a factor of 1.1 for the purpose of calculating the Basic Maximum Number; and/or*

- c. *Where the Planning Board determines that occupancy of the dwelling unit in the Conservation Development is limited to adults fifty-five years of age or older, subject to the exceptions set forth in the Federal Fair Housing Act, the Basic Maximum Number of permitted dwelling units in the development may be increased by a factor of 1.2; and/or,*
- d. *Where the Planning Board determines that the amount of open space area provided in the entire Conservation Development exceeds the minimum amount as provided in the Subdivision and Land Development Regulations, the Basic Maximum Number of permitted dwelling units in the development may be increased by a factor in accordance with the following table:*

<i>Amount of Open Space Provided</i>	<i>Permitted Increase in Density</i>
<i>5 to 10 percent more than minimum</i>	<i>Factor of 1.05</i>
<i>More than 10 to 20 percent more than minimum</i>	<i>Factor of 1.1</i>
<i>More than 20-50 percent more than minimum</i>	<i>Factor of 1.2</i>
<i>More than 50 percent above minimum</i>	<i>Factor of 1.3</i>

- e. *The Planning Board may determine that an existing dwelling which is currently located on the property being developed should be preserved for any of the following purposes: maintenance of historic or traditional development patterns; preservation of streetscape features; maintenance of building placement, setback and alignment on the site; preservation of historic structures that contribute to the character of an area; design of public or common open space; or other design or site planning issues identified in the Comprehensive Plan. In such cases, the Planning Board may allow the applicant to exceed the Basic Maximum Number of permitted dwelling units in the development by one (1). Any dwelling granted a zoning incentive under the provisions of this section shall be subject to deed restrictions prohibiting the removal or alteration of the dwelling except as may be approved by the Planning Board as a condition of approval. This dwelling may contain more than two bedrooms.*

In computing the number of incentive dwelling units, all figures shall be rounded down to the nearest whole number Except as provided in subsection 13.18.e. above, dwelling units qualifying as incentives herein shall be subject to deed restrictions approved by the Planning Board’s legal counsel limiting the number of bedrooms to two (2) or less.

The foregoing incentives shall not be construed to limit, or to have the effect of limiting, the Planning Board’s discretion, under Comprehensive permits submitted under the Affordable Housing Legislation, R.I.G.L. 45-53, et al, or Town Ordinances enacted pursuant to said Legislation.

B. Residential Compounds

1. Definition and Purpose

A Residential Compound is a *land development project* ~~parcel of land~~ containing lots for single family development and having an average density of *no greater than* one dwelling per five acres of ~~buildable land~~ *land suitable for development*. The Town of Hopkinton ~~encourages~~ *requires* residential compounds to be constructed on private roads where such low density development is in the best interests of the town. A residential compound shall be considered in the best interests of the town when ~~it is found to~~ *the Planning Board finds that the application will* fulfill the following objectives:

1. To preserve the town's rural character, or
2. To provide for moderate development around the village centers and to make it affordable for more persons to own larger parcels of land suitable for small farms or homesteads, or
3. To provide for limited development in areas of poorly drained soil and remote sections of town, costly and inefficient to service, or
4. To more readily permit subdivision of large family homesteads for distribution among family members, or
5. In the discretion of the Planning Board, any or all above objectives.

2. Residential Compound Eligibility

Residential compounds shall be reviewed by the Planning Board in the same manner as a conservation development as provided in the Subdivision and Land Development Regulations. No later than at the time of master plan review for a major subdivision or preliminary review for a minor subdivision, the Planning Board shall determine if a residential compound will be permitted, or if the proposed development shall be required to be developed as a conservation development. The Planning Board may require a residential compound to be developed as a conservation development if it finds that a conservation development would be more consistent than a residential compound with the general purposes of conservation developments as stated in Section IV.A.1, and with the purposes and general requirements of the Subdivision and Land Development Regulations.

No lot which has been created from a larger lot after **the effective date of these regulations** shall be developed as a residential compound. No lot which has been developed as a residential compound lot may thereafter be further subdivided, provided however, this shall not prevent the development of residential compounds in incremental 

stages or phases, so long as each component lot therein shall not be altered after having received final approval for the Planning Board.

3. Minimum Lot Size and Density

- a. Minimum Lot Size: Two (2) acres per building lot
- b. Minimum Density: Five (5) acres of land suitable for development per building lot
- c. Maximum Number of Lots: Seven (7) building lots

4. Density Calculation

For the purposes of determining buildable land, the following formula shall apply:

$$U = (\underline{GA} - \underline{NA}) / \underline{GD}$$

- GA = Gross area of the proposed development in acres and tenth of an acre.
- NA = The area, in acres and tenth of acres, of land *unsuitable* for development, as the term is defined herein, shall be subtracted from the total acreage of the parcel.
- GD = Gross development density in units per acre as stated above.

U = *Maximum* ~~P~~permissible number of single family dwelling units. This figure shall be rounded *upward or downward, depending on which is nearest*, to the nearest whole number to establish the total number of single family dwelling units to the permitted in the residential compound.

5. Use

All buildable lots in residential compounds shall be limited to single family dwellings only, in conformance with all applicable requirements specified in the zoning ordinance.

6. Dimensional Regulations

- a. Minimum Frontage on Private Right of Way: Thirty (30) feet
- b. Minimum Front Setback: Seventy five (75) feet
- c. Minimum Side Setback: Forty (40) feet
- d. Minimum Rear Setback: Fifty (50) feet

7. Frontage on Streets

Each building lot shall have either frontage on a public street, or on a private street by a legal right-of-way, so that all owners of lots in the residential compound shall have access to a public street. The subdivider shall provide the Planning Board with satisfactory documentation of the legal basis of any private right-of-way to be used for access. The private right-of-way shall be shown on the final plat in its entirety from the public street to the building lots in the residential compound. The private right-of-way must have a minimum of fifty (50) feet of frontage on a public dedicated roadway.

8. Standards for Private Right-of-Way

If the Planning Board finds that due to the number of dwelling units contained in the residential compound or the density of such development, the adequacy of access to and from the residential compound should be regulated, the Planning Board shall propose construction standards for any private right-of-way within the residential compound connecting the residential compound to a public street. In making such a determination, the Planning Board shall consider the present and future uses of other adjacent land which may use the same private right-of-way street as the proposed residential compound.

In setting construction standards for a private right-of-way street, the Planning Board may include but not limited to; pavement surface, pavement surface width, depth below finished grade for removal of boulders and ledge, grade of ascent and descent, surface water runoff control, drainage provision, and any other such areas deemed appropriate by the Planning Board.

The minimum road standards for a private right-of-way street in a residential compound are specified in Article XIII.

9. Improvements

All required improvements, both roadway and drainage, shall be completed before the residential compound final approved plat is accepted for recording in the land evidence records for the town. The final plat certified by a Residential Professional Engineer, when presented to the Town Clerk for recording, shall be accompanied by a letter of certification from the Public works Director that all such improvements have been completed in conformance with the approved design specifications.

Street and drainage improvements may be bonded by a financial guarantee as provided for in Article VII in a form and amount approved by the Planning Board.

10. Sharing of Private Right-of -Way

No more than two (2) residential compounds shall share a private unimproved right-of-way (minimum standards). If a second compound is proposed, the Planning Board may

impose further upgrading of the right-of-way street and drainage as provided in Section 8 above. If the private right-of-way street is upgraded to meet design and construction standards of a public street, the Planning Board may recommend acceptance of the roadway by the Town Council into the town street system. If the roadway is accepted by the Town Council, the Planning Board may allow additional compounds to share the roadway.

11. Open Space

Any land within the boundaries of the residential compound not designated as a building lot or *street* right-of-way, shall be designated as open space. Such land may only be used for; ~~conservation, outdoor recreation facilities of a non-commercial nature, agriculture, preservation of scenic or historic sites and structures, and structures accessory to any of the above uses~~ ***the uses specified in Section 13.c of this Article, above.*** Access to open space shall be provided for all residential compound residents. Accesses at least thirty (30) feet in width shall be provided to each parcel of open space from the right-of-way within the compound. The location and number of accesses so provided shall be approved by the Planning Board.

The Planning Board shall approve all proposed uses of the open space parcel(s), taking into considerations the adequacy of access to the open space, the characteristics of the land, and the characteristics of the adjacent land. The Planning Board shall approve the location of all proposed buildings, structures parking areas or improvements associated with the open space.

12. Deed Restrictions

Assurances through deed restrictions shall be given so that the town will not be requested to accept or maintain the roadway, drainage system, open space or any other improvement within the compound for which design requirements have been waived by the Planning Board, unless and until such improvements have constructed to current town standards at the sole expenses of those persons with rights in the same.

The open space land shall be protected against development and unauthorized alteration in perpetuity by appropriate deed restrictions and by the grant of a conservation easement to the Town of Hopkinton, pursuant to Title 34, Chapter 39, of the Rhode Island General Laws, as amended. The Planning Board shall approve the form and content of any such restrictions at the time of final approval of the subdivision plat.

In the owners, or their successors or assigns fail to maintain the open space and any improvements, the Town of Hopkinton may perform any necessary maintenance and enforce the payment for such reasonable cost, attorneys' fees, plus interest, as provided by law.

13. Homeowner's Association

A homeowner's association will be formed in accordance with Rhode Island General Laws, 1956, prior to the recording of the residential compound in the land evidence records. The homeowner's association shall be responsible for all maintenance of common property, including the private right-of-way, open space, drainage structures, and access ways to the open space. The open space lot(s) shall not be separately assessed for land value purposes, but added to the value of each individual compound lot.

14. Approval of Final Plat

The final plat of the residential compound shall contain a statement stating the following:

“These premises are subject to restrictions and conditions which are contained in the instruments recorded contemporaneously with this plat, and are incorporated herein by reference.”

15. Statement Accompanying Final Plat

The subdivider shall submit with the final plat a statement in writing duly executed and acknowledged, and binding upon the subdivider, and the subdivider's heirs, devisee, executors, administrators, and assigns, which statement shall be approved by the

Planning Board, and thereafter recorded contemporaneously with the recording of the final plat in the land evidence records with the Town Clerk, and shall contain the following:

- a. That the land lies within the approved residential compound
- b. That the development of the land is permitted only in accordance with the land use approved by the Planning Board.
- c. That no further development of the land or lots therein shall be permitted
- d. A statement in compliance with Section B. #12 and B. 13 above
- e. A statement detailing the method of ownership, maintenance and utilization of common property, including but not limited to streets, drainage systems, and open space.
- f. A statement specifying the nature and location of any private right-of-way which is used for access to the residential compound building lots from a public street
- g. Such further restrictions, conditions, and easements which the Planning Board may direct, provided, however, that this provision shall not restrict the subdivider from imposing appropriate subdivision restrictions at the subdivider's initiative.

C. Minor Subdivision Involving No Street Creation or Extension

Any subdivision of a parcel of land into at least two (2) but no more than five (5) lots for the purpose of development, all of which have frontage on a public street, which meet all applicable area and dimensional requirements of the Zoning Ordinance but which do not require the extension or creation of a street shall be considered to be a minor subdivision and shall be reviewed according to the applicable provisions of Article V, Section C.3., and Section C.1 or C.2. of this Article below.

Subdivisions described above which create more than five (5) lots for the purpose of development shall be considered to be a major subdivision, and shall be reviewed according to the provisions of Article V, Section C.4.

1. Minor Subdivisions Involving the Creation of Two (2) Lots

Minor subdivisions described above involving the creation of no more than two (2) lots (one original lot plus one new lot) shall first be reviewed by the Administrative Officer in accordance with the procedure established in Article V, Section C.3. The applicant shall be required to submit to the Administrative Officer all plans and supporting materials as required by the *appropriate* Preliminary Plat Checklist for Minor Subdivisions (see Article XV).

If the Administrative Officer determines that the parcel being subdivided has the potential under the existing applicable zoning regulations to be developed for no more than two (2) lots (one original lot plus one new lot) the application shall be forwarded to the Planning Board with a recommendation for preliminary approval without further review as provided in Article V, Section C.3.d) (i). Provided however, that the Administrative Officer, in forwarding the application to the Planning Board, may also recommend conditions for approval as provided in subsection b. of this Section entitled Lot Development Standards, below.

Any further subdivision of either of the two (2) lots created hereunder at any time after the effective date of these Regulations, whether immediate or future, shall be considered to be a minor subdivision of three (3) or more lots or a major subdivision and shall be reviewed under the applicable provisions of these Regulations.

a. Criteria for Review

The following criteria shall be used by the Planning Board in their review of any two (2) lot subdivisions:

(1) Potential for further Subdivision

The Planning Board shall consider whether the parcel being subdivided has the potential for further subdivision under current applicable zoning

regulations. If it has such potential, the Planning Board shall consider the impacts from such future development in their review of the proposed subdivision and may impose any or all of the Lot Development Standards provided in section b. below as necessary to mitigate such impacts.

(2) Adequacy of the street on which the proposed lots front

- (a) The lots must be provided with access to a street which is adequate for access for vehicular traffic; and ,
- (b) The frontage must provide safe and adequate access to a public street.

(3) Adequacy of the access from the lots onto the street

- (a) The lots must be accessible by the fire department, police department and other agencies charged with protection of the public peace, safety and welfare; and,
- (b) The lots must be physically accessible from the street upon which it fronts i.e., they cannot be isolated by topographic or natural features which prevent adequate physical access from the street, subject, however, *to* the Planning Board's authority to modify or waive the provisions according to Article VIII.

(4) Relationship to scenic highways

Adequate provision shall be made to preserve scenic values along the road frontage of State-designated scenic highways and in those areas designated as having unusually high value according to the Rhode Island Landscape Inventory (RIDEM, 1990), in accordance with standards adopted by the State Scenic Highway Board pursuant to Rhode Island General Laws Section 24-15-9.

(5) Conformity to Zoning

The proposed lots must be in conformity with all applicable zoning ordinance requirements. The planning Board may require in addition that building setbacks from the street be varied in length. Setbacks from the street may exceed the minimum requirements of zoning.

(6) Conformity with the Comprehensive Plan

The proposed lots shall be in conformity with the Town's Comprehensive Community Plan with regard to access from local roads, and preserving visual quality and rural character along local streets.

(7) Relationship to adjacent or nearby uses

The proposed lots and access thereto shall be designated so as to minimize conflict with existing adjacent uses, driveways, buildings or other structures, street, intersections, hills, curves or other similar existing features.

b. Lot Development Standards

Standards which may be imposed by the Planning Board on any two (2) lot minor subdivision as a condition of approval may include the following:

- (1) The location of the proposed access driveway along the road frontage may be modified or relocated;
- (2) The proposed number of access driveways onto any street from any lot or group of lots may be modified or limited;
- (3) Driveways of adjacent lots, or groups of contiguous lots may be combined and the use of common driveways may be required where *deemed* feasible *by the Planning Board*.
- (4) Screening/buffering/landscaping of the lot and/or driveway from adjacent public streets may be required; or,
- (5) Preservation of any existing unique natural and/or historic features such as trees or stone walls may be required; or,
- (6) Provisions may be made for ensuring adequate sight distances from the proposed access driveway along adjacent public streets in order to alleviate any potentially hazardous situation.

2. Minor Subdivisions Involving the Creation of Three to Five Lots

Minor subdivisions described in Section C. above involving the creation of three (3), four (4), or five (5) lots for the purpose of development shall first be reviewed by the Administrative Officer in accordance with the procedure established in Article V. Section C.3d. The applicant shall be required to submit to the Administrative Officer all plans and supporting materials as required by the *appropriate* Preliminary Plat Checklist for Minor Subdivisions (see Article XV).

Any further subdivision of any lot(s) at any time after **the effective date of these Regulations**, whether immediate or future, so as to create a total of six (6) lots or more from the original lot, ~~after the effective date of adoption of these Regulations~~ shall be

considered to be a major subdivision and shall be reviewed under the provision of Article V, Section C.4.

a. Criteria for Review

In their review of any three (3) to five (5) lot minor subdivision, the Planning Board shall use the same criteria for review of a two (2) lot minor subdivision involving no street creation or extension as provided in Section 1.a., entitled Criteria for Review above. In addition, the Planning Board may also consider the following:

(1) Preservation of Agricultural Land

The preservation of land in agricultural use or which contains Prime Farmland or Farmland of Statewide Importance soils shall be maximized wherever possible by means of clustering lots and/or buildings on portions of the parcel being subdivided which are not being used for agriculture or which are not suitable for agricultural use.

(2) Feasibility of Internal Access Streets

~~Where deemed possible and practical,~~ **T**he Planning Board may require the applicant to submit appropriate alternative plans to demonstrate the feasibility of creating other types of subdivisions, such as a three (3) to five (5) lot minor subdivision with an internal street, a residential compound, a ~~residential cluster development~~ **conservation development** or a conventional subdivision. If the Planning Board determines that such an alternative development is feasible, practical and preferable, the creation of frontage lots shall be prohibited, and the applicant shall be required to develop the property in an approved alternative fashion.

b. Lot Development Standards

If the creation of 3 to 5 frontage lots is not prohibited under the provisions of a. (2) above, the Planning Board shall review the proposed frontage lots as a 3 to 5 lot minor subdivision. Standards which may be imposed by the Planning Board as a condition of approval of any 3 to 5 lot minor subdivision involving no street creation or extension may include the following:

(1) Any of the standards for the development of a two (2) lot minor subdivision as provided in section 1.b (1)-(6) above, plus any of the following:

(2) Improvements to the street on which the proposed lot(s) may be required in order to provide safe vehicular access. Provided, however that the standards for

construction or upgrading of any such street(s) shall not exceed those standards required by Article XIII of these subdivision Regulations for construction of streets in minor subdivisions.

(3) Provisions shall be made for construction of a private common driveway to provide vehicular access to multiple frontage lots from common access point (or points) on to the public streets on which the lots front. Minimum standards for the design, and construction of such common driveways may be imposed by the Planning Board in order to provide safe vehicular access. Provided, however that such standards shall not exceed those standards required by Article XIII of these Regulations for construction of streets in minor subdivisions.

(4) Easements may be required to be granted to the town to prohibit individual driveway access from lots onto frontage streets if adequate provision is made for access from individual lots to service roads required in (3) above.

(5) Provisions may be made for incorporating proposed frontage lots into future subdivisions of contiguous land, if such future subdivision is determined to be feasible by the Planning Board. Such provisions may include the following:

- (a) preparation of concept plan to indicate future access to and development of residual land contiguous to proposed frontage lots;
- (b) reservation of land or easement to provide for future access from access streets to contiguous land; and/or,
- (c) temporary driveways for frontage lots with provisions made for future permanent driveways to be connected to future streets in subdivisions of contiguous land.

D. Minor Subdivisions Involving Street Creation or Extension

Any subdivision of a parcel of land into at least two (2) but not more than five (5) lots for the purpose of development and which requires the creation or extension of a public street shall be considered a minor subdivision and shall be reviewed by the Planning Board in accordance with the procedures set forth in Article V, Section C.3. Standards for the design and required improvements of such minor subdivisions shall be as follows:

1. Creation or Extension of a Public Street

Any minor subdivision which proposes the creation or extension of a public street shall be required to meet the design improvement standards for public streets as provided in Article XIII.

2. Creation or Extension of a Private Street

Only minor subdivisions developed as a Residential Compound or ~~Residential Cluster~~ **Conservation Development** shall allow the creation of private streets. Street design and improvement standards shall be as provided in Article XIII for local streets in minor subdivisions. Where common driveways are required for 2-lot minor subdivisions, the minimum improvement standards for the driveway shall be used as established in these Regulations. Provided, however, that the planning board may prohibit individual driveway access on to the public street and require that a thirty (30) foot right-of-way access easement for a common driveway be created.

ARTICLE V
PROCEDURE FOR REVIEW AND APPROVAL OF PLATS AND PLANS

A. General Requirements

1. The Planning Board shall consider each application for subdivision approval according to the procedure set forth in this section, unless otherwise specifically provided.
2. An applicant for subdivision approval who wishes the Planning Board to take some official action on his or her application shall submit all of the materials required by the applicable section of Article XV of these Regulations (Checklists) to the Administrative Officer. If the requested action is not applicable under any of the Checklists provided in Article XV, such as a request for an extension of an approval, the applicant shall submit a written request to the Administrative Officer describing the requested action to be taken by the Planning Board. The matter will be placed on the next available agenda of the Planning Board only if the Administrative Officer determines that all of the required material has been submitted and only after a Certificate of Completeness has been issued in accordance with the applicable provisions of these Regulations.
3. Any submission of materials to the Administrative Officer shall be accompanied by a cover letter of transmittal indicating the date, the materials being submitted and the requested action. No materials shall be accepted by the Administrative Officer without said cover letter. Upon receipt of any materials, the Administrative Officer shall stamp the date or receipt upon them.
4. If an application for subdivision approval is made by someone other than the owner of the land being subdivided, the applicant shall submit a written statement from the owner authorizing such application.

B. Certificate of Complete Application

An application shall be complete for purposes of commencing the applicable time period for action when so certified by the Administrative Officer. Certification of a complete application shall be made in writing by the Administrative Officer upon a form entitled Certificate of Completeness. A copy of said Certificate shall be provided to the applicant. In the event such certification of the application is not made within the time specified in these Regulations for the type of plan being proposed, 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 Article XV (Checklists), and the Administrative Officer has notified the applicant, in writing, of the deficiencies in the application.

Notwithstanding the paragraph above, the Planning Board may subsequently require the applicant to correct any information found to be in error and/or to submit additional information specified in the Regulations but not required by the Administrative Officer prior to certification, as is necessary to make an informed decision.

Where 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.

For the purposes of calculating mandatory review periods as provided in these Regulations, all days shall be considered to be calendar days.

C. Procedure for Approval

The Planning Board shall consider applications for subdivision approval according to the following procedures:

2. 1. Administrative Subdivision

- a. Any applicant requesting approval of a proposed administrative subdivision as herein defined shall submit to the Administrative Officer the items required by the Checklist for Administrative Subdivisions in Article XV.
- b. 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 according to the provisions of Section B. of this Article.
- c. 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 ~~it's~~ *the* actions to the Planning Board at its next regular meeting, to be made part of the record. ***If no action is taken by the Administrative Officer within the fifteen (15) day mandatory review period, the application shall be placed on the agenda of the next regular Planning Board meeting.***
- d. 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 the certification of completeness. Failure of the Planning Board to act within the 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 on request of the applicant.

e. Denial of an application by the Administrative Officer shall not be appealable and shall require the plan to be submitted as a minor subdivision application.

f. Any approval of an administrative subdivision shall be evidenced by a written decision which shall be filed and posted in the office of the town clerk.

~~f. g.~~ Approval of an administrative subdivision shall expire ninety (90) days from the date of approval unless within such period of time a plat in conformity with such approval is submitted for signature and recording as provided in Article VI.

4. 2. Pre-Application Meetings and Concept Review

a. An applicant wishing to obtain ~~subdivision~~ approval ***of a minor or major subdivision or land development project*** shall first contact the Administrative Officer to arrange a meeting with the Planning Department and other Town staff. ***The purpose of this meeting is to review the procedural requirements of the application and approval process that is required for each application.*** ~~At the staff meeting, the applicant and planning staff shall determine if a pre-application meeting with the Planning Board is required by these regulations or is desired by either the applicant or the Town.~~

b. ~~If a pre-application meeting is required or requested, the~~ ***The*** applicant shall ***then*** submit all the information required by the Checklist for Pre-application Meetings and Concept Review in Article XV. ~~The planning staff~~ ***Administrative Officer*** will review and comment on the checklist information and, if determined to be complete, will ***issue a Certificate of Completeness and*** schedule the application to appear before the Planning Board.

~~c. If no pre-application meeting is required or requested, the applicant will be advised by the Administrative Officer as to the requirements of the Subdivision Regulations and the procedure to be followed by the applicant for subdivision approval.~~

~~d. c.~~ One or more pre-application meetings shall be held before the Planning Board for all ~~major land development or subdivision applications~~ ***Conservation Developments or for any type of land development project. Pre-application meetings shall also be held to determine if a subdivision may be submitted for review and approval as a conventional subdivision or residential compound.*** Pre-application meetings may be held for administrative subdivisions ~~and minor land development and minor subdivision applications~~, upon request of either the Town, acting through the ~~Planning Department~~ ***Administrative Officer***, or the applicant. Pre-application meetings shall allow the applicant to meet with the Planning Board for advice as to the required steps in the subdivision approval process. Where ***deemed*** appropriate ***by the Administrative Officer***, town officials, ***other Town*** boards and/or commissions, planning staff, state agencies ***and abutting property owners*** shall ***may*** be notified of the pre-application meetings ***by the Administrative Officer*** and invited to provide comments on the proposed subdivision or land development

plan. *Applicants are also encouraged, but not required to present an Existing Resources and Site Analysis Map at this meeting.*

~~e.~~ *d.* At the pre-application stage, the applicant *shall submit a Sketch Plan as described in IV.A.5. and may request the Planning Board shall provide* an informal concept plan review for a *the proposed* development. The purpose of the ~~concept plan review~~ *Sketch Plan* is also to *provide the applicant with the opportunity to submit a diagrammatic plan for informal discussion with the Board regarding the design of the proposed development. It will also* provide the applicant with Planning Board input in the formative stages of subdivision and land development concept design.

~~f.~~ *e.* Pre-application meetings shall aim to encourage information sharing and discussion of project concepts among the participants. Pre-application meetings should include a review of the physical character of the land, and any environmental or physical constraints to development. Meetings should include a discussion initiated by the Planning Board regarding what form of land development may be appropriate to meet the goals and policies of the Comprehensive Plan with regard to preserving the character of the land, the natural environment and the ability of the Town to provide essential services. Pre-application discussions are intended for the guidance of the applicant and shall not be considered approval of a project or of any of its elements. ~~No formal action need be taken by the Planning Board at the pre-application meeting.~~

f. At the pre-application meeting, the Planning Board shall discuss the initial Basic Maximum Number of lots/dwelling units permitted in the development, as provided in IV.A.8. At this meeting, the Board shall also discuss whether to allow a development to be submitted for review as a conventional subdivision or a residential compound, and not as a Conservation Development. See Article IV, Section B.2 for determination of eligibility for a Residential Compound.

g. Provided that at least one (1) pre-application meeting has been held for major land development or subdivision application or sixty (60) days has elapsed from the filing of the pre-application submission and no pre-application meeting has been scheduled to occur within those sixty (60) days, nothing shall be deemed to preclude an applicant from thereafter filing and proceeding with further stages of review of an application for a land development or subdivision project in accordance with § 45-23-36 of the Rhode Island General Laws.

3. Minor Land Development and Minor Subdivisions

a. Review Stages - Minor plan review shall consist of at least ~~two~~ *three* stages: (1) *pre-application*; (2) preliminary, *including a site visit*; and (3) final. ~~A pre-application meeting may also be held as provided in Section C.1. of this Article.~~ The Planning Board may vote to combine the approval stages, provided that

requirements for all stages so combined have been met by the applicant to the satisfaction of the Planning Board.

b. Submission Requirements - Any applicant requesting approval of a proposed minor subdivision or minor land development *project*, as ~~defined~~ *defined* in these Regulations, shall *first* submit to the Administrative Officer the plans and supporting materials provided in the *Pre-Application Checklist in Article XV. Pre-Application review shall follow the procedure specified in subsection C.2 of this Article, above. Following the pre-application meeting(s), the applicant shall submit the information required in the appropriate Preliminary Plat Checklist for Minor Land Development and Minor Subdivision as provided in Article XV.*

If the creation or extension of a public or private street is involved, following the pre-application meeting(s), the applicant shall submit the information required in Checklist C - Preliminary Plat Checklist for Minor Land Development Projects and Minor Subdivisions as provided in Article XV.

If a minor land development project or minor subdivision does not involve the creation or extension of a public or private street, the applicant shall submit the information required in Checklist D - Preliminary Plat Checklist for Minor Land Development Projects and Minor Subdivisions (no street creation or extension) as provided in Article XV.

c. Certification of Preliminary Plat - ~~The application shall be certified complete or incomplete by the Administrative Officer within twenty-five (25) days of its receipt according to the provisions of Section B. of this Article. The application shall be certified complete or incomplete by the Administrative Officer within twenty-five (25) days, or within fifteen (15) days if no street creation or extension is required, according to the provisions of Section B. of this Article. 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 fourteen (14) days after its resubmission.~~

d. Site Visit - *After the applicant prepares the Existing Resources and Site Analysis Map, and before* ~~Before~~ the preliminary plan is approved, the Planning Board ~~may~~ *shall* schedule a site visit *to the property*. In order to facilitate the inspection *of the site*, the Planning Board may require field location of all proposed roads, improvements and site features consistent with the level of information required at this stage of review. *The Existing Resources and Site Analysis Map shall be distributed at the site visit to those Town officials in attendance, if it has not been distributed earlier. It is strongly encouraged that the site visit be attended by members of the Planning Board, Town officials, the applicant and/or the applicant's representatives. Owners of property within the notice radius specified in V.C.4.r. shall also be notified and invited to attend.*

The site visit shall be considered a public meeting and shall be conducted in accordance with the Town's normal procedures for compliance with the State Open Meetings Law. Members of the public shall be permitted to attend the site visit.

Lack of a quorum of the Planning Board in attendance at this visit shall not constitute a failure on the part of the applicant to satisfy the requirements of a site visit. In the event that the Planning Board does not schedule a site visit, or that a scheduled site visit is not conducted within the prescribed time period through no fault of the applicant, the applicant shall not be found to be deficient in the application process, and shall be allowed to proceed with the application.

The purpose of the visit is to familiarize local officials with the property's existing conditions and special features, to identify potential site design issues, and to provide an informal opportunity to discuss site design concepts, including the general layout of designed open space lands, buildings and street alignments. Comments made by Town officials or their staff and consultants shall be interpreted as being only suggestive. It shall be understood by all parties that no formal recommendation can be offered, and no official decisions can be made at the site visit. Minutes of the site visit shall be kept in accordance with Title 42, Chapter 46 of the RI General Laws entitled Open Meetings.

e. Re-assignment to Major Review – The Planning Board may re-assign a proposed minor land development or minor subdivision to major review only when the Planning Board is unable to make positive findings required in Article III, Section A.

~~f. Informational Notice of Preliminary Submission – Postcard notice shall be mailed by the applicant to inform all property owners within the notice area of the submission of a preliminary plan to the Planning Board. The notice area shall be defined in Section C.4., subsection r. and s. of this Article.~~

~~g. Decision – The Planning Board shall hold a public hearing to any action according to the requirements set forth in Section C.4.r. and s. of this Article. The Planning Board shall approve, deny, or approve with conditions the preliminary plan within ninety five (95) days of the issuance of the Certificate of Completeness by the Administrative Officer as provided in Subsection e. of this Section above. Provided, however, that if an extension of time is agreed to by the applicant and the Board as provided in Section B. of this Article, this time period shall be stayed.~~

f. Decision (No Street Extension or Creation) - If no street extension or creation is required, the Planning Board shall approve, deny, or approve with conditions the preliminary plan within sixty-five (65) days of the issuance of the Certificate of Completeness by the Administrative Officer as provided in

subsection c. of this Section, above. Provided, however, that if an extension of time is agreed to by the applicant and the Board as provided in Section B. of this Article, this time period shall be stayed.

*g. **Decision (Street Extension or Creation)** - If a street extension or creation is required, the Planning Board shall hold a public hearing prior to any action according to the requirements set forth in Section C.4.q. and r. of this Article. The Planning Board shall approve, deny, or approve with conditions the preliminary plan within ninety-five (95) days of the issuance of the Certificate of Completeness by the Administrative Officer as provided in Subsection c. of this Section, above. Provided, however, that if an extension of time is agreed to by the applicant and the Board as provided in Section B. of this Article , this time period shall be stayed.*

*h. **Failure to Act** – Failure of the Planning Board to act within the period prescribed in subsection f. or g. of this Section 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.*

*i. **Final Plan** - The applicant shall submit to the administrative officer the items required by these regulations on Checklist E – Final Plat Checklist as provided in Article XV, as well as all material required by the Planning Board when the application was given preliminary approval. The Planning Board may delegate final plan review to the Administrative Officer, unless it elects to review the final plan itself. When the review of the final plan is delegated to the Administrative Officer, the Administrative Officer shall report its actions to the Planning Board at its next regular meeting, to be made part of the record.*

*i. j. **Expiration of Approval** – Approval of a minor land development or subdivision plan shall expire ninety (90) days from the date of final approval unless within such period a plat or plan in conformity with such approval, and as defined in Article II is submitted for signature and recording as specified in Article VI. Validity may be extended for a longer period for cause shown, if requested by the applicant in writing, and approved by the Planning Board.*

4. Major Land Development and Major Subdivision

a. Review Stages – Major Plan review shall consist of four stages of review:

- (1) Pre-application meeting(s);
- (2) Master Plan, *including a site visit*;
- (3) Preliminary Plan; and
- (4) Final Plan

Also required is a public informational meeting and public hearing. The Planning Board may vote to combine review stages and to modify and/or waive

requirements as specified in Article VIII. Review stages may be combined only after the Planning Board determines that all necessary requirements for all stages so combined have been met by the applicant.

b. **Submission Requirements – Pre-Application** – Any applicant requesting approval of a proposed major subdivision or major land development, as defined in these Regulations, shall first submit to the Administrative Officer the plans and supporting materials provided in the ***Checklist for Pre-application Meetings and Concept Review*** ~~Pre-application Checklist for Major Land Development and Major Subdivision~~ as provided in Article XV. The procedure and criteria for pre-application meetings and concept review as provided in Section ~~C.1~~ **C.2** of this Article shall apply. At the conclusion of the pre-application meeting(s) the applicant may proceed to the master plan stage of review.

c. **SUBMISSION REQUIREMENTS – MASTER PLAN** – Any applicant requesting approval of a proposed major subdivision or major land development ***project***, as defined in these Regulations, shall first submit to the Administrative Officer plans and supporting materials provided in the Master Plan Checklist for Major Land Developments and Major Subdivisions as provided in Article XV. The purpose of the master plan stage of review is to provide the applicant with the opportunity to present an overall plan for a proposed project site outlining general, rather than detailed, development intentions. The master plan describes the basic parameters of a major development proposal, rather than giving full engineering details.

Initial comments on the master plan shall be solicited from local agencies, adjacent communities, state agencies, and federal agencies as required in the Master Plan Checklist. The Administrative Officer shall coordinate review and comments by participating agencies. ***If an agency fails to provide written comments prior to the date of a scheduled meeting at which an application is being discussed or heard, the applicant shall not be found to be deficient in the application process, and the application shall not be found to be incomplete due to the failure of an agency to provide comment.***

d. **Certification of Master Plan Application** - The application shall be certified complete or incomplete by the Administrative Officer within ~~ninety (90)~~ **sixty (60)** days of its receipt according to the provisions of Section B. of this Article. ***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 fourteen (14) days after its resubmission***

e. **Site Visit** - ~~Before the master plan is approved, the Planning Board may schedule a site visit.~~ ***The Planning Board shall schedule a site visit in***

accordance with the procedure and requirements of Section C.3.d. of this Article (“Site Visit”) before the Master Plan is approved. In order to facilitate the inspection of the site, the Planning Board may require field location of all proposed roads, improvements and site features consistent with the level of information required at this stage of review.

f. **Public 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 on Planning Board determination that all necessary requirements for all stages so combined have been met by the applicant.***

(1) 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 Town. Postcard notice shall be mailed by the applicant to all property owners within the notice area. The notice area for informational meetings shall be as specified in subsections ~~r. and s.~~ ***q. and r.*** of this Section, below.

(2) The applicant shall also provide an on-site sign or signs notifying the public of the application pending before the Planning Board as specified in subsection q. of this Section, below.

~~(2)~~ (3) At the public informational meeting the applicant, or his or her representative(s), shall present the proposed development project for the benefit of the Planning Board and the public. The Planning Board shall allow oral and written comments ~~for~~ ***from*** the general public. All public comments shall be made part of the public record of the project application.

g. **Decision** - The Planning Board shall, within one hundred and twenty (120) days of certification of completeness of the master plan application ~~as provided in Section C.4.d., of this Article,~~ or within such further time as ~~may be~~ ***may be*** consented to by the applicant ~~as provided in Section B. of this Article,~~ approve of the master plan as submitted, approve with changes and/or conditions, or deny the application. ~~according to the requirements of Section E. of Article XI.~~

h. **Failure to Act** - Failure of the Planning Board to act within the period prescribed in subsection 4.g of this Section 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.

i. **Expiration of Master Plan Approval** - Approval of a major land development or major subdivision master plan shall expire one (1) year from the date of ~~final~~

master plan approval. Vesting may be extended for a period of one (1) additional year for good cause shown, if requested by the applicant in writing, and approved by the Planning Board. The applicant or his or her representative(s) shall appear before the Planning Board for the annual review. Vesting may be extended for a period beyond one year, for good cause shown, if requested by the applicant in writing, and approved by the Planning Board. Master plan vesting shall include any applicable provisions of the zoning ordinance that were in place at the time of approval, 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 the development as required in Section 45-24-44 of the Rhode Island Zoning Enabling Act of 1991.

j. **SUBMISSION REQUIREMENTS – PRELIMINARY PLAN** – Any applicant requesting approval of a proposed major subdivision or major land development **project**, as defined in these Regulations, shall first submit to the Administrative Officer the plans and supporting materials provided in the Preliminary ~~Plan~~ **Plat** Checklist for Major Land Development and Major Subdivisions as provided in Article XV

k. **Certification of Preliminary Plan Application** - The application shall be certified complete or incomplete by the Administrative Officer within sixty (60) days of its receipt according to the provisions of Section B. of this Article. ***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 fourteen (14) days after its resubmission.***

l. **Public Hearing** - Prior to a Planning Board decision on the preliminary plan, a public hearing, which adheres to the requirements for notice described in Section ~~4. r. and s.~~ **C.4.q. and r.** of this Article must be held.

m. **Public Improvement Guarantees** – Proposed arrangements for completion of the required public improvements, including construction schedule and/or financial guarantees shall be reviewed and approved by the Planning Board at the time of preliminary plan approval.

n. **Decision** - The Planning Board shall, within one hundred and twenty (120) days of certification of completeness of the preliminary plan application as provided in Section C.4.k of this Article, or within such further time as may be consented to by the applicant as provided in Section B of this Article, ~~approved~~ **approve** of the preliminary plan as submitted, approve with changes and/or conditions, or deny the application according to the requirements of Section ~~B.~~ **D.**

of Article XI.

o. Failure to Act - Failure of the Planning Board to act within the period prescribed in Section C.4.n. of this Article 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.

p. Expiration of Preliminary Approval - The approved preliminary plan shall be vested for a period of one (1) year. Vesting may be extended for one additional year 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. ~~The initial two (2) year vesting for the approved preliminary plan shall constitute the vested rights for development as required in Section 45-23-41 of the Rhode Island Land Development and Subdivision Act of 1992.~~

q. Public Hearing and Notice Requirements - A public hearing on the preliminary plan shall be required for a major land development project or a major subdivision, or where a street extension or creation requires a public hearing for a minor land development project or minor subdivision. A stenographer shall be present at the public hearing, **and paid for by the applicant**. Public notice of the hearing shall be given **by the applicant** at least fourteen (14) days prior to the date of the hearing in a newspaper of general circulation in the Town. Newspaper advertisements shall be printed in the legal section of the classifieds using a type size at least as large as the normal type size used by the newspaper in its news articles and shall contain the information specified below. Written notice shall also be sent by the applicant, upon forms to be provided to the applicant by the Town, to each owner of property within the notice areas as specified in subsection r. of this Section, below. The applicant shall receive a copy of the notice from the Planning Department. Notice shall be mailed **by the applicant** by certified mail, return receipt requested, not less than ten (10) days prior to the date of the hearing. As proof of such mailing, a copy of all return receipts shall be provided to the Planning Department by the applicant prior to or at the time of the public hearing.

All mail and newspaper notices required by this subsection shall specify (1) the date, time and place of public hearing, (2) the assessor's plat and lot number of the subject property; (3) the street address of the subject property, or if not street address is available, the name of the street(s) on which or near which the subject property is located and the distance and direction from the nearest existing street intersection in tenths (1/10's) of a mile; (4) advise interested parties where and when a copy of the plans of the proposed major subdivision or major land development project may be examined; and (5) contain a statement that the proposal major subdivision or major land development project may be revised by

the Planning Board as a result of further study or because of the views expressed at the public hearing.

The applicant shall also provide an on-site sign or signs notifying the public of the scheduled public hearing or informational meeting pending before the Planning Board. This sign(s) shall be considered to be supplemental notice and shall be of a weather-resistant design, measuring a minimum 20"x30" in size, erected in a location upon the site proposed for development which is visible from the nearest public or private street and fixed upon a support that is of sufficient height to make the sign visible from the nearest public or private street. The sign shall be placed on the site at least fourteen (14) days prior to the date of the hearing. Such sign shall contain a basic project description and notice of the public hearing or informational meeting, and shall be maintained on the site by the applicant until the public hearing or informational meeting is closed. The Administrative Officer shall determine if additional notification signs are required in order to provide sufficient public notice, up to a maximum of two (2) signs. The Administrative Officer shall provide signage specifications and content to the applicant.

r. Notice Area - The distance for notice of the public hearing shall be five hundred (500) feet from the perimeter of the parcel being subdivided in all zoning districts. The applicant is responsible for determining the correct names and addresses of all property owners required to be notified, and shall at a minimum, be as accurate as the most current names and addresses listed by the Tax Assessor.

Additional mail notice for notice areas which fall within watersheds shall also be sent as required in the Rhode Island General Laws Section 42-23-53 (B) and (C).

Notice of the public hearing shall be sent by the Administrative Officer to the Administrative Officer of an adjacent municipality if (1) the notice area extends into the adjacent municipality, or (2) the development site extends into the adjacent municipality, or (3) in the opinion of the Planning Board, there is a potential for significant negative impact on the adjacent municipality. The cost of all such mail notice, *signage* and legal advertising shall be borne by the applicant.

s. **SUBMISSION REQUIREMENTS - FINAL PLAN** - Any applicant requesting final approval of a proposed major subdivision or major land development *project*, defined in these Regulations, shall first submit to the Administrative Officer the plans and supporting materials required by the Final Plat Checklist for Major land development and Major Subdivision as provided in Article XV, in addition to any material required by the Planning Board when the application was given preliminary approval

t. Certification of Final Plat - ~~The application for final plan approval shall be certified complete or incomplete by the Administrative Officer within forty five~~

~~(45) days of its receipt according to the provisions of Section B. of this Article.~~
The application for final plan approval shall be certified complete or incomplete by the Administrative Officer within twenty-five (25) days. This time period may be extended to forty-five (45) 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 fourteen (14) days after its resubmission. If the Administrative Officer certifies the application as complete and does not require submission to the Planning Board as per subsection u. below, the final plan shall be considered approved.

u. Referral to the Planning Board - In instances where there may be only minor adjustments required by the Planning Board, the Board may delegate final plan review and approval to the Administrative officer, and the Administrative Officer shall report such actions to the Planning Board at its next regular meeting, to be made part of the record. The Planning Board shall, within forty-five (45) days after the issuance of the Certificate of Completeness of the application for final plan approval by the Administrative Officer in subsection of this Section, or within such further time as may be consented to by the applicant, approve or deny the final plan as submitted.

v. Failure to Act - Failure of the Planning Board to act within the period prescribed in subsection u. of this Section 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

w. Recording - The final ~~plan~~ *approval* of a major subdivision or land development project shall expire one (1) year from the date of approval by the Planning Board in subsection u. or by the Administrative Officer in subsections ~~w. t.~~ or v. of this Section unless, within that period, the plat or plan shall have been submitted for signature and recording as specified in Article VI. The Planning Board may, for good cause shown, extend the period for recording for an additional period, if requested by the applicant in writing.

D. Precedence of Approvals Between Board and Other Local Permitting Authorities

1. Zoning Board

~~a. Where an applicant requires both a variance from the Zoning Ordinance 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 project, which may be simultaneous, then obtain conditional Zoning Board relief, and then return to the Planning Board for subsequent required approval(s).~~

~~b. Where an applicant requires both a special use permit under the Zoning Ordinance 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 project, which may be simultaneous, then obtain a conditional special use permit from the Zoning Board, and then return to the Planning Board for subsequent required approval(s).~~

Where an applicant requires both relief from the local zoning ordinance 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 project, which may be simultaneous, then obtain conditional Zoning Board relief, and then return to the Planning Board for subsequent required approval(s).

2. Town Council

Where an applicant requires both Planning Board approval and Town 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 Town Council, and then return to the Planning Board for subsequent required approval(s).

E. Expiration of Approval Stages

If an applicant allows an approved project to expire, the ~~vesting~~ *vested* rights no longer apply. The applicant ~~would~~ *shall* then be required to begin the subdivision or land development approval process at the pre-application stage under the zoning regulations in effect at the time *of* re-submittal, *unless granted a reinstatement of approval by the Planning Board. See VIII.B.*

ARTICLE VI - RECORDING OF PLATS AND PLANS

A. Signing and Recording of Plat and Plans

1. Endorsement

All approved final plans and plats for land development *projects* and subdivisions ~~projects~~ shall be endorsed (signed) by the appropriate Planning Board member and the Town and the Town Administrative Officer as an indication of final approval. Plats and plans for major land developments *projects* and major subdivisions and ~~the~~ *for* minor land developments *projects* and minor subdivisions shall be signed by the Planning Board Chairperson, or in the absence of the chairperson, by the secretary of the Planning Board. Plats and plans for administrative subdivisions shall be signed by the Administrative Officer or his/her designee. All endorsements shall include the date of such endorsement.

No endorsement of plans and plats shall be made until (a) the Administrative Officer has certified in writing that all of the required improvements have been made, or (b) the Town Clerk has certified in writing that acceptable improvement guarantees have been received in accordance with the provisions of Article VII.

2. Recording

Upon endorsement, all plans and plats shall be submitted to the Administrative Officer prior to recording and filing in the land evidence records of the Town. The material to be recorded shall include all plat drawings and other pertinent information as indicated in the appropriate Final Plat Checklist in Article XV. A copy of the written decision of the Board, signed by the appropriate Planning Board or Town official, including all conditions of approval, shall also be recorded. ***A deed transferring land proposed for dedication to the town or other qualified agency for open space purposes shall be recorded at the time of recording of the final plat, unless the Planning Board has agreed to otherwise.*** No plans, plats or supporting materials shall be recorded until the Administrative Officer has certified in writing that all required fees have been paid.

Other parts of the applications record for subdivision and land development projects, including all meeting records, approved master plan and preliminary plans, site analysis, impact analysis, Impact Statements, all legal agreements, records of the public hearing and the entire final approval set of drawings shall be kept permanently by the Town Departments responsible for implementation and enforcement. One copy shall be kept on file by the Planning Department. Construction drawings need not be recorded. However, complete blue line or photocopy set of construction drawings, including street plans and profiles, cross sections, grading plans, drainage plans, landscaping plans, soil erosion and sediment control plans, utility plans and any other construction plans, details and specifications required as a condition of approval shall be filed with the

Administrative Officer prior to recording of the plat. One copy of all construction drawings shall be kept by the Department of Public Works.

The Administrative Officer shall notify the town 911 Coordinator, who shall in turn notify the statewide “911” emergency authority and the local police and fire authorities servicing the new plat with the information required by each of the authorities.

B. Changes to Recorded Plats and Plans

1. General

For all changes to the approved plans of land development projects or subdivisions subject to these Regulations, an amendment of the final development plans shall be required prior to the issuance of any building permits for construction upon the subject property. Any changes approved to the final plan shall be recorded as amendments to the trial plan in accordance with the

procedure established for recording of plats and plans as provided in Section A. of this Article, above.

2. Minor Changes

Minor changes to a land development or subdivision plan, as identified by the Planning Board, shall be approved administratively by the Administrative Officer. All such changes shall be made a part of the permanent record of the project application. This provision shall not prohibit the Administrative Officer from requesting a recommendations from the Planning Board. Denial of the proposed change by the Administrative Officer shall be referred to the Planning Board for review as a major change according to the procedure provided in Section VI (B)(3), below. Upon written authorization of the approval of a minor change by the Administrative Officer, the Building official may issue a building permit for any proposed construction upon the subject property.

3. Major Changes

Major changes to a land development or Subdivision plan may be approved only by the Planning Board. The procedure for approval of any such major change shall follow the same review and public hearing process as required for preliminary approval to a major land development *project* and major subdivision as provided in Article V., Section C.4 (j. through m).

For the purpose of these regulations, the term ~~minor~~ “*major* changes” shall mean changes which, in the opinion of the Administrative Officer substantially modify the intent of the original approval. Such major changes shall include, but are not necessarily limited to the following:

- a. Changes which would have the effect of creating additional lots or dwelling units for development:
- b. Changes which would be contrary to any applicable provision or the Zoning Ordinance or which require a variance or special use permit from the Zoning Board or Review: or,
- c. Changes which may have significant negative impacts on abutting property in the vicinity of the proposed subdivision or land development project.
- d. Changes not previously defined by the Planning Board as minor shall be considered major changes.

ARTICLE VII - GUARANTEES OF PUBLIC IMPROVEMENTS

A. Definition and Purpose

An *improvement guarantee* is a security instrument accepted by the Town to ensure that all improvements, facilities or work required by these Regulations or as a condition of approval of a subdivision by the Planning Board will be completed in compliance with the approved plans and specifications

Improvement guarantees shall be provided to ensure the proper installation and maintenance or required street, utility and other physical improvements and to ensure compliance with other nonstructural conditions of final plat approval (if any). The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary cost to the subdivider.

B. General Procedure

Before any land development project or subdivision plat is approved by the Planning Board, and before the recording of any subdivision plats, the Planning Board shall be required to approve agreements subject to an approval of the Town Solicitor for the completion of all required improvements. **As determined by the Planning Board,** ~~Such agreements may at the opinion of the subdivider,~~ take the form of (1) completion of actual construction of all improvements; (2) improvement guarantees, or (3) a combination thereof.

At the preliminary plat review stage, the ~~subdivider~~ **applicant** shall submit either of the following: (1) a letter to the Planning Board **stating the applicant's request including his/her intent** to complete the required improvements prior to the Planning Board's endorsement of the final plat; or (2) a letter requesting that security sufficient to cover the cost of required improvements be established by the Board.

1. If improvements are to be constructed without a financial guarantee, all work shall be completed prior to the final approval and recording. Inspections shall be made by the Public Works Department at all required stages of construction as specified in Article XIII. Upon completion of all required improvements, the Administrative Officer shall certify in writing of such completion, and a copy shall be provided to the subdivider upon request. The final plat shall be endorsed by the appropriate Planning Board or Town Official and the plat shall be recorded as provided in Article VI, at which time lots within the subdivision may be transferred or sold.

2. If any improvements are to be guaranteed, the provisions of Section C. of this Article, below, shall apply.

C. Procedures for Financial Guarantees

1. Amount – Improvement guarantees shall be in an amount and with all necessary conditions to secure for the Town the actual construction and complete installation of all of the required improvements, and the satisfactory completion of all conditions of final approval within the time periods required for completion provided in Article V. The amount shall be based upon actual cost estimates which would be required for the Town to complete all improvements required as a condition of final approval. These estimates shall be initially prepared by the Director of Public Works and submitted to the Administrative Officer, who shall review the estimates, if requested, with the subdivider. If the subdivider disagrees with the estimated amount, he/she will have the opportunity to submit a revised estimate along with supporting justification for the revisions. The Planning Board shall review and approve the final amount. The board may set the guarantee in a reasonable amount in excess of the estimated costs in order to anticipate for increases in economic or construction conditions. However, the amount of such increase shall not exceed 120 percent of the estimated cost of improvements as recommended by the Public Works Director.

At the expiration of the final plan approval period, if all required improvements are not complete, the Planning Board shall review the status of improvements and may (1) require the subdivider to extend the duration of the entire improvement guarantee; (2) reduce the amount of the improvement guarantee to cover the estimated costs of remaining improvements; or (3) authorize the Administrative

Officer to take the steps necessary to ensure completion of the remaining work by using improvement guarantee funds.

If at any time during the guarantee period the procedures, implementation measures, methods, materials, and/or schedules of construction are determined by the Planning Board not to be in compliance with the approved plans, the Board may, after proper notification to the subdivider, authorize the use of improvement guarantee funds to insure proper compliance.

2. Required Forms – The security shall be in the form of a financial instrument acceptable to the Planning Board and shall enable the Town to gain timely access to the secured funds, for cause. Performance and maintenance guarantees may be provided by a variety of means including, but not limited to, the following:
 - a. Letter of credit. The subdivider may provide an irrevocable letter of credit from a bank or other reputable institution.
 - b. Escrow account. The sub divider may deposit cash, or other instruments readily convertible into cash at face value, either with the Town or in
 - c. escrow with a bank.

3. Releases – At the expiration of the final plan approval period, if all required improvements are complete, any improvement guarantee shall be returned to the subdivider. Partial releases or reduction in the guarantee amount may also be authorized at any time prior to the expiration of final approval. A written request for release or reduction of any improvement guarantees shall be made to the Administrative Officer, who shall refer such request to the Director of Public Works. After inspection of all required improvements, the Director of Public Works shall recommend that the Planning Board (a) authorize the Town Clerk to return all improvement guarantees to the subdivider, (b) that the amount of the guarantee being held by the Town be reduced to cover the estimated cost of remaining improvements; or (c) that no releases or reductions of improvement guarantees.

4. Phased Subdivisions – In the case of land development projects or subdivisions which are approved and constructed in phases, the Planning Board shall specify improvement guarantees related to each particular phase. If any off-site improvement or other improvements or conditions which are not directly related to a particular phase are required as a condition of approval, the Board shall, in setting the guarantee amount for each phase, clearly specify when such guarantees are to be provided.

5. Maintenance Guarantees – The Planning Board shall require that a maintenance guarantee be provided by the subdivider for all on-site and off-site improvements which are being dedicated to the Town for public acceptance and maintenance. The amount of the maintenance guarantee shall be ten percent (10%) of the original financial guarantee. In the absence of such a guarantee, ten percent (10%) of the total estimated cost of all required improvements shall be required. The initial period for such maintenance guarantee shall be one (1) year. At the end of the one-year maintenance period, the Director of Public Works shall inspect all improvements subject to the guarantee and shall certify in writing to the Administrative Officer as to their condition. If found to be unacceptable, the Administrative Officer shall recommend an extension of the guarantee period to the Planning Board, and the original funds shall not be returned to the subdivider. If public improvements are in good condition and have not been damaged due to the fault of the subdivider, or through faulty workmanship or design, the maintenance guarantee shall be returned to the subdivider. In cases where the Planning Board finds there are extenuating circumstances, the initial maintenance period may be established for a period longer than one year. The reasons for establishing a longer maintenance period and the nature of the extenuating circumstances shall be made a part of the record.

6. Acceptance of Improvements – Upon completion of all required improvements on-site and off-site improvements, the subdivider shall convey all public improvements to the Town for ownership and maintenance. Private facilities, such as private roads, open space and privately maintained drainage systems shall

not be conveyed to the Town. The applicant shall first request the Department of Public Works to conduct a final inspection as provided in Article XIII, Section J. The Director of Public Works shall certify to the Administrative Officer in writing that all required improvements have been satisfactorily completed.

The applicant shall also request, in writing to the Administrative Officer, that public improvements, streets, land easements or other facilities are accepted by the Town. This request shall contain a description of all facilities to be accepted and shall be accompanied by an accurate description of all streets, easements, land or other facilities by metes and bounds and by reference to the final plat drawing(s) and by a warranty deed transferring ownership to the Town and describing any special conditions or other requirements.

Upon certification of completeness of all required improvements, and upon receipt of all required information from the applicant, the Administrative Officer shall place the request for acceptance upon the next available agenda of the Town Council.

Upon their acceptance by the Town Council, all improvements shall be permanently owned and maintained by the Town as part of the municipal system and the subdivider shall be no longer responsible for their care, repair, or maintenance.

ARTICLE VIII - WAIVERS AND MODIFICATIONS

A. Waiver of or Modification of Regulations

1. The Planning Board shall have the authority to waive or modify one ~~or~~ *or* more of the requirements for subdivision or land development project approval contained in these Regulations if the Planning Board finds that:

a. the waiver or modification is reasonable and within the general purposes and intents of these Regulations; and

b. literal enforcement of the regulation is impracticable and will exact undue hardship because of the peculiar conditions pertaining to the land in question; or waiver or modification of the regulation is in the best interest of good planning practice or design as evidenced by consistency with the Comprehensive Community Plan and the Zoning Ordinance.

B. Reinstatement of Applications

1. When an applicant has exceeded a deadline established by these regulations for submission of material for a subdivision or land development, thereby rendering a previously-granted approval invalid, the application may be reinstated by the Planning Board under the following conditions:

a. the subdivision is consistent with the Comprehensive Community Plan;

b. the Subdivision Regulations are substantially the same as they were at the time of original approval;

c. the zoning of the subdivision parcel is substantially the same as it was at the time of original approval;

d. physical conditions on the subdivision parcel are substantially the same as they were at the time of original approval; and,

e. any applicable State or federal regulations are substantially the same as they were at the time of original approval *and are still valid*.

2. Application for reinstatement of a previously approved subdivision shall be made to the Planning Board in writing by the subdivider. The Planning Board, in approving or denying the request for an extension, shall make findings of fact which shall be made part of the record.

C. Decisions on Waivers and Modifications

1. The Planning Board shall approve, approve with conditions, or deny a request for a waiver or modification by the following procedure:

a. The Planning Board's decision shall be made with in forty-five (45) days of the date the request for the waiver or modification was first considered by the Planning Board, unless the applicant waives that deadline.

b. The Planning Board's decision shall be in writing, and shall contain findings of fact addressing the conditions contained in Section VIII.A.1.

ARTICLE IX - ENFORCEMENT AND PENALTIES

A. Violations

1. Any person who fails or refuses to adhere to all of the terms and conditions of any subdivision of land or development plan that has been approved by the Planning Board or the Administrative Officer shall be in violation of these Regulations.
2. Any owner, or agent of the owner, who transfers, sells, or negotiate to sell any land by reference to or exhibition of, or by other use, a plat of the subdivision before the plat has been approved by the Planning Board and recorded in the Land Evidence Records shall be in violation of these Regulations.
3. Any person who, having submitted an application for subdivision or development approval, begins construction of the subdivision or development, or constructs any structure or improvement on the parcel, without first received approval from the Planning Board or the Administrative Officer, shall be in violation of these Regulations.

B. Penalties for Violations

1. Any person adjudged in violation of these regulations shall be liable for penalties not to exceed five hundred dollars (\$500) per day, and each day of existence of a violation shall deemed a separate offense.

C. Injunctive Relief

1. The Town of Hopkinton shall have the authority to bring suit in Washington County Superior Court to restrain the violation of, or compel compliance with, the provisions of these Regulations.
2. An action for injunctive relief brought by the Town of Hopkinton in the Superior Court may be consolidated with an action seeking penalties for violations of these Regulations.

ARTICLE X - ADOPTION AND AMENDMENT OF REGULATIONS

A. The Planning Board shall adopt and amend these Subdivision and Land Development Regulations according to the following procedure:

1. Notice of a public hearing on any proposed adoption or amendment shall be published in a newspaper of general circulation within the town 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. The newspaper notice shall be published as a display advertisement, using a type size at least as large as the normal type size used by the newspaper in its news articles. The advertisement shall:

- a. specify the date, time and place of the public hearing;
- b. indicate the adoption, amendment or repeal of the Hopkinton Land Development and Subdivision Regulations is under consideration;
- c. contain a statement of the proposed amendment that may be printed once in its entirety, or may summarize or describe the matter under considerations;
- d. advise those interested where and when a copy of the matter under considerations may be obtained or examined and copied; and,
- e. state that the proposed amendment 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, provided that any such alteration or amendment must be presented for comment in the course of the public hearing.

2. Notice of the public hearing shall be sent to the following:

- a. The Associate Director of the Division of Planning of the Rhode Island Department of Administration. Said notice, which may be a copy of the newspaper advertisement, shall be sent at least two (2) weeks prior to the public hearing.
- b. 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 (2,000) feet of Hopkinton's boundaries. Said notice shall be sent by first class mail.
- c. 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 resource and/or a surface watershed that is used or is suitable for use as a public water source located within Hopkinton or within two thousand (2,000) feet of Hopkinton's boundaries, provided that the governing body of the state or municipal water department or agency, special water district, or private water company has filed with the Hopkinton building inspector a map survey showing the areas of surface water resources and/or watersheds, and parcels of land within two thousand (2,000) feet of the areas of surface water resources and/or watersheds, pursuant to Rhode Island General Laws, Section 45-24-53(E).

3. The Planning Board shall conduct a public hearing at the date, time and place specified in the newspaper advertisement and notices. At the hearing, opportunity shall be given to all persons interested to be heard upon the mater of the proposed regulations.
- B. Printed copies of these regulations, including all appendices, shall be available to the general public and shall be revised to include all amendments. A reasonable charge may be made for copies. Upon publication of any adoption or amendment, copies shall be sent to the planning division of the Rhode Island Department of Administration, and to the State Law Library.

ARTICLE XI - ADMINISTRATION OF THE REGULATIONS AND AMENDMENTS

A. The Administrative Officer

1. Administration

Administration of these Subdivision and Land Development Regulations shall be under the direction of the Administrative Officer, who shall report to the Planning Board. The Town Planner of the Town of Hopkinton is hereby designated as the Administrative Officer.

2. Appointment

Appointment of the Town Planner shall be the responsibility of the Town Council.

3. Duties and Responsibility

The duties and responsibilities of the Administrative Officer shall include but shall not be limited to:

- a. Coordination of the review, approval, recording, and enforcement provisions of these Regulations;
- b. Coordination of the review and approval procedures for subdivisions and land development projects with adjacent municipalities as is necessary to be consistent with applicable federal, state, and local laws and as directed by the Planning Board;
- c. Enforcement of these Regulations as provided in Article IX of these regulations; and,

4. Qualifications

The qualifications of the Administrative Officer shall be determined by the Town Council as provided in the official job description for the Town Planner.

B. The Platting Board of Review

Appeals of decisions of the Planning Board or the Administrative Officer on matters of review and approval of land development and subdivision projects shall be made to the Platting Board of Review in accordance with the provisions of Title 45, Chapter 23 of the General Laws of Rhode Island, and with Article XII of these regulations.

C. Administrative Fees

Note : Section XI.C entitled Administrative Fees is deleted in its entirety and replaced with the following:

C. Fee Schedules

1. In General

a. Procedural History. On (date) , 2006 the Planning Board held a public hearing, pursuant to Article X of the Land Development and Subdivision Regulations, to consider proposed regulations governing fees. At the close of the public hearing, the Planning Board voted to adopt regulations governing fees and a new schedule of fees for review conducted by the Planning Board and its consultants on the various types of applications which come before it. This document, subject to revision from time to time in a manner spelled out herein, constitutes the Planning Board's rules governing the imposition of fees and its current fee schedules.

b. Purpose. These regulations and fee schedules have been adopted to produce a more equitable schedule of fees which more accurately reflects the costs of technical, design and legal review of applications to the Planning Board; to establish a review procedure in the selection of consultants; to encourage better design of residential development; and to promote more informed decision-making by the Planning Board.

2. Fee Structures and Regulations

a. General. The Planning Board shall impose reasonable fees to be paid to the Town by the applicant for the review of applications which come before it. The Planning Board may impose Administrative Fees and Project Review Fees as may be applicable to the types of applications set forth below.

b. Approval by Town Council Required. No fee imposed by the Planning Board shall become effective until the Town Council shall have approved such fee by resolution.

c. Method of Payment. The payment of administrative fees and project review fees shall be by certified or bank check only or by such other method as approved by the Finance Director.

3. Administrative Fees

a. Applicability. An Administrative Fee shall be assessed to offset the expense of review by the Planning Board and Town Departments with regard to all applications set forth in Section 3.c, below.

b. Submittal. Administrative Fees shall be submitted at the time of the submittal of the application. Any application filed without this fee shall be deemed incomplete and no review work by the Town shall commence until the fee has been paid in full.

c. Schedule of Administrative Fees. The following schedule applies to the types of applications to the Planning Board set forth below. This schedule supersedes all previous schedules as they may have appeared in the Zoning Ordinance, the Land Development and Subdivision Regulations, and any checklists which may have been compiled from time to time for the benefit of applicants.

- 1) *Administrative Subdivisions* - \$100.00
No filing fee shall be required for recording of property surveys where no adjustment to boundaries of existing lots is proposed.
- 2) *Minor Land Development Projects and Minor Subdivision*
 - a) *Pre-application Meeting and Concept Review - \$200.00 plus \$20.00 per unit*
 - b) *Preliminary - \$500.00 + \$100.00 per unit*
 - c) *Final - \$100.00 + \$20.00 per unit*
- 3) *Major Land Development Projects and Major Subdivision*
 - a) *Pre-application Meeting and Concept Review - \$100.00*
 - b) *Master Plan - \$500.00 + \$100.00 per unit*
 - c) *Preliminary - \$500.00 + \$100.00 per unit*
 - d) *Final - \$100.00 + \$20.00 per unit*
- 4) *Changes to Recorded Plats and Plans* - \$100 per research hour
- 5) *Plan Review Fees* - *All reasonable and necessary costs, fees and expenses, without limitation incurred by the Planning Board pursuant to review, inspection and testing of the subject of any application, subdivision, development or required off-site improvement at any stage, before or after approval shall be charged as an additional fee by the Planning Board to the applicant or developer, or other person or firm requesting approval or requiring the advisory review of the Board.*
- 6) *Recording of Subdivision Plan*: *As provided in Title 34, Chapter 13 of the General laws of Rhode Island.*
- 7) *Inspection Fees* – *In addition to Project Review Fees, Inspection Fees shall be paid by the applicant in the amount of two percent (2%) of the total estimated cost of all required improvements, as estimated in accordance with the procedure established in Article VII. Inspection fees shall be paid in full before construction begins of any improvements requiring inspection.*
- 8) *Extension Fees* - *Applications for extension of approvals or deadlines established by these Regulations under Article VIII, Section B*
 - a) *Re-instatement of expired approval: (200 + \$20 per unit)*
 - b) *Extension of deadline or approval: (\$200)*
- 9) *Appeals to Platting Board of Review* – *As established by the Zoning Ordinance for Appeals, together with the cost of transcribing the record*

of the Planning Board to be reviewed.

The cost of all mailing, advertising and transcription expenses shall be borne by the applicant.

d. Fees for Revised Applications. Where an Administrative Fee has been calculated by the number of lots or units proposed, and the application is revised after payment of said fee, the following rules shall apply:

- 1) If the number of proposed lots or units increases after the initial submittal, the applicant shall pay a fee equivalent to the difference between the fee originally paid and the fee that would have been paid had the original submission included these additional lots or units. No review of these additional lots or units shall take place until this additional fee is paid to the Town, and failure to make this payment after requesting additional lots shall be grounds for denial of the application.*
- 2) If the number of proposed lots or units decreases, a refund of that portion of the application fee predicated on those lots or units shall be granted only if, in the judgment of the Planning Board, no cost associated with the review of those lots or units has been yet incurred.*

e. Fee Waivers. The Planning Board may, upon approval of the Town Council, waive or reduce any Administrative Fee, if, in the opinion of the Board, unusual circumstances exist regarding the subject property or the applicant.

f. Refund. Once the review process has been commenced, the Planning Board shall not refund Administrative Fees, including the case of withdrawal of the application by the applicant, except as provided in XI.C.3.d.2, above.

4. Project Review Fees

a. Applicability. In addition to an Administrative Fee, for all subdivisions and land development projects, including conservation developments, but specifically excluding those types of subdivisions specified in Section IV.A.2.b., the Planning Board may impose a Project Review Fee to be paid by the applicant on those applications which require, in the judgment of the Planning Board, review by outside consultants due to the size, scale or complexity of a proposed project, the project's potential impacts, or because the Town lacks the necessary expertise to perform the review work related to the permit or approval. The fee shall ultimately equal the actual cost to the Town for such consultant. In hiring outside consultants, the Town may engage engineers, surveyors, planners, lawyers, landscape architects, architects, or other appropriate

design professionals able to assist the Board and to ensure compliance with all relevant laws, ordinances, and regulations. Such assistance may include, but shall not be limited to, analyzing an application, design review of applications to determine consistency with the Comprehensive Plan; assessing the archaeological, traffic or environmental impact of a development proposal, review of unique site features including trees; or for monitoring a project or site for compliance with the Board's decisions or regulations. Fees for inspecting a project during construction or implementation shall be as provided in XI.C.3.7).

b. Submittal. Initial Project Review Fees shall be submitted by the applicant at the time of the submittal of the Master Plan application (for major subdivisions or land development projects) and at the time of the submittal of the preliminary application (for minor subdivisions or land development projects). These fees shall be paid by the applicant directly by the consultant within 30 days of invoice by the consultant to the applicant. Failure to make timely payments as described herein, may be cause for the Planning Board to deem an application incomplete for further processing.

c. Schedule of Initial Project Review Fees. The following schedule applies to the types of applications to the Planning Board set forth below. This schedule supersedes all previous schedules as they may have appeared in the Land Development and Subdivision Regulations, and any checklists which may have been compiled from time to time for the benefit of applicants. Where more than one type of application has been submitted for Planning Board action, only the largest of the applicable Initial Project Review Fees shall be collected for deposit into the Escrow Account, and not the sum of those fees.

\$500 for each lot or dwelling unit for the first five lots or dwelling units, (whichever is greater) including existing dwellings, if present; plus \$250 for each lot or dwelling unit thereafter.

d. Replenishment. When the balance in an applicant's Escrow Account falls below twenty-five percent (25%) of the initial Project Review Fee, as imposed above, the Planning Board may consider whether to require a supplemental Project Review Fee to cover the cost of the remaining project review.

e. Inspection Phase. As a condition of Final Plan approval, the Planning Board shall require inspection fees in accordance with XI.C.3.7 for the purpose of ensuring the availability of funds during the inspection phase of the review process.

f. Appeal. The choice of a consultant hired by the Town for the review of an application may be appealed as provided in Article XII.

- 1) *Three circumstances may disqualify the selected consultant. These conditions constitute the only grounds for an appeal.*
 - a) *Conflict of interest: A consultant shall not have a financial interest in the project under review, or be in a position to financially benefit in some way from the outcome of the pending review process.*
 - b) *Lack of appropriate qualifications: A consultant shall possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field.*
 - c) *Business relationship: The consultant has conducted business with an applicant whose project the consultant is reviewing within the past eighteen (18) months.*
- 2) *The required time limits for action upon an application by the Planning Board shall be extended by duration of the appeal.*

D. Meetings, Votes, Decisions and Records

1. All records of the Planning Board proceedings and decisions shall be written and kept permanently 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 good in 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, municipal departments, state and federal agencies, and local boards ~~of~~ *or* commissions shall be 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 land development or subdivision application shall require a vote for approval by a majority of the current Planning Board membership.

ARTICLE XII - APPEALS

A. Procedure for Appeals to the Platting Board of Review

1. Any party aggrieved by a decision of the Planning Board or the Administrative Officer shall have the right to appeal that decision to the Platting Board of Review by the following procedure.

a. The appeal must be taken within twenty (20) days of the day the decision is recorded and posted in the Town Clerk's Office.

b. The appeal shall be in writing, on a form provided by the clerk of the board, and shall state clearly and unambiguously the issue or decision that is being appealed, the reason for the appeal, and the relief sought.

c. The appeal shall either be sent by certified mail, with a return receipt requested, or shall be hand-delivered, to the office of the Clerk of the Board of Review.

d. Upon receipt of an appeal, the Clerk of the Board of Appeal shall require the Planning Board or the Administrative Officer to transmit forthwith to the Board of

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

2. An appeal shall stay all proceeding in furtherance of the action being appealed

B. Public Hearings on Appeals to the Platting Board of Review

1. The Platting Board of Review shall conduct a public hearing on each appeal within (45) days of receipt of the appeal by the Board's Clerk. The public hearings shall be conducted at a meeting called and advertised especially for that purpose, and shall be conducted separately from any Zoning Board of Review meeting that may be advertised for the same date and place. The Platting Board of Review shall maintain a complete record of all its proceedings, including minutes of meeting and records of votes taken, which shall be separate from the minutes and records of the Zoning Board of Review, and shall maintain a complete record of all its proceedings, including minutes and records of votes taken.

2. Notice of the public hearing shall be published in a newspaper of general circulation within the town at least fourteen (14) days prior to the date of the public hearing. Notice shall be sent by first class mail to the parties to the appeal and to those persons required to be notified by Section V(C) of these Regulations. The party who filed the appeal shall bear the cost of advertising and notice.

3. At the hearing, any party may appear in person, or may be represented by an agent or attorney.
4. The board shall render a decision on the appeal in the following manner:
 - a. The Board shall not substitute its own judgement for that of the Planning Board of the Administrative Officer, but shall consider the issue upon the findings and record of the Planning or the Administrative Officer. The Board shall not reverse a decision of the Planning Board or Administrative Officer except on a finding of prejudicial procedural error, clear error, of lack of support by the weight of the evidence in the record.
 - b. The concurring votes of three (3) of the five (5) members of the Board sitting at the hearing shall be necessary to reverse any decision of the Planning Board or Administrative Officer.
 - c. In the instance where the Board overturns a decision of the Planning Board or Administrative Officer, the proposed project application shall be remanded to the Planning Board or Administrative Officer, at the stage of processing from which the appeal was taken, for further proceedings before the Planning Board or Administrative Officer and/or for final disposition, which shall be consistent with the Board's decision.
 - d. The Board shall render a decision within (10) days of the close of the public hearing. The decision shall be in writing and shall include reasons for the decision.

C. Appeals to the Superior Court

1. Appeals of decisions of the Platting Board of Review
 - a. An aggrieved part may appeal a decision of the Hopkinton Board of Review to the Washington County Superior Court by filing a complaint setting for the reasons of appeal within twenty (20) fays after the decision has been recorded and posted in the Town Clerk's office. When the complaint is filed by someone other than the original applicant or appellant, the original; applicant or appellant and of the members of the Planning Board shall be made parties to the proceedings.
 - b. Within thirty (30) days after being served with a copy of the complaint, the Board shall file the original documents acted upon by it and constituting the record of the case appealed from, or certified copies thereof, together with such other facts as may be pertinent, with the clerk of the court.

c. The appeal shall not stay proceedings upon the decision appealed from, but the court may, in its discretion, grant a stay on appropriate terms and make such other appropriate orders as it deems necessary for an equitable disposition of the appeal.

d. The court shall review the appeal pursuant to Rhode Island General Laws, Section 45-23-71.

2. Appeal of Enactment or Amendment of Regulations

a. Any legal resident or landowner of Hopkinton, or any association of residents or landowner of Hopkinton, may appeal an enactment or amendment of the Subdivision and Land Development Regulations by the Planning Board by filing a complaint in the Washington County Superior Court within thirty (30) days after such enactment or amendment has become effective.

b. The complaint shall set forth with specificity the areas or areas in which the enactment or amendment is not consistent with:

- (i) Title 45, Chapter 22.2 of the Rhode Island General Laws, known as the Comprehensive Planning and Land Use Regulation Act;
- (ii) Title 45, Chapter 24, Section 27 *et. seq.* of the Rhode Island General Laws, known as the Zoning Enabling Act;
- (iii) The Hopkinton Comprehensive Community Plan of 1992; or
- (iv) The Hopkinton Zoning Ordinance

c. The appeal shall not stay the enforcement of these Regulations, as enacted or amended, but the court may, in its discretion, grant a stay on appropriate terms, which may include the filing of a bond, and make such other orders as it deems necessary for an equitable disposition of the appeal.

d. The court shall conduct the review without a jury. If the court finds that the enactment or amendment is not consistent with the statutory, ordinance, or regulatory provisions enumerated in Section XII (C)(2)(b) above, the court shall invalidate the enactment or the amendment, or those parts of such enactment or amendment that are not appropriate language as part of the court decision.

e. The court may in its discretion, upon motion of the parties or on its own motion, award reasonable attorney's fees to any party to an appeal, as set forth herein, including a municipality.

ARTICLE XIII - DESIGN AND PUBLIC IMPROVEMENT STANDARDS

A. General

The subdivider, at his own expense, shall construct all on-site and off-site improvements where required by the Planning Board in granting approval for any subdivision or land development project subject to these Regulations

B. Street Design Standards

The following design standards shall be followed where the applicable in the design and construction of any subdivision:

1. Frontage on Improved Streets

The area to be subdivided shall have frontage on an existing improved public street. If such an existing street has not been improved to the standards and specification as required in these Regulations, the Board may require the subdivider to make improvements along the street abutting the property ~~or~~ leading to the property being subdivided where necessary for drainage, safety, traffic or other reasons as deemed proper by the Board. See Section H of this Article.

For *the* purposes of these Regulations, streets platted but not improved or accepted for maintenance by the Town, shall not be considered existing improved public streets. Where these streets are incorporated within the subdivision, they shall be improved by the developer to meet the Subdivision Regulation standards.

2. Street Classification

Street design within a proposed subdivision shall conform to a street hierarchy system as established herein. Requirements for right-of-way and pavement width, on-street parking, drainage and other utilities, sidewalks, bicycle path and other design standards shall be tailored to street function.

The following major categories of street classification are established

a. Arterial - A major public street that serves as an avenue for the circulation of traffic into, out of, or around the Town and carries high volumes of traffic and provides for high levels of mobility. ***Parking is not allowed on arterial streets. Access should be strictly limited to intersecting streets or major driveways. Access should not be provided to residential lots.***

b. Collector - A public street whose principal function is to carry traffic between local streets and arterial streets but that may also provide direct access to abutting properties. These streets provide a balance between

land access and mobility, *and may provide frontage to residential lots. Parking may be allowed on collector streets.*

~~e. Local Public – Public streets whose primary function is to provide access to abutting properties.~~

~~d. Local Private – Private streets whose primary function is to provide access to abutting properties. Streets within residential compounds serving up to fourteen (14) residential dwellings on a private street fall within this classification~~

c. Local – Streets whose primary function is to provide access to abutting properties. There are three types of Local Streets:

- *Local Access (Double-Loaded) - Public streets whose primary function is to provide access to abutting properties **on both sides of the street. Parking may be allowed on these streets.***
- *Local Access (Single-Loaded) Public streets whose primary function is to provide access to abutting properties **on one side of the street only. Parking is prohibited on these streets.***
- *Local Private - Private streets whose primary function is to provide access to abutting properties. Streets within residential compounds serving up to fourteen (14) residential dwellings on a private street fall within this classification. With the approval of the Planning Board, streets within Conservation Developments may be privately owned and maintained.*

3. Street Rights of Way Dimensions

Street rights of way shall conform to the widths shown in Table 1 below and as illustrated in Figures 1-3. Figures 1-2 illustrate typical cross sections of collector and local public streets, respectively. Specific design criteria will be determined by the Planning Board on a case-by-case basis. Figure 3 is a typical cross-section of a local private street proposed for a residential compound. Figure 4 shows the cross-section of a private common driveway. Figure 5 shows typical plans for turnarounds, both cul-de-sacs and hammerhead designs. Right-of-way width, pavement width, and pavement type vary depending upon the number of lots, the potential for future access and slope.

- *Street dimensions shall conform to Tables 1 and 2 below and as illustrated in Figures 1-9. Figure 1 illustrates the cross-section for an arterial street, designed as a boulevard with a planted center median.*
- *Figures 2 and 3 illustrate collector streets, which may provide access to residential lots, and will vary in pavement width depending if parking is permitted or not. Parking may be permitted on one side of the street as shown in Figure 2.*

- *Figure 3 illustrates a collector street on which parking is not allowed.*
- *Figure 4 illustrates a local access street where lot frontage is permitted on both sides of the street (double loaded). Parking may be allowed on one or both sides of the street. If parking is not allowed, the pavement width may be reduced.*
- *Figure 5 illustrates a local access street where lot frontage is permitted on only one side of the street (single loaded). In this configuration, the street pavement may be shifted off the center line to accommodate a sidewalk and tree planting area on the side of the street where dwellings are located.*
- *Figure 6 illustrates a private street used in a residential compound. A gravel roadway surface is allowed except on steep slopes.*
- *Figure 7 illustrates the typical cross-section of a private common driveway,.*
- *Figures 8 and 9 illustrate typical turnaround details. Right-of-way width, pavement width, and pavement type vary depending upon the number of lots, the potential for future access and slope.*
- *Figure 10 provides an example of using private common driveways along an existing street.*
- *Figure 11 illustrates methods of buffering new dwellings in a subdivision or land development project from existing public streets.*
- *Figures 12A and 12B provides alternative designs for cul-de-sacs, including the “loop lane”.*
- *Figure 13 illustrates a short dead end street without a turnaround.*

**TABLE 1
MINIMUM STREET DIMENSIONAL REGULATIONS**

	“A”	“B”	“C”	“D”	“E”	“F”	“G”	“H”		
Type of Road	R.O.W. Width	Pavement Width	Cul-de-Sac ROW Radius	Cul-de-Sac Outside Pavement Radius	Hammer-head ROW Radius	Hammerhead Pavement Radius	Cul-de-Sac Fillet Radius at ROW	Cul-de-Sac Fillet Radius at Pavement	Road Intersection Fillet Radius at ROW	Road Intersection Fillet Radius at Pavement
Arterial	70	2- 20’lanes	N/A	N/A	N/A	N/A	N/A	N/A	25	35
Collector	50	22 – No parking 26 - Parking	42-44 – No Island 57-59 - Island	30 – No Island 45-49-Island	35	47-49	10	22-24	25	35
Local Access (Double Loaded)	50	20 – No Parking 26 – Parking	37-40 – No Island 55-Island	30 – No Island 45-Island	35	42-45	10	17-20	25	35
Local Access (Single Loaded)	35	18	36 – No Island 55-Island	30 – No Island 45-Island	30	36	10	16	15	25
Local Private (Residential Compound)	30	16	36 – No Island 55-Island	30 – No Island 45-Island	30	36	10	16	15	25

Notes:

1. *All dimensions in Feet*
2. *On-street parking is presumed to be needed when lot sizes average less than 8500 sq. ft., or when lot widths average less than 80 feet.*
3. *Center islands in culs-de-sac are encouraged. See XIII.B.8*

4. Geometric Data

Table 2 below shall be used as a guide in designing streets within a subdivision.

Table 2

	Local Streets (Public)	Residential Compound (Private)	Collector & Arterial Street (Public)
Maximum Grades			
- centerline	8% 10%	8% 10%	8%
- within 150' of centerline intersections	2.5%	2.5%	2.5%
Minimum Grades			
- centerline	0.8%	0.8%	0.8%
Minimum Length for Vertical Curves DIFFERENCE	30' ABSOLUTE VALUE OF GRADE DIFFERENCE		
Minimum Radius of Centerline Curve	100 feet 150' and a min. of 100' tangent between curves	100 feet 100'	150 feet 150' and a min. of 100' tangent between curves
Minimum Design Speed	25mph	10mph	40mph
Cul-De-Sac & Hammerhead Turnaround			
- Max. Grade	4.5%	N/A	N/A
- Min. Grade	2.0%	N/A	N/A
Pavement Crown (cross slope)	2%	2%	2%

Where approved by the Planning Board, cul-de-sacs may be designed with a circle with a ~~an~~ **40' diameter** unpaved center (*see Figures 8-9*). The Planning Board will determine landscape requirements for the unpaved center.

5. Street Layout and Arrangement

The arrangement of streets shall be considered in relation to the existing street system, and to **conform to** existing topographic and natural ~~conditions~~ **terrain as much as possible**. The road system shall be designed to permit the safe, efficient and orderly movement of traffic; to meet, but not exceed the needs of the present and future population served; to have a simple and logical circulation pattern; to respect natural features and topography **by minimizing cuts and fills**; and to create an attractive streetscape.

Wherever possible in residential subdivisions, the road system shall be designed to serve the needs of the neighborhood and to discourage use by through traffic. However, in major subdivisions, access shall be designed to avoid street systems which have only one principal means of egress. In order to provide for alternative access, at least two vehicular access streets may be required by the Planning Board, in major subdivisions **and land development projects** when determined by the Board to be feasible. Proposed streets within a major subdivision **/land development project** shall provide for their continuation or projection to intersect with principal streets on the perimeter of the subdivision **/land development project** or with adjacent vacant property in order that the streets may be extended at a future time.

6. Private Streets

Private streets shall not be permitted except for Residential Compounds and ~~Residential Cluster~~ **Conservation** Developments as authorized in Article IV of these Regulations.

7. Street Intersections

Street intersections shall either coincide precisely with, or be offset by at least 200 feet from other intersections. Intersections shall be at 90 degree angles. Lesser angles between 75 degrees and 90 degrees may be approved by the Director of Public Works.

8. Dead-End Streets

~~All dead end streets shall end in a cul-de-sac turnaround constructed according to the table of geometric data above, and shall be clearly marked at their entrances. The Planning Board may limit the length of the dead end (cul-de-sac) to 1200 feet, where necessary, to ensure the adequate and safe circulation of vehicular traffic.~~

All dead end streets shall be provided with a cul-de-sac or turnaround of an acceptable design sufficient to provide for safe movement and turning of vehicles. Acceptable designs are shown in the Table of Geometric Data (Table 2, above) and illustrated in Figures 8-9. The use of central planted islands which collect stormwater and provide for groundwater infiltration is encouraged. Center islands shall have at least 25-foot radius unless waived by the Planning Board for topographic reasons, steep slopes, or environmental constraints. Larger center islands are encouraged where necessary to create additional open space, landscaped drainage areas or part of a design feature developed as required in IV.A.4. Figures 12A & 12B also show alternative designs for cul-de-sacs, including the “loop lane.” All loop lanes shall provide for two-way vehicular traffic.

The Board may eliminate the requirement for a turnaround for streets of less than 100 feet length and serving no more than two lots or dwelling units. See Figure 13.

Dead end streets shall serve no more than 25 lots or dwelling units. Streets serving more than 25 lots or dwelling units shall be provided with a secondary access, which may be an “emergency” access of a design and location approved by the Planning Board. The Board may also permit more than 25 lots or dwelling units to be located on a dead end street if, in the opinion of the Board, there is a likelihood of a future street connection to adjoining streets or properties that would provide secondary access.

Dead end streets less than 800 feet in length shall be encouraged to be designed similar to boulevards, as one-way loop roads separated by a landscaped area at least 50 feet in width (see Figure 12A).

9. Street Names

An extension of an existing street shall have the same name as the existing street. Names of the proposed streets shall be substantially different from any existing street name in the Town of Hopkinton. All street names shall be approved by the Planning Board.

10. Access to Adjoining Property

~~When considered desirable~~ *Unless specifically waived* by the Planning Board, ~~to~~ *the applicant shall* provide access to adjoining property, *In such cases*, proposed streets shall be continued and improved to the property line (and street) only if an adjoining street already exists. The reservation of strips of land preventing such access shall not be permitted. *As an alternative to constructing proposed streets to the property line, the Planning Board may require the dedication of an easement to be reserved to permit streets to be extended to allow adjoining properties to be connected in the future by the subdivider of adjacent property.*

The Planning Board may *also* require provision of a temporary turnaround until such time as the adjacent tract is developed. An improvement guarantee may be required to insure completion of the street or construction of a permanent cul-de-sac within a reasonable period of time. Access to adjoining property for pedestrian and/or bicycle circulation shall be required wherever Planning Board determined that such connection will increase accessibility between adjoining subdivisions, to existing or proposed sidewalks or bicycle paths, from subdivisions to major public or private schools, recreation areas or other facilities or where the public safety will be significantly enhanced by such pedestrian and/or bicycle connections.

11. Common Driveways

Major subdivisions which utilize frontage on existing roadways may be required to incorporate common driveways, a common access road or a combination thereof in roadway area where the Planning Board determines that public safety would be enhanced by such common means of access to the subdivision lots. *See Article IV, Section C.*

12. Street Signs

Street name and traffic signs, approved by the Department of Public Works, shall be installed by the developer, at the developer's expense

13. Street Lighting

In all new subdivisions where utilities are being installed underground, provisions shall be made for street lighting connections only where required by the Director of Public Works, **and must be shown on "as built" plans. Street lighting shall be defined as "Dark Sky Compliant" as defined in Section _____.**

14. Street Trees

~~Where natural tree growth is determined by the Planning Board to be insufficient,~~ **The Planning Board may shall** require the subdivider to plant **deciduous shade** street trees appropriate for the **native landscape**, terrain, soil and climatic conditions encountered in the subdivision, and in accordance with the following standards:

- a. Location - Street trees shall be located as shown in Figures 1-5 within the street right-of-way line. Street trees shall be located so as not to interfere with overhead or underground utility lines. Trees shall be spaced at a minimum of 50 feet **30 to 40 feet** on center, **depending on anticipated ultimate size. The location and type of street tree shall be indicated on development plans.**
- b. Type - The species selected are to be suitable for local climatic conditions. **Recommended street trees are provided in Appendix 1.**
- c. Size - ~~Minimum sizes are 1 1/2 inches caliper, measured one foot from ground level in place, and 6 feet to 8 feet of height in place.~~ **Minimum sizes for species listed above are 2 to 3 inches caliper at breast height (DBH) and 10 feet to 12 feet of height in place.**
- d. Screening - Where a proposed residential development abuts an existing or proposed commercial or manufacturing area, a dense evergreen buffer at least 10 feet in depth, shall be planted along the common boundary between the residential development and such commercial or manufacturing development.
- e. Quality - **Street trees shall be balled and burlapped with good root development and branching characteristics. Bare root handling for dormant trees up to 2 1/2 inches caliper may only be allowed during the**

spring season. All trees shall be of licensed nursery stock, however, native trees may be used if inspected and approved by the (Town Tree Warden??) before planting.

f. Planting - Street trees shall be planted in holes at least 6 inches deeper and 1 1/2 times as wide as the root ball. Larger excavation may be required in gravel or sand areas. Trees shall be planted at their previous depth in good quality topsoil or soil conditioned to the quality with sufficient organic matter such as peat moss and a balanced fertilizer. Trees shall be securely double-staked with sturdy stakes of a minimum size of 2" x 2" x 6'.

g. Inspection - The Director of Public Works shall determine the suitability of the street trees being proposed, and certify proper planting techniques and maintenance have been followed.

15. Landscaping Standards

- a. Landscaping shall be provided as part of site plan and subdivision design. It shall be conceived in a total pattern throughout the site, integrating the various elements of site design, preserving and enhancing the particular identity of the site and creating a pleasing site character.
- b. Landscaping may include plant material such as trees, shrubs, ground covers, grass, flowers, etc. but may also include other materials such as rocks, wetlands, stone walls, paving materials, planters, signage, and street furniture. Areas which may be required to provide landscaping shall include, but are not necessarily limited to the following:
 - (1) Drainage facilities, such as retention/detention basins, or drainage swales
 - (2) Entrance features
 - (3) Open space areas
 - (4) Proposed recreation facilities
 - (5) Buffer areas
 - (6) Lot areas which are disturbed during the construction process or where extensive grading removes significant amount of natural vegetation
 - (7) Areas subject to re-grading or stabilization for soil erosion and sediment control purposes
- c. Landscape Plan - A landscape plan prepared by a Registered Landscape Architect shall be submitted to the Planning Board when the Board determines that (a) existing landscape is insufficient; (b) the site of

proposed subdivision has been disturbed so as to require significant new vegetation; or (c) additional landscaping is necessary to protect, preserve, or enhance significant visual features of the site. If a requirement is for a landscape plan is required by the Board, the applicant shall be advised of this requirement at the preliminary review stage of an administrative or minor subdivision, and at the master plan stage of a major subdivision. The plan shall identify existing and proposed trees, shrubs and ground covers; natural features such as stone walls and rock outcroppings; man-made elements such as retaining walls, fences, signs, planters, etc; proposed grading at two-foot contour intervals; lighting; specifications for ~~looming~~ **loaming**, fertilizing and seeding; and other proposed landscaping elements.

The plan shall indicate the location of all proposed landscaping and shall include construction details as necessary. A planting schedule shall be included to indicate proposed planting by species, size at time of planting and maintenance requirements. Where existing plantings are to be retained, the plan shall indicate proposed methods of protecting them during construction.

16. Monuments

Monuments (concrete boundary markers) shall be paid for by the developer and placed by a Professional Land Surveyor on the street line at the beginning and end of all horizontal curves on both sides of each subdivision (public) street and shall not be more than five hundred feet apart. Monuments shall be set four inches above finished grade of the center of the street. ***Monuments shall also be set as necessary along lot lines which abut open space so as to clearly mark the location of the division between the lot and the open space.***

17. Sidewalks

~~Sidewalks may be required to be installed along new streets at intersections or other areas of new subdivisions at the discretion of the Planning Board. Sidewalks may also be required to be installed as off-site improvements in accordance with the provisions of Section H. of this Article.~~

All subdivisions and land development projects shall be required to provide sidewalks, or trails or footpaths to provide pedestrian access within the proposed development as well as to adjoining or nearby neighborhoods, open spaces or major public or private facilities. At the time of submission of the Sketch Plan Overlay Sheet and Site Context Map, the applicant shall provide an analysis of the pedestrian circulation anticipated within and adjacent to the proposed development. The Planning Board shall determine the location and type of pedestrian facilities to be incorporated into the proposed development as early as possible in the review process, but no later than at Master Plan review for major subdivisions or land

development projects and at preliminary review for minor subdivisions or land development projects.

Sidewalks shall be required to be installed on one side of all proposed new public streets in all subdivisions and land development projects where dwellings are proposed to be located, except for short cul-de-sac streets serving five (5) or fewer lots or dwellings or less than 400 feet in length.

18. Bicycle Paths

Bicycle paths shall be incorporated into the proposed subdivision where necessary to extend an existing bicycle path; to intersect the proposed state bicycle facilities; to connect adjacent or nearby public or private school, recreation areas or other similar facilities would be likely to generate significant significant bicycle traffic.

19. Curbing at Intersection Fillet Curves

Straight faced pre-cast concrete curbing meeting RI DOT Standard 7.21 may be required to be installed at all intersection fillet curves in lieu of extruded Cape Cod curbing as illustrated in Figure 3. _____ Pre-cast concrete wheelchair ramp curbs meeting RI DOT Standard 7.11 shall be installed where required by the Director of Public Works.

20. Engineering and Land Survey

Wherever it is mandated by these Regulations that certain tasks associated with subdivision plans and improvements be performed by Registered Professional Engineers and/or Professional Land Surveyors, all such tasks shall be performed according to existing and amended standards of the State of Rhode Island and Providence Plantations Board of Registration for Professional Engineers and Board of Registration for Professional Land Surveyors.

C. Lot Design Standards

1. Side Lot Lines

~~Side lot lines may be right angles to street lines or radial to curved street lines~~
Side lot lines shall be at right angles to or within fifteen (15) degrees of perpendicular with street lines, or radial to curved street lines unless the Planning Board determines that a variation from this rule will provide a better street or lot plan. The Board may reject any lot shapes or angles in lot lines that may create design or construction problems.

2. Developable Land Area

~~All lots in Residential Compounds and Residential Cluster Developments~~
Lots in all subdivisions and land development projects created for the purpose of development

shall be designed so as to contain the minimum land area required by the Zoning Ordinance exclusive of Land Unsuitable for Development as defined herein.

3. Easement

Easements may be required by the Planning Board where necessary for the proper location and placement of improvements on private land as described below. The Board may, in its own discretion, require the dedication of land to the Town in lieu of easements if such dedication would provide greater control over and access to the intended use.

a. Watercourses - Where subdivision is traversed by a watercourse, 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 watercourse and of such widths as will be adequate for the purpose.

b. Sanitary Sewers - Easements across lots or centered on rear or side lot lines shall be provided for sanitary sewers where they are required. The nominal width for a sewer easement shall be thirty (30) feet.

c. Drainage Easements - Easements to install and maintain underground drainage facilities on private land shall be dedicated to the Town where required. The nominal width for such a drainage easement shall be thirty (30) feet. Where above-ground drainage flows are directed over private property which does not contain natural watercourses or wetlands, or where publicly owned and maintained drainage systems out-fall on private land, a drainage easement shall be dedicated to the Town over the area and at a location adequate for the intended purpose. Easements into and upon above-ground drainage facilities such as storm water detention or retention basins shall be granted to the Town wherever storm water from Town-owned streets or other improvements is intended to be directed to such basins.

d. Grading Easements - The Planning Board may require the dedication of an easement to the Town in order to grade or to maintain grading on private property where such grading is necessary to establish or maintain adequate drainage, sight distances, or topographic features required as a condition of subdivision approval.

e. Sight Distance Easements - Where deemed necessary by the Planning Board to establish or maintain adequate sight distances for vehicular traffic, the dedication of an easement to the Town may be required which would prohibit the erection or maintenance of any visual obstruction such as a structure, tree, shrub, wall, earthen embankment, hill or any other obstruction.

f. Bicycle or Pedestrian Access Easements - Bicycle and pedestrian access shall be provided where required on a separate strip of land dedicated to the Town or on an easement having a minimum width of fifteen (15) feet.

g. Other Easements - All other required easements shall be of sufficient width an area for the intended purpose. All utility easements shall be a minimum width of thirty (30) feet and contain at least one concrete bound.

4. Lot Configuration

~~All~~ **The** Planning Board shall have the right to prohibit or require modification to lots which are shaped or configured in such a manner as to conflict with the use of the land for the intended purpose. In particular, long, narrow strips of land should be avoided in creating residential lots. ~~Unusual shapes, angles, and dimensions should be avoided in lot layout and design.~~ The Board may, in reviewing a proposed subdivision, require modification to the proposed lot layout as it deems necessary to achieve the purposes of these Regulations.

D. Drainage

Stormwater management within a proposed development shall be designed to add no net increase to runoff from the development and to infiltrate stormwater into the ground to the maximum extent practical and as close to the point of generation as practical. The developer shall show that project design has included all practical efforts to reduce the area of impervious or semi-impervious surfaces within the project. Stormwater from roofs, driveways and other impervious or semi-impervious surfaces at individual sites within the development shall be infiltrated within that site location through the use of vegetated swales, sheet flow over vegetated areas, drywells for roof run-off, and other local infiltration methods to the maximum extent possible. Stormwater from streets and other impervious or semi-impervious areas not part of the individual sites shall be infiltrated as close to the point of generation as practical using vegetated swales, sheet flow over vegetated areas and other local infiltration methods. The developer must demonstrate that nonstructural controls have been incorporated to the maximum extent possible before proposing curbs, gutters and closed or piped drainage systems and down gradient detention or retention basins for the balance of the Stormwater flow. The developer is encouraged to use stormwater management design to mitigate pollution, reduce sedimentation, provide visual amenities and provide potential wildlife habitat.

Where the necessity for detention or retention basins has been demonstrated by the developer to the Planning Board, a series of smaller basins shall be employed in lieu of larger detention or retention areas. Impact of thermal pollution on nearby streams must be taken into consideration with stormwater systems employing surface ponding. Drainage systems may be located within designated open space areas with the permission of the Planning Board. Drainage detention or retention basins shall be designed to blend with the site to the maximum extent practical and shall be suitably landscaped.

The drainage system may be comprised of natural and man-made elements. These include grass swales, retention and detention basin, curbs, catch basins, culverts, and storm water pipes. The subdivider is encouraged to incorporate natural elements (i.e. grass swales, wet basins) not only collect and transport storm water, but also mitigate pollution, reduce sedimentation, provide visual amenities and provide potential wildlife habitat.

Where a drainage plan and drainage calculations are required by the appropriate Plat Checklist in Article XV, the plan and calculations shall be prepared by a Registered Professional Engineer. The storm water drainage calculations, runoff rates and system design shall be based on the application of the appropriate method as follows:

The Rational Method - This method is the preferred method for small systems of three (3) acres or less, where no wetlands, ponds, or other storage depressions are present, and where drainage is toward the point of analysis. The catch basin to basin hydraulics of all sites shall be completed using the rational method.

TR-55 - This is the preferred method for calculating runoff volume, peak discharges rate, and flood storage requirements for site development between one acre and two thousand acres. This is the required method for sizing detention/retention ponds.

TR-20 - This is for large complex watersheds and systems beyond the scope of TR-55.

The drainage plan and drainage calculations shall contain the following information:

1. An estimate of the quantity of storm water surface runoff presently flowing from the land proposed to be subdivided, and that which would be generated by the proposed subdivision, calculated on the basis of 2, 10, 25 and 100 year frequency rainfall.
2. An estimate of the quantity of storm water surface runoff entering the subdivision naturally from upstream areas within the watershed under present conditions calculated on the basis of 2, 10, 25 and 100 year frequency rainfall.
3. An analysis of the capability of existing watercourses, storm sewers, culverts and other drainage facilities within the land proposed to be subdivided to handle the runoff as calculated under 1 and 2 above, and proposals to handle such surface runoff. Design criteria for drainage improvements shall conform to the State Specifications cited above as modified by the Town of Hopkinton. Culvert and storm sewers shall be designed for a 10-year frequency rainfall, with a minimum pipe size of 12 inches, and a minimum pipe gradient that provided self-cleaning velocity of 2.5 ft/sec. Critical structures (cross culvert, bridges, etc.) must be designed to handle the 100 year storm.

4. Proposals for disposal of surface runoff, downstream for the subdivision without damage to land and improvements and to the receiving water body.
5. The drainage plan shall further indicate how the following specific requirements will be met:
 - a) That each lot will be adequately drained;
 - b) That natural drainage patterns will be maintained whenever possible;
 - c) That all existing watercourses will be left open, unless approval to enclose is granted by the Planning Board;
 - d) That all new open watercourses will be seeded, sodded or paved, depending on grades and soil types;
 - e) That a continuous drainage system will be installed and connected to a natural or manmade watercourse, to an existing piped storm drainage system, or to a system of detention or retention ponds;
 - f) Where any part of the drainage system is proposed for location outside the public street right-of-way, provisions for future maintenance approved by the Planning Board will be provided;
 - g) That all necessary easements to off-street watercourses will be obtained by the subdivider; and,
 - h) Where volume velocity of the surface run-off is high, the flow thereof shall be controlled by rip-rap, sediment basins, flow spreaders, or other applicable devices and, or techniques recommended in the Rhode Island Soil Erosion and Sediment Control handbook, as may be amended, and in accordance with the current State of Rhode Island Storm Water Manuel.
6. The proposed drainage system shall be designated to accommodate storm water such that post construction conditions do not result in peak runoff increases in rate or volume from pre-construction conditions.
7. The plan should include an assessment of structural integrity of proposed facilities to withstand discharge from a 2 to 100 year storm.

E. Utilities

1. Sanitary Sewers - Sanitary sewers shall be required in all subdivisions and land development projects where such sewer service is required and available, in accordance with the procedures and standards set forth in Chapter 21 of the Hopkinton Code of Ordinances entitled Utilities.

2. Water Lines - When a public water system is available, and connection is desirable, water lines shall be installed and water stops shall be provided for each lot in accordance with the Rules and Regulations of the appropriate water utility. Water lines shall be generally located on the southerly or westerly side of the street wherever possible or as required by the Planning Board.

3. Gas Lines - Natural gas lines may be installed in any subdivision or land development project

4. Communication Lines (Electric, Telephone, and Cable TV) –

~~All electric, communication (telephone, fire alarm and cable TV) and street lighting lines may be installed underground at the discretion of the subdivider.~~

All electric, communication (telephone, fire alarm and cable TV) and street lighting lines shall be required to be installed underground, except as provided below. In cases where underground installation is not feasible due to physical conditions of the site or other limitation, an alternative location for these utility lines shall be approved by the Planning Board, if prior approval thereof has been obtained by the utility company involved. All underground utility work shall be completed prior to paving streets. Where communication lines cross street pavement, they shall be placed in a conduit approved by the Director of Public Works.

The Planning Board may permit communication lines to be located above ground for (1) residential compounds or (2) for minor subdivisions where no street creation is required. In such cases, the Planning Board shall consider the extent of existing vegetation and tree cover, the existing topography and natural features, the character of the surrounding area and the degree to which placement of communication lines underground will promote high quality and appropriate design of the subdivision.

5. Fire Hydrants - Fire hydrants shall be installed in all subdivisions where public water supply systems are installed. Hydrant type, location, and spacing shall meet the minimum requirements of the National Fire Protection Assn. or as directed by the appropriate Fire District or water utility. In subdivisions or land development projects where public water supply is not installed, the Planning Board may require the installation of one or more dry hydrants and related storage tanks, based on a recommendation from the appropriate fire district.

F. Erosion and Sediment Control

All major land developments and major subdivisions shall submit a soil erosion and sediment control plan as required herein. Minor land developments, minor subdivisions and administrative subdivisions may not be required to submit such plans if the land disturbing activity involved in construction improvements is deemed insignificant by the Planning Board.

1. Plan Preparation

The erosion and sediment control plan shall be prepared by a Registered Professional Engineer, a Registered Landscape Architect, a Soil and Water Conservation Society Certified Erosion and Sediment Control Specialist, or a Certified Professional Soil Scientist.

2. Plan Contents

The erosion and sediment control plan shall include sufficient information about the proposed activities and land parcel(s) to form a clear basis for discussion and review and to assure compliance with all applicable requirements of these Regulations. The plan shall be consistent with the data collection, data analysis, and plan preparation guidelines in the current "Rhode Island Soil Erosion and Sediment Control Handbook," prepared by the U.S. Department of Agriculture, Soil Conservation Service, R.I. Department of Environmental Management, R.I. Conservation Committee, and at a minimum, shall contain:

- a. A narrative describing the proposed land disturbing activity and the soil erosion and sediment control measures and storm water management measures to be installed to control erosion that could result from the proposed activity. Supporting documentation, such as a drainage area, existing site conditions, and soil maps shall be provided as required by the Planning Board.
- b. Construction drawings illustrating in detail all land disturbing activity including existing and proposed contours, cuts and fills, drainage features, and vegetation; limits of clearing and grading, the location of soil erosion and sediment control and storm water management measures, detail drawings of control measures; stock piles and borrow areas; sequence and staging of land disturbing activities; and other information needed for construction.
- c. Other information or construction plans and details as deemed necessary by the Planning Board for thorough review of the plan prior to action being taken as prescribed in these Regulations.

3. Performance Principles

The contents of the erosion and sediment control plan clearly demonstrate how the principles, outlined below, have been met in the design and are to be accomplished by the proposed development project.

- a. The site selected shall show due regard for natural drainage characteristics and topography.

- b. To the extent possible, steep slopes shall be avoided.
- c. The grade of slopes created shall be minimized.
- d. Post-development runoff rates should not exceed pre-development rates, consistent with other storm water requirements which may be in effect. Any increase in storm runoff shall be retained and recharged as close as feasible to its place of origin by means of detention ponds or basins, seepage areas, subsurface drains, porous paving, or similar techniques.
- e. Original boundaries, alignment, and slope of watercourses within the project locus shall be preserved to the greatest extent feasible.
- f. In general, drainage shall be directed away from structures intended for human occupancy, municipal or utility use, or similar structures.
- g. All drainage provisions shall be of such a design and capacity so as to adequately handle storm runoff, including runoff from tributary upstream areas which may be outside the locus of the project.
- h. Drainage facilities shall be installed as early as feasible prior to any additional site clearance or disturbance.
- i. Fill located adjacent to watercourses shall be suitably protected from erosion by means of rip-rap, gabions, retaining walls, vegetative stabilization, or similar measures.
- j. Temporary vegetation and/or mulch shall be used to protect bare areas and stockpiles from erosion during construction; the smallest areas feasible shall be exposed at any one time,; disturbed areas shall be protected during the non-growing months, November through March.
- k.. Permanent vegetation shall be placed immediately following fine grading.
- l. Trees and other existing vegetation shall be retained whenever feasible; the area within the drip line shall be fenced or roped off to protect trees from construction equipment.
- m. All areas damaged during construction shall be re-sodded, re-seeded, or otherwise restored. Monitoring and maintenance schedules, where required, shall be predetermined.

4. Maintenance of Measures

Maintenance of all erosion-sediment control devices under this ordinance shall be the responsibility of the subdivider. The erosion-sediment control devices shall be maintained in good condition and working order on a continuing basis. Watercourses originating and located completely on private property shall be the responsibility of the subdivider to their point of open discharge at the property line or at a communal watercourse within the property. If proper maintenance procedures are not followed, the Planning Board may authorize the Administrative Officer to take the steps necessary to ensure proper maintenance by using improvement guarantee funds as provided in Article VII.

5. Periodic Inspections

The Director of Public Works require inspections at such intervals as he/she may deem necessary to assure proper compliance with the approved Erosion and Sediment Control Plan. Copies of all inspection reports shall be made available to the subdivider upon request.

G. Site Design

1. Purpose - The purpose of subdivision and site design is to create a functional and attractive development **neighborhood**, to minimize adverse impacts, and to ensure that a project will be an asset to the community. To promote this purpose, land development projects and subdivisions shall conform to the following standards which are designed to result in a well-planned community without adding unnecessarily to development costs.

2. Site Analysis - An analysis of the subdivision site and nearby areas shall be required by the Planning Board for all major **and minor** subdivisions **or land development projects**. The scope and content of the site analysis shall be **as provided for conservation developments in Section IV.A.4.** ~~discussed during the pre-application meeting and shall be presented by the sub-divider during the Master Plan stage of review. Such an analysis may be required by the Planning Board for minor subdivisions if the board finds that the proposed development may have a negative impact on the existing natural and built environment or would be inappropriate for the character of the surrounding neighborhood. Such a site analysis shall include written Master Plan Narrative and a graphic analysis of the following characteristics of the development site: site context; geology and soil; agricultural lands; wetlands; topography; climate; ecology; existing vegetation; structures; and road networks; visual features; and past and present use of the site.~~ 

3. Subdivision and Site Design

- a. Design of the development **and open space** shall take into consideration all existing Town and regional plans for the surrounding community.

- b. Development of the site shall be based on the **design process required for conservation developments in Section IV.A.4.** ~~characteristics of the site and upon the site analysis.~~ To the maximum extent practicable, development shall be located to preserve the natural features of the site. To avoid areas of environmental sensitivity, and to minimize negative impacts and alteration of natural features, historic and cultural resources, and areas of scenic value which contribute to the character of the town.

- c. The following specific areas shall be preserved as undeveloped open space or lot area, to the extent consistent with the reasonable utilization of land, and in accordance with applicable state or Town regulation:
 - 1) Unique and, or fragile, including freshwater wetlands;

 - 2) Significant trees or stands of trees, or other vegetative species that are rare **or unusual** to the area or are of particular **botanical, horticultural or landscape** value;

 - 3) Lands in the flood plain, as defined in Article II;

 - 4) Steep slopes in excess of fifteen percent (15%), unless appropriate engineering measures concerning slope stability, erosion, and resident safety are taken;

 - 5) Habitats of **threatened or** endangered wildlife, as identified on applicable federal or state lists, **and other significant wildlife habitat such as vernal pools or special aquatic sites;**

 - 6) Historically significant structures and sites, ~~as listed on~~ **such as, but not limited to those listed on any** Federal, ~~or~~ State **or local** lists of historic places; and,

 - 7) Agricultural lands, as defined herein, **or meadows and abandoned fields which may be restored for agricultural purposes.**

- d. The development should be laid out ~~to avoid adversely affecting to~~ **avoid adverse impacts on** ground water and aquifer recharge; to reduce cut and fill; to avoid unnecessary impervious cover; to prevent flooding; to provide adequate access to lots and sites; and to mitigate adverse effects of shadow, traffic, drainage, and utilities on neighboring properties.

4. Residential Development Design

- a. The Planning Board may vary street locations, lot shapes and dimensions, yards, and setbacks for the purpose of encouraging and promoting flexibility, economy and environmental soundness in layout and design, provided they conform to the minimum dimensional requirements of the zoning ordinance. ***As provided in Section 6.1 of the Zoning Ordinance, the Planning Board may permit modifications to the lot frontage and width requirements as set forth in the Zoning Ordinance and in Section IV.A.7 of these Regulations.***
- b. Residential lots shall front on local streets wherever possible.
- c. Every lot shall have sufficient access to it for emergency vehicles as well as for those needing access to the property in its intended use.
- d. The placement of dwelling units in residential developments shall take into consideration topography, privacy, building height, *solar* orientation, drainage, ~~and~~ scenic values ***and views of conservation lands and open space.***
- ~~e. Lots shall be designed so that proposed buildings have adequate privacy from adjacent streets.~~
- e. Single loaded local access streets shall be encouraged wherever possible to create favorable views and vistas of land on the opposite side of the street.***
- f. Vegetated buffer areas may be required by the Planning Board, where necessary, to avoid adverse impacts from the adjacent uses.

5. Commercial and Manufacturing Development and Design

Commercial and manufacturing developments shall be designed according to the same principles governing the design of residential developments; namely, building shall be located according to topography, with environmentally sensitive areas avoided to the maximum extent practicable; factors such as drainage, noise, order, and surrounding land uses considered in siting buildings; sufficient access shall be provided; and adverse impacts buffered.

6. Circulation System Design

- a. The road shall be designed to permit safe, efficient and orderly movement of traffic; to meet, but not exceed the needs of the present and future population served; to have a simple and logical pattern; to respect

natural features and topography; and to present an attractive streetscape. ***The right-of-way and pavement width shall be only as wide as necessary for the street pavement and other facilities and uses, including sidewalks, utilities, drainage, street trees, snow storage and grading. The width of the street pavement shall be based upon both the volume and type of expected traffic and on-street parking, as well as upon the place of the street in the street hierarchy, as provided in XIII.B.2.***

b. ~~In a residential subdivision, the road system shall be designed to serve the needs of the neighborhood in which it is located, including the connection to vacant and/or developed adjacent properties.~~ ***Streets shall be interconnected as far as practicable, employing cul-de-sacs only where essential. An interconnected system of through streets is encouraged, both within the parcel being developed as well as to surrounding streets or adjacent property which may be developed in the future. Where cul-de-sacs are deemed by the Planning Board to be desirable, continuous pedestrian circulation shall be provided for by connecting footpaths, sidewalks and/or bicycle paths that link the end of the cul-de-sac with the next street or adjoining open space.***

Street design shall consider opportunities to achieve design objectives, such as creating or preserving vistas, parks or village greens. The design and layout of streets shall encourage reduced traffic speed, traffic calming and pedestrian-friendly residential neighborhoods. As part of the design process provided in Section IV.A.4, street layout shall be considered in relation to the location of open space, building sites and pedestrian circulation.

c. ***The pedestrian system shall be located as required for safety and to provide access to adjacent or nearby neighborhoods, open space or other pedestrian facilities. In conventional developments and in conservation developments, walks may be placed away from the road system with permission of the Planning Board.***

7. Landscape Design

- a. Reasonable landscaping shall be provided at site entrances, and in public areas.
- b. The plant or other landscaping material that best serves the intended function shall be selected. Landscaping materials shall be appropriate for the local environment, soil conditions, and availability of water. The use of grasses that require minimal watering and fertilization is encourage, particularly in areas that are ecologically sensitive.

H. Off-Site Improvements

1. Purpose - This section is intended to ensure that ~~subdivider~~ **the applicant** provides off-site infrastructure improvements in order to mitigate the impacts which are directly or indirectly attributable to new development.

Such improvements may be required by the Planning Board if the board finds that there is a reasonable relationship between the requested improvement and the proposed new development. Off-Site improvements may include, but are not limited to improvements to the following:

- a. sanitary sewers
- b. water supply systems
- c. roadways
- d. sidewalks
- e. bicycle paths
- f. drainage systems

2. Definition and Principles - As a condition of final approval, the Planning Board may require a ~~subdivider~~ **an applicant** to construct reasonable and necessary improvements located off of the proposed land being subdivided. "Necessary" improvements are those clearly and substantially related to the subdivision or land development being proposed. The Planning Board shall provide in its resolution of final approval the basis for requiring such off-site improvements. In its resolution, the board must find that a significant negative impact on existing conditions will result if the off-site improvements are not made, and are clearly documented in the public record. The mitigation required as a condition of approval must be related to the significance of the identified impact. All required off-site improvements must reflect the character defined for the neighborhood or district by the Comprehensive Community Plan.

I. Areas of Special Flood Hazard

The Planning Board shall examine each proposed subdivision to ensure that:

- a. If any part of the proposed subdivision is located within an area of special flood hazard as identified in Article II, it is consistent with the need to minimize flood damage.
- b. It provides for adequate protection against flood damage respect to materials, design, and methods of construction.
- c. All public utilities and facilities such as sewers, gas, electrical and water systems are elevated and constructed to minimize or eliminate damage from flooding.

- d. Adequate drainage is provided so as to reduce exposure to flood hazards.

J. General Construction Procedures

The following procedures shall be followed by the subdivider and by contractors under the direction of the subdivider in the construction of any subdivision or related improvement:

1. Pre-construction meeting - A pre-construction meeting shall be held with the Director of Public Works has been notified at least seven (7) days prior to the start of any subdivision improvements. The subdivider (or his duly authorized representative) and the on-site project manager shall attend this meeting.
2. Notification - No step in the construction of required improvements shall commence until the Director of Public Works has been notified at least twenty-four (24) hours in advance of the phases of construction listed in 3, below.
3. Inspection of Improvements - Inspection and approval by the Director of Public Works shall be required for the following phases of subdivision improvements:
 - a. During and following installation of all underground drainage structures, systems and utilities prior to back-filling;
 - b. During and following the preparations of the road sub-grade and shoulders;
 - c. During and following the spreading and compaction of the sub-grade course;
 - d. During and following the spreading and compaction of the base course prior to the application of the asphalt binder course;
 - e. Immediately prior to and during the application and compaction of the asphalt surface course on the roadway and, if required, sidewalks; and,
 - f. Following completion of all improvements and installation of bounds.
 - g. At periodic intervals as required to ensure compliance with approved Erosion and Sediment Control Plan.

The Director of Public Works may require inspection at such other intervals as he may deem necessary to assure proper construction of improvements.

4. Request for Inspection - Whenever an inspection is required the developer shall request the Director of Public Works to make such inspection. The Director of Public Works or his representative shall within 48 hours exclusive of Saturday, Sunday and holidays, make such an inspection and give to the developer written approval or disapproval of the improvements inspected by him. No subsequent step or phase shall commence until an inspection has been made and approval granted.

5. As-built Drawings - Upon completion of construction of all required improvements, and before the performance bond is released and the maintenance bond is accepted, the developer shall furnish two sets of transparent Mylar as-built drawings of required improvements to the Administrative Officer.

6. Inspection Fees - Inspection fees shall be paid in the amount established in Article XI, and shall be paid in full before the construction of any improvements requiring inspection.

ARTICLE XIV - CONSTRUCTION METHODS AND SPECIFICATIONS

A. Specifications

Construction of streets shall be in accordance with the Typical Cross Section of a street contained herein and the "Standard Specifications for Road and Bridge Construction" 1971 ed.) published by the State of Rhode Island, Department of Public Works, Division of Roads and Bridges unless otherwise noted. Drainage systems shall be constructed in accordance with the "Standard Specifications for Drainage Systems" as adopted herein. Sidewalks and curbing shall be constructed in accordance with the "Specifications for the Installation of Sidewalks and Curbs" as adopted herein.

B. Soil Erosion and Sediment Control

All soil erosion and sediment control measures required by these Regulations shall be constructed in accordance with the standards and procedures set forth in the Rhode Island Soil Erosion and Sediment Control Handbook, prepared by the U.S. Department of Agriculture Soil Conservation Service, the RI Department of Environmental Management and the RI State Conservation Committee, 1989, and any amendments thereto.

ARTICLE XV - CHECKLISTS

NOTE: ARTICLE XV ENTITLED CHECKLISTS IS AMENDED IN ITS ENTIRETY TO READ AS FOLLOWS:

A. Administrative Subdivisions

B. Pre-Application Meetings and Concept Review - Minor or Major Land Development Projects and Minor or Major Subdivisions

C. Preliminary Plat Checklist - Minor Land Development Projects and Minor Subdivisions (Creation or Extension of a Public or Private Street)

D. Preliminary Plat Checklist - Minor Land Development Projects and Minor Subdivisions (No Creation or Extension of a Public or Private Street)

E. Final Plat Checklist - Minor Land Development Projects and Minor Subdivisions

F. Master Plan Checklist - Major Land Development Projects and Major Subdivisions

G. Preliminary Plat Checklist - Major Land Development Projects and Major Subdivisions

H. Final Plat Checklist - Major Land Development Projects and Major Subdivisions

Note: The attached Signature Blocks shall be affixed to all plats being submitted for final approval and/or recording.

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