

# LAND DEVELOPMENT AND SUBDIVISION REGULATIONS

## Amendments

Approved November 5, 2019

### ARTICLE VI. MINOR LAND DEVELOPMENT OR SUBDIVISION

#### Sec. 23-21. Preliminary plan submission requirements.

- a. ...
- b. Requirements for the preliminary plan application for this phase of review include but are not limited to: information on the natural and built features of the surrounding neighborhood, existing natural and man-made conditions of the development site, including topographic features, the freshwater wetland and coastal zone boundaries, the floodplains, as well as the existing and proposed design concept: building footprint, location of a well, OWTS or sewer connection for each proposed lot, utilities, lot coverage, setbacks, density calculation, Class I survey, proof of property ownership (deed), proposed public improvements and dedication, tentative construction phasing, any applications or permits required by any local, state or federal agencies, a determination letter from the Zoning Official indicating if any relief is required, and all engineering details required for stormwater management and roadway/driveway construction and potential neighborhood impacts and such other independent peer reviews as directed by the planning board.
- c. Any variance or special use permit relief required shall be included in the application, and the approval by the Zoning Board shall be included as a condition in the preliminary plan decision.
- d. Provide copies of all proposed legal documents, easements and rights-of-way.
- e. Provide copies of all proposed arrangements of any required public improvements including a construction schedule and/or financial guarantees.
- f. The planning board may waive certain applicable requirements for approval of a subdivision involving only the creation of a lot or lots which are to be used for permanent open space or conservation purposes (ref Article IX. Sec. 23-47 b. Waivers and Modifications) and shall be noted on the final plan.

#### Sec. 23-22. Decision of the board-Preliminary plan.

- a. If no street creation or extension is required, the planning board shall approve, approve with conditions, or deny the preliminary plan within 65 days of the certification of completeness, or within such further time as may be consented to in writing by the applicant and the board.
- b. If a street extension or creation is required, the planning board shall hold a public hearing prior to approval according to the requirements in section 23-14 and shall approve, approve with conditions, or deny the preliminary plan within 95 days of the certification of completeness, or within such further time as may be consented to in writing by the applicant and the board.

**Sec. 23-23. Final plan submission requirements.**

- a. ... including all materials required by the planning board for preliminary plan approval (see Sec. 23-21 b).
- b. Any variance or special use permit relief granted by the Zoning Board and all supporting documentation shall be included as part of the final plan application materials. Failure to obtain the relief required shall invalidate the application.
- c. The applicant shall provide all approved permits or letter of approval as required by town, state or federal agencies for the application under review, prior to final plan approval.
- d. All reviewed and approved legal documents, easements or right-of way agreements shall be provided prior to final plan approval and shall be recorded in Land Evidence.
- e. Any required public improvement documents and/or financial guarantees provided for review and approval.

**Sec. 23-24. Final plan review and approval procedure.**

- a. The planning board shall approve or deny the final plan as submitted within 45 days of the certification of completeness, or within such further time as may be consented to in writing by the applicant and the board.

**Sec. 23-25. Expiration of approval.**

- a. Approval of a minor land development or subdivision preliminary plan shall expire ninety (90) days from the date of approval unless within such period a final plat or plan is submitted in conformity with section 23-23 of these regulations. The validity of said approval may be extended for a longer period, for cause shown, if requested by the applicant in writing and approved by the planning board.

**ARTICLE VII. MAJOR LAND DEVELOPMENT OR SUBDIVISION**

**Sec. 23-27. Master plan submission requirements.**

- a. ...
- b. Requirements for the master plan with supporting materials for this phase of review include, but are not limited to: information on the natural and built features of the surrounding neighborhood, existing natural and man-made conditions of the development site, including topographic features, the freshwater wetland and coastal zone boundaries, the floodplains, proof of property ownership (deed), as well as the proposed design concept; building footprint, location of a well, OWTS or sewer connection for each proposed lot, utilities, lot coverage, setbacks, density calculation, a determination letter from the Zoning Official indicating if any relief is required, proposed public improvements and dedications, tentative construction phasing and potential neighborhood impacts.

- c. Any variance or special use permit relief requested shall be included in the application, and the approval by the Zoning Board shall be included as a condition in the master plan decision.
- d. Provide copies of all proposed legal documents, easements and rights-of-way.
- e. Provide proposed arrangements of any required public improvements including a construction schedule and/or financial guarantees.
- f. The planning board may waive certain applicable requirements for approval of a subdivision involving only creation of a lot or lots which are to be used for permanent open space or conservation purposes (ref Article IX. Sec 23-47 b. Waivers and Modifications) and shall be noted on the final plan.

**Sec. 23-28. Master plan review procedure.**

- a. A master plan application shall be certified complete or incomplete by the administrative officer within a twenty-five 25-day period from the date of its submission. The time period will be deemed stopped by the issuance of a certificate of incompleteness and will recommence upon submission of a corrected application. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission.

**Sec. 23-29. Decision of the board-Master plan.**

- a. The planning board shall approve, approve with changes and/or conditions, or deny the master plan, within 90 days of the certification of completeness, or within such further time as may be consented to in writing by the applicant and the board.

**Sec. 23-30. Preliminary plan submission requirements.**

- a. ...
- b. Requirements for the preliminary plan with supporting materials for this phase of review include, but are not limited to: complete engineering plans depicting the existing site conditions and the proposed development project, a Class I survey, copies of all permit applications submitted that are required by local, state or federal agencies prior to commencement of construction; including permits related to freshwater wetlands, the coastal zone, flood plains, preliminary suitability for individual septic disposal systems, public sewer or public water systems and connections to town or state roads, engineering details required for stormwater management, utilities and roadway/driveway construction and potential neighborhood impacts including hydraulic water modeling or traffic studies, all materials required for master plan approval and such other independent peer reviews as directed by the planning board.
- c. Any variance or special use permit relief granted by the Zoning Board and all supporting documentation shall be included as part of the preliminary plan application materials. Failure to obtain the relief required shall deem the application invalid.

**Sec. 23-31. Preliminary plan review procedure.**

- a. A preliminary plan application shall be certified as complete or incomplete by the administrative officer within a 25-day period from the date of its submission. The time period will be deemed stopped by the issuance of a certificate of incompleteness by the administrative officer and will recommence upon submission of a corrected application and certification. However, in no event shall the administrative officer be required to certify a corrected submission as complete or incomplete in less than ten (10) days after its resubmission.

**Sec. 23-32. Decision of the board-Preliminary plan.**

- a. The planning board shall approve, approve with condition, or deny the preliminary plan within ninety (90) days of the certification of completeness, or within such further time as may be consented to in writing to by the applicant and the board.
- b. Prior to approval of the preliminary plan, the following shall be submitted to the planning board:
  - (1) Copies of all legal documents describing the property, that may include but are not limited to existing or proposed easements and rights-of-way, Operation and Maintenance Agreements and Homeowners Association Agreements.
  - (2) Proposed arrangements for completion of the required public improvements, including construction schedule and/or financial guarantees.

**Sec. 23-33. Final plan submission requirements.**

- a. Any applicant requesting approval of a proposed major subdivision or major land development final plan shall submit to the administrative officer those items as required in Attachment 8 of these regulations, including all materials required by the planning board for preliminary plan approval.
- b. Schedule for completion of any required public improvements, including a construction schedule.
- c. Approved final documents of any sureties the planning board may require, including but not limited to construction, maintenance, and improvement guarantees and their form of payment.
- d. Certification letter from the tax collector that all property taxes are paid to date.
- e. Submission of all approved legal documents.
- f. For phased projects, the final plan for phases following the first phase, shall be accompanied by copies of as-built drawings not previously submitted of all existing public improvements for prior phases.

**Sec. 23-34. Final plan review and approval procedure.**

- a. A final plan application shall be certified as complete or incomplete by the administrative officer within a 25-day period from the date of its submission. This time period may be extended to 45 days

by written notice from the administrative officer to the applicant where the final plan contains changes to or elements not included in the preliminary plan approval. The time period will be deemed stopped by the issuance of a certificate of incompleteness and will recommence upon submission of a corrected application. However, in no event shall the administrative officer be required to certify a corrected submission as complete or incomplete in less than ten (10) days after its resubmission.

- b. If certified complete, the administrative officer shall refer the final plans to the planning board for review. The planning board shall approve, or deny the final plan as submitted, within 45 days after the certificate of completeness, or within such further time as may be consented to in writing by the applicant and the board
- c. Prior to approval of the final plan all legal documents must be reviewed by the solicitor and approved by the planning board, all permits required by local, state or federal agencies must be obtained and all sureties and their form of payment must be approved.
- d. All legal documents shall be recorded in conjunction with the final plan decision in Land Evidence. The form of payment for all sureties must be received prior to the final plan recording.

**Sec. 23-35. Vesting of approvals and validity of recorded plans.**

- a. *Master plan.* The approved master plan shall be vested for a period of two (2) years, with the right to extend for two (2), one-year extensions upon written request by the applicant, who must appear before the planning board for the annual review. Vesting may be extended for a longer period for good cause shown (see Sec. 23-48, Reinstatement of applications). The vesting of the master plan approval shall include the zoning requirements, conceptual layout and all conditions as shown on the approved master plan drawings and supporting materials. The initial four-year vesting for the approved master plan constitutes the vested rights for the development as required.
- b. *Preliminary plan.* The approved preliminary plan shall be vested for a period of two (2) years with the right to extend for two (2), one-year extensions upon written request by the applicant, who must appear before the planning board for each annual review and provide proof of valid state or federal permits as applicable. Thereafter, vesting may be extended for a longer period, for good cause shown, if requested in writing by the applicant, and approved by the planning board (see Sec. 23-48, Reinstatement of applications). The vesting for the preliminary plan approval shall include all general and specific conditions as shown on the approved preliminary plan drawings and supporting materials.
- c. *Final plan.* The final plan approval of a major land development or subdivision project shall expire one year from the date of approval with the right to extend for one year upon written request by the applicant, who must appear before the planning board for the annual review, unless, within that period the plan or plat shall have been submitted for signature and recording as specified in Sec.23-49. The planning board may, for good cause shown (see Sec. 23-48), extend the time for recording for an additional period.

**ARTICLE VIII, RURAL RESIDENTIAL DEVELOPMENTS  
(ZONING ARTICLE IX)**

**Sec. 23-36. Introduction.**

- a. ...
- b. There are three (3) types of rural residential developments;  
*Rural compounds* are minor subdivisions (5 or fewer lots) that may use flexible zoning and where the maximum density is half that allowed for a conventional subdivision, Common driveways and frontage on unpaved, privately maintained roads constructed to modified town design standards are allowed. A minimum percentage as defined in Zoning Article IX. Section 1 of the total land available (excluding unsuitable land as defined in Article II of the town zoning ordinance) for development shall be permanently protected as open space or conservation.

*Rural subdivisions* are major subdivisions that use flexible zoning. New lots must have frontage on paved roads constructed to town design standards. A minimum percentage as defined in Zoning Article IX. Section 1 of the total land available for development (land area remaining after the exclusion of unsuitable land as defined in Article II of the town zoning ordinance) shall be permanently protected as open space or conservation.

*Rural frontage subdivisions* are minor subdivision that are located along existing public roads and may use flexible zoning and/or common driveways to preserve scenic character by minimizing curb cuts and creating roadside buffers. A minimum percentage as defined in Zoning Article IX. Section 1 of the total land available (excluding unsuitable land as defined in Article II of the town zoning ordinance) for development shall be permanently protected as open space or conservation.

- c. Large solar energy system developments are not permitted within an individual lot(s) of a rural residential compound, rural subdivision or rural frontage subdivision.

**Sec. 23-40. Submission requirements and design standards.**

- a. The requirement for submission corresponds to the appropriate stage of development Attachment, including supporting materials or review to include but not limited to: information on the natural and built features of the surrounding neighborhood, existing natural or man-made conditions of the development site, including topographic features, the freshwater wetland and coastal zone boundaries, the floodplains, proof of property ownership (deed), as well as the proposed design concepts; building footprint, location of the well, OWTS or sewer connections on individual lots, lot coverage and setbacks, conventional and rural residential density calculations, Class I survey, utilities and any proposed public improvements and dedications, tentative construction phasing, any applications or permits required by any town, state or federal agencies, a determination letter from the Zoning Official indicating if any relief is required, stormwater management, erosion and sedimentation control plan, landscaping and roadway/driveway construction and potential neighborhood impacts and such other independent peer reviews as directed by the planning board.
- b. This evaluation shall be based upon the design criteria contained in the current edition of the Rural Design Manual published by the RI Department of Environmental Management and is available

for viewing in the office of the planning board. The design criteria detailed in the Rural Design manual is adopted by the planning board as an addendum and integral portion to the regulations. Design aspects not addressed in the Manual shall be governed by those contained in Article X, design requirements and public improvement standards.

**Sec. 23-43. Alternative utility design.**

- a. ...
- b. Underground utilities shall be required by the planning board.

**ARTICLE IX. GENERAL PROCEDURES**

**Sec. 23-50. Changes to recorded plans and plats.**

- a. ...
- b. Minor changes, as defined in the local regulations to a land development or subdivision plan may be approved by the administrative officer and planning board chairman, whereupon a plan may be recorded. The changes may be authorized without additional public hearings, at the discretion of the administrative officer and planning board chairman. All changes shall be made part of the permanent record of the project application. This provision does not prohibit the administrative officer from requesting a recommendation from the ad hoc technical review committee. Denial of the proposed change(s) shall be referred to the planning board for review as a major change.

**ARTICLE X. DESIGN REQUIREMENTS AND PUBLIC IMPROVEMENT STANDARDS**

**Sec. 23-54. Land unsuitable for development.**

- a. Unsuitable land is defined in Article II of the Tiverton zoning ordinance and is to be excluded when calculating the allowable density of a subdivision or other land development project. Land deemed unhealthful for residential purposes in the judgment of the planning board, following consultation with the Rhode Island Department of Health and/or Department of Environmental Management, will not be approved for a subdivision.
- b. For the purposes of these regulations, unsuitable land shall also include land upon which building is prohibited or impractical. Such as utility easements, historical sites, historical and archaeological burial sites, habitats of species of state concern, wetlands and the 100-foot wetland buffer and stormwater drainage components (detention/retention ponds, swales).
- c. Wetland buffers shall not be excluded from the calculation of the buildable lot area or minimum lot size, or in the calculation of the number of buildable lots or units however, this shall not apply to lots directly abutting surface reservoirs with direct withdrawals used for public drinking water.

- d. The slope of land shall not be excluded from the calculation of the buildable lot area or the minimum lot size, or in the calculation of the number of buildable lots or units.

**Sec. 23-58. Street signs and streetlights.**

- a. ...
- b. *Streetlights.* The planning board, acting with a written recommendation from the chief of police and the director of public works, shall determine if a proposed development or subdivision requires streetlights. When required, the applicant shall present a plan for their installation, following consultation with the chief of police and the director of public works.

The planning board shall review the plan and make a determination as to the number and placement of streetlights. Until the town council accepts all streets in the development, the costs to install, maintain and operate the streetlights shall be the responsibility of the developer.

In the event a developer proposes custom streetlights, the expense to maintain, repair or replace the streetlight fixture shall be included in the homeowners association agreement and shall become their responsibility.

The developer shall prepay prior to recording of the final plan to the Town of Tiverton an amount comprised of an estimate utility bill provided by the director of public works for 36 months, or longer, to be deposited with the town clerk and placed in an escrow account.

The planning board may also make recommendations to the town council for the installation of streetlights in existing developments and along town accepted streets.

**Sec. 23-62. Water service**

- a. ...
- b. ...
- c. ...
- d. ...
- e. Cisterns...

Number of Units	Number of Cisterns
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**Sec. 23-64. Landscaping/tree preservation.**

- a. *Landscape/tree preservation plan.* The planning board shall require that a landscape plan be submitted to the board when it determines that existing landscaping is insufficient; where the site of the proposed development has been disturbed so as to require significant new vegetation, or where additional landscaping is necessary to protect, preserve or enhance significant visual characteristics of the site.
- b. If a landscape/tree preservation plan is required by the board, the applicant shall be advised of this requirement at the preliminary plan stage of a minor land development or subdivision, and at the



master plan stage of a major land development or subdivision. If said plan is required, it shall be stamped by a Rhode Island registered landscape architect.

- c. Prior to release of a public improvement guarantee by the planning board the administrative officer shall perform a site visit and provide a letter to the applicant and the planning board indicating if the landscape plan was completed according to the approved final plan. If there are deficiencies the planning board shall not release the funds until such time all work has been completed.

## **ARTICLE XII. AMENDMENT OF REGULATIONS**

### **Sec. 23-75. Procedure for amendment.**

- a. These land development and subdivision review regulations may be adopted, repealed or amended by the Tiverton planning board, following a public hearing before the board. At this hearing, opportunity shall be given to all persons interested to be heard upon the matter of the proposed regulations.

### **Sec. 23-76. Public hearing and notice requirements.**

- a. ...
- b. A statement that adoption, repeal or amendment of the land development and subdivision review regulations is under consideration;
- c. A statement of the proposed amendments to the regulations that may be printed once in its entirety, or may summarize or describe the matter under consideration as long as the intent and effect of the proposed regulation is expressly written in that notice;