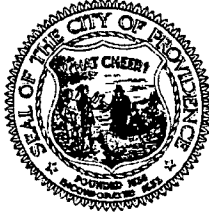


JOHN F. PALMIERI  
Director



VINCENT A. CIANCI, JR.  
Mayor

## DEPARTMENT OF PLANNING AND DEVELOPMENT

*"Building Pride in Providence"*

October 15, 1996

Mr. Michael Clement, City Clerk  
Office of the City Clerk  
City Hall  
25 Dorrance Street  
Providence, RI 02903

Dear Mr. Clement:

We are pleased to submit the City's first ever Development Review Regulations. These Regulations were adopted by the City Plan Commission on September 19, 1996, in accordance with the Rhode Island Development and Subdivision Review Enabling Act of 1992. They are consistent with *Providence 2000 - The Comprehensive Plan* and the City's Zoning Ordinance.

These new regulations now govern all subdivisions of land including adjustment of lot lines, parcel division or subdivision, re-subdivisions, and division of land for any other purposes.

Due to the newness of Development Review Regulations for the City, questions may arise from residents regarding procedures and requirements. We are pleased to handle any inquiries so request that you refer individuals to this Department.

Please review the Regulations at your convenience and contact this Department with any questions or for further clarification.

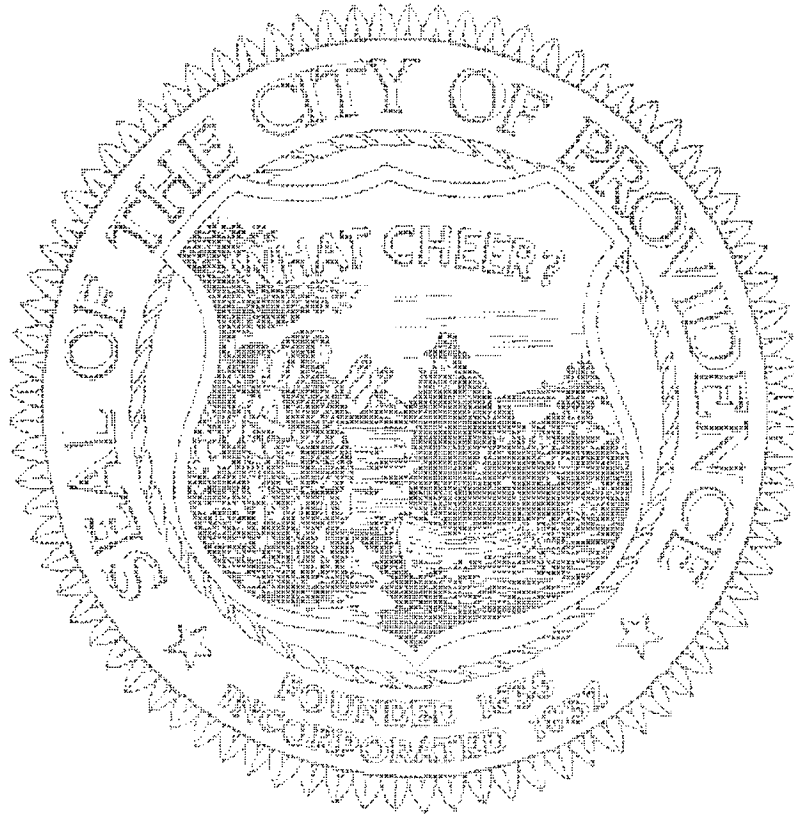
CLERK  
MICHAEL J. CLEMENT  
THE SAME BE RECEIVED AND APPROVED.  
WHENUPON IT IS ORDERED THAT  
READ  
NOV 7 1996  
IN CITY COUNCIL

Sincerely,

John F. Palmieri  
Director

Enclosure

# DEVELOPMENT REVIEW REGULATIONS



Honorable Vincent A. Cianci, Jr., Mayor

Providence City Plan Commission

George Calcagni, Chairman

Department of Planning and Development

John F. Palmieri, Director

September 19, 1996

# **DEVELOPMENT REVIEW REGULATIONS**

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## ARTICLE 1 - PURPOSES AND GENERAL STATEMENTS

**Section 100 - Authority:** These Land Development and Subdivision Review Regulations, hereinafter referred to as "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 Land Development and Subdivision Review Enabling Act of 1992, Article V, Section 2-256, of the City Code of Ordinances, and the Zoning Ordinance of the City of Providence.

**Section 101 - Purposes:** The purpose of these Regulations is to establish procedural and substantive provisions for the development and subdivision of land that will, consistent with the provisions of *Providence 2000, the Comprehensive Plan* and the Zoning Ordinance, accomplish the following:

- A) Protect the public health, safety and welfare of the City;
- B) Provide for the orderly, thorough and expeditious review and approval of land development projects and subdivisions;
- C) Protect existing natural and built environments and mitigate the significant negative impacts of proposed development on those environments;
- D) Promote high quality and appropriate design and construction of land development projects;
- E) Promote land development designs and subdivisions 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.
- F) Provide for design and improvement standards to reflect the Comprehensive Plan with regard to the physical character of the City and its neighborhoods;
- G) Promote thorough technical review of all proposed land developments and subdivisions by the City Plan Commission;
- H) Provide for the dedications of public land, impact mitigation, and payment-in-lieu thereof, to be based on clear documentation of needs and to be fairly applied and administered;
- I) Provide consistent procedures for record-keeping on all matters of land development and subdivision review, approval and construction.

### Section 102 - Intent

- A) These Regulations are not intended to supersede, abrogate, or interfere with any provision of any Ordinance of the City of Providence.
- B) These Regulations are intended to be interpreted so as to be consistent with, and to further the implementation of the Comprehensive Plan and the Zoning Ordinance of

the City of Providence and the Rhode Island Land Development and Subdivision Review Enabling Act of 1992. Consistency with the Comprehensive Plan means in accordance with the goals, policies, procedures, maps and other policy statements in the plan.

## **ARTICLE 2 - APPLICABILITY OF REGULATIONS AND CLASSIFICATION OF SUBDIVISIONS AND DEVELOPMENTS**

**Section 200 - Subdivision - General Applicability:** These Regulations shall apply to any division or re-division of a lot, tract, or parcel of land into two or more lots, tracts or parcels. Any adjustments to existing lot lines of a recorded lot by any means shall be considered a subdivision. All resubdivision activity shall be considered a subdivision. The division of property for purposes of financing constitutes a subdivision.

**200.1 - Adjustment of Existing Lot Line:** Any adjustment to existing lot lines of a recorded lot by any means shall be considered a subdivision, and subject to these Regulations, even if no new lot is created.

**200.2 - Division or Subdivision:** The division or subdivision, of a lot, tract or parcel of land into two or more lots, tracts, or parcels shall be considered a subdivision and subject to these Regulations.

**200.3 - Re-subdivision:** All re-subdivision activity shall be considered a subdivision and subject to these Regulations.

**200.4 - Financing:** The division of land for purposes of financing or mortgaging shall be considered a subdivision and subject to these Regulations.

**200.5 - Leasing:** The division of land for purposes of leasing shall be considered a subdivision and subject to these regulations.

**Section 201 - Subdivision - Classification:** There are three (3) classes of subdivisions: Administrative Subdivision, Minor Subdivision and Major Subdivision. Articles 3, 4, and 5 of these Regulations provide the requirements and procedures for the approval of these three classes of subdivisions.

**201.1 - Administrative Subdivision:** An Administrative Subdivision shall include only divisions, mergers, mergers and re-division and adjustment of existing lot lines, and only when no additional lots for development are created. A "Lot Not for Development," as defined herein, may be created in an Administrative Subdivision provided that it shall only include any lot which is to be donated to the City, the State of Rhode Island, or any recognized conservation organization, provided that such lot shall be conveyed with appropriate access and appropriate deed restrictions forbidding any development thereon.

**201.2 - Minor Subdivision:** A Minor Subdivision shall include only a residential subdivision of land consisting of five (5) or fewer lots, provided that such subdivision does

not require waivers or modifications as specified in these Regulations. Minor Subdivisions shall be further classified as follows:

- A) Existing Street in a Minor Subdivision - This shall include the division of land into not more than five lots, for residential development only, on an existing public right-of-way and where street creation or extension is NOT required. No public hearing is required for this classification.
- B) New Street in a Minor Subdivision - This shall include the division of land into not more than five lots, for residential development only, where street creation or extension is required. A public hearing is required for this classification.

**201.3 - Major Subdivision:** A Major Subdivision shall include any subdivision not classified under as either an Administrative Subdivision or a Minor Subdivision. Non-residential subdivisions shall be treated as a Major Subdivision. Any subdivision plan requiring a waiver or modification under these Regulations or a subdivision with phasing are also considered Major Subdivisions.

**Section 202 - Land Development Project (LDP) - General Applicability:** A Land Development Project is established by the Zoning Ordinance, Section 421. These Regulations set forth the review procedures for approval of land development projects. A land development project is a parcel, or parcels of land, containing at least forty thousand (40,000) sq. ft. of land area, which is developed according to a plan as a single entity. Any Land Development Project that is subject to review, by Ordinance or state statute, by the Capital Center Commission, Historic District Commission or the DOWNCITY District Review Committee shall not also be reviewed by the City Plan Commission, except that if the Project calls for the subdivision of land or adjustment of lot lines, the Commission shall review such subdivision of land or adjustment of lot lines pursuant to Section 201. Any Land Development Project that is located in Institutional Floating Zone Districts (as defined in Section 101.8 of the Zoning Ordinance) and are subject to the provisions of Section 503 of the Zoning Ordinance shall not also be reviewed as a Land Development Project, except that if the Project calls for the subdivision of land or adjustment of lot lines, the Commission shall review such subdivision of land or adjustment of lot lines pursuant to Section 201. There are two classes of Land Development Projects: Minor Land Development Project and Major Land Development Project.

**202.1 - Minor Land Development Project:** A Minor Land Development Project shall apply only if all the following conditions are proposed:

- A) Residential uses;
- B) Five (5) or fewer dwelling units in the total project;

- C) No phased development;
- D) No public right-of-way, only private driveways;
- E) No waivers or modifications as specified in these Regulations are requested.

**202.2 - Major Land Development Project:** A Major Land Development Project shall include:

- A) Residential AND/OR Non-residential uses;
- B) More than Five (5) dwelling units in the total project;
- C) Phased development may be proposed;
- D) Public rights-of-way AND/OR private driveways are proposed;
- E) Waivers or modifications as specified in these Regulations may be requested; and
- F) Any development not classified as a Minor Land Development Project

**Section 203 - Site Plan Review - General Applicability :** Site Plan Review is the process by which certain site plans are reviewed in accordance with the procedures set forth in these Regulations. There are two types of Site Plan Reviews: Administrative and Advisory.

**203.1 - Administrative Site Plan Review:** Administrative Site Plan Review shall be required for all special use permits required under the Zoning Ordinance and certain uses permitted by right in the zone in which it is located, but subject to such review as specifically provided for in Article III, Section 303 (Use Table) of the Providence Zoning Ordinance and which do not require any waivers under these Regulations, prior to development or expansion of such uses. Administrative Site Plan Review shall be conducted by the Administrative Officer pursuant to the procedures set forth for such review in Article 3 of these Regulations.

**203.2 - Advisory Site Plan Review:** Advisory Site Plan Review of any development requiring either a variance or a special use permit, in accordance with Sections 902.3 and 902.4 of the Zoning Ordinance, shall be reviewed by the Administrative Officer for consistency with the Comprehensive Plan. Such advisory reviews shall be submitted to the Zoning Board of Review.



## **ARTICLE 3 - APPLICATION PROCEDURES AND REQUIREMENTS, ADMINISTRATIVE SUBDIVISIONS**

### **Section 300 - Administrative Subdivisions**

Any person wishing to record a plan that (a) adjusts existing lot lines of a recorded lots, but will not create any additional lots; (b) merges two lots into one lot, or c) meets the definition of an "Administrative Subdivision" in Section 201.1 of these Regulations shall follow the steps and procedures below:

300.1 - Pre-application Meeting with Administrative Officer or Staff: Any applicant requiring approval of an Administrative Subdivision shall first meet with the Administrative Officer, (Director of the Department of Planning and Development, who may act through the Planning Division Staff), with offices located at 400 Westminster Street, in Providence, in order to review the procedure and required application materials.

300.2 - Submit Required Application and Plans: The applicant shall submit to the Administrative Officer a completed application form (blank available with these Regulations), plans and drawings and other items described in Section 304.

300.3 - Certification: The Administrative Officer shall certify the Application:

**COMPLETE OR  
INCOMPLETE,  
WITHIN FIFTEEN (15) CALENDAR DAYS OR LESS FROM DATE OF  
SUBMISSION,**

according to the provisions of Section 702. In the event such certification of the application is not made within the time specified, the application shall be deemed complete for purposes of commencing the review period. Incomplete plans shall be returned to the applicant with a list of missing items and the next stages of review shall not commence. All such certifications shall be on a written form entitled "Certificate of Completeness" and shall be signed by the Administrative Officer or his/her designee.

**Section 301 - Administrative Review Process:** Within fifteen (15) calendar days following the date of issuance of a Certificate of Completeness, the Administrative Officer shall review the application and approve, deny or refer it to the Commission with recommendations.

301.1 - Approval: Any approval shall be based on findings as required by Section 806 of these Regulations. If approved, the Administrative Officer shall affix an approval stamp to

the original Mylar drawing, stating:

<p>City of Providence City Plan Commission Administrative Subdivision</p>
<p>Name: _____</p>
<p>CPC Project # _____</p>
<p>Approved Pursuant to Article 3 of the City of Providence Development Review Regulations, as amended, and RIGL 45-23-37 on (date) and shall be recorded and filed with the Recorder of Deeds no later than ninety (90) days following this approval.</p>
<p>(signature) Administrative Officer and date.</p>

Such approved Mylar drawing shall be returned to the applicant with a letter indicating approval, with copies sent to the City Assessor and Department of Inspections and Standards and report his/her actions to the Commission at its next regular meeting, to be made part of the record.

**301.2 - No Action:** If no action is taken by the Administrative Officer within the fifteen (15) calendar days, the application shall be deemed to be referred to the Commission and placed on the agenda of the next regular Commission meeting.

**301.3 - Denial:** Denial of an application by the Administrative Officer shall not be appealable but shall be submitted to the Commission as a Minor Subdivision in accordance with Article 4. A letter indicating denial shall be sent to the applicant, indicating reasons for denial and the time, date and place of the Commission meeting wherein the applicant may be heard.

**Section 302 - CPC Review Process:** If referred to the Commission, either by the Administrative Officer or by default, the Commission shall consider the application and the recommendations of the Administrative Officer, if any, and shall either approve, approve with conditions, or deny the application within sixty-five (65) calendar days of certification of completeness. Such consideration of the application shall take place at regularly scheduled meeting of the Commission, with posting of the agenda at the City Clerk's Office and at the Commission Office with written notification to the applicant. Public notice is not required. Denial of an Administrative Subdivision by the Commission shall be an appealable action.

**302.1 - Approval:** Any approval shall be based on findings as required by Section 806 of these Regulations. If approved by the Commission, the Administrative Officer shall affix



an approval stamp to the original Mylar drawing, as provided in Section 301.1 of these Regulations.

**302.2 - Failure To Act:** Failure of the Commission 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 Commission or Administrative Officer to act within the required time and the resulting approval shall be issued on request of the applicant, whereupon the Administrative Officer shall affix a stamp of approval as prescribed in Section 301.1 of these Regulations to the original Mylar drawing.

**Section 303 - Expiration of Approval:** Approval of an Administrative Subdivision shall expire ninety (90) days from the date of approval unless within such period a plan in conformity with such approval is submitted for signature and recording as specified in Section 808.

**Section 304 - Submission Requirements -** Application forms must be filled out completely. All plans shall include a certification, with signature and seal of a Registered Land Surveyor, that all plans and improvements conform to all existing and amended standards of the State of Rhode Island Board of Registration of Land Surveyors.

**304.1 - Plans to be Recorded -** One (1) copy of the Approved Plan showing all required elements thereon, drawn on Mylar to a scale of one inch equals eighty feet (1" = 80'), on sheets not less than 8<sup>1/2</sup>" X 11" and not more 24" X 18".

**304.2 - Checklist of Required Submissions -** The checklist, indicated below and attached to the Application Form, indicates required submissions. The Commission may waive any submission item, if deemed appropriate.

Checklist for Administrative Subdivision		
1		Completed Application Form A
2		Two (2) copies of the preliminary site plans drawn to a scale of one inch equals eighty feet (1" = 80').
3		Size of sheets shall be a minimum of 8 <sup>1/2</sup> " X 11" but not more 24" X 18". Multiple sheets shall include Key Map and shall be numbered sequentially (e.g., sheet 1 of 3, 2 of 3, etc.).
4		Surveyor's Stamp or Certification..
5		Date of plan preparation, with revision date(s) (if any).
6		Graphic scale and true north arrow.
7		Plat and lot number(s) of the parcel being subdivided.

Checklist for Administrative Subdivision		
8		Zoning district(s) and overlay district(s) of the parcel being subdivided. If more than one district, zoning boundary lines must be shown.
9		Deed Book and Page numbers from the Recorder of Deeds.
10		Perimeter boundary lines of the subdivision, drawn so as to distinguish them from other property lines.
11		Location and dimensions of existing property lines, easements and rights-of-way within or adjacent to the subdivision parcel.

## **ARTICLE 4 - APPLICATION PROCEDURES AND REQUIREMENTS, MINOR SUBDIVISIONS AND MINOR LAND DEVELOPMENT PROJECTS**

**Section 400 - Submission Requirements:** Any person wishing to record a Minor Subdivision Plan, as defined by Section 201.1 of these Regulations or a Minor Land Development Project as defined by Section 202.1 of these Regulations shall follow the steps and procedures below:

**400.1 - Pre-application Meeting with Administrative Officer or Staff:** Any applicant shall first meet with the Administrative Officer, (Director of the Department of Planning and Development, who may act through the Planning Division Staff), with offices located at 400 Westminster Street, in Providence, in order to review the procedure and required application materials.

**400.2 - Required Application and Plans:** The applicant shall submit to the Administrative Officer a completed application form (blank available with these Regulations), plans and drawings and other items described in Section 405.

**400.3 - Required Design and Construction Standards:** If a new street or public right-of-way is proposed for a Minor Subdivision, such new street shall meet the design and construction requirements of the City of Providence, Department of Public Works.

### **Section 401 - Certification**

The Administrative Officer shall certify the Application:

**COMPLETE OR  
INCOMPLETE,**

**WITHIN TWENTY-FIVE (25) CALENDAR DAYS OR LESS FROM DATE OF  
SUBMISSION,**

according to the provisions of Section 702. In the event such certification of the application is not made within the time specified, the application shall be deemed complete for purposes of commencing the review period. Incomplete plans shall be returned to the applicant with a list of missing items and the next stages of review shall not commence. All such certifications shall be on a written form entitled "Certificate of Completeness" and shall be signed by the Administrative Officer or his/her designee.

**Section 403 - Review Process**

403.1 Stages: Review shall consist of two stages, preliminary and final, provided, that if a street creation or extension is involved, a public hearing is required. The Commission may combine the approval stages, providing requirements for both stages have been met by the applicant to the satisfaction of the Commission. Approval at any stage shall be based on findings as required by Section 806 of these Regulations.

- A) Preliminary Plan: Any Minor Planned Development, or any Minor Subdivision where no street creation or extension is required, the Commission shall approve, deny, or approve with conditions, the preliminary plan within sixty-five (65) days of certification of completeness, or within such further time as is agreed to by the applicant and the Commission.
- B) Public Hearing: If a street extension or creation is required, the Commission shall hold a public hearing prior to approval, according to the requirements in Section 805, and shall approve, deny, or approve with conditions, the preliminary plan within ninety-five (95) days of certification of completeness, or within such further time as is agreed to by the applicant and the Commission.
- C) Vesting: The approved preliminary plan shall be vested for a period of one (1) year and vesting may be extended for a longer period, for good cause shown, if requested in writing by the applicant, and approved by the Commission. 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.
- D) Final Plan: The Final Plan shall meet all of the requirements as set forth on Minor Land Development Project or Minor Subdivision Review Final Plan Requirements and shall reflect all stipulations and conditions of the Preliminary Approval. Final plan review and approval shall be conducted by the Administrative Officer. If approved by the Commission, the Administrative Officer shall affix an approval stamp to the original Mylar drawing, stating:

<p style="text-align: center;">City of Providence City Plan Commission Minor Subdivision or Minor Land Development Project</p> <p>Name: _____</p> <p>CPC Project # _____</p> <p>Approved Pursuant to Article 4 of the City of Providence Development Review Regulations, as amended, and RIGL 45-23-38 on (date) and shall be recorded and filed with the Recorder of Deeds no later than ninety (90) days following this approval, unless extended.</p> <p>(signature) Administrative Officer and date.</p> <p>(signature) Chair, City Plan Commission and date.</p>
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Such approved Mylar drawing shall be returned to the applicant with a letter indicating approval, with copies sent to the City Assessor and Department of Inspections and Standards and report his/her actions to the Commission at its next regular meeting, to be made part of the record. In the event that the Administrative Officer determines that all of the requirements for final plan approval have not been met, then the Administrative Officer shall refer the final plan to the Commission for Final Plan Review.

**403.2 Re-assignment to Major Development or Subdivision Review:** If the Commission is unable to make the positive findings required by Section 806, or if the Commission determines that a waiver or modification of these Regulations is necessary, it may, in lieu of denial, re-assign a proposed Minor Land Development or Subdivision Review to Major Land Development Project or Subdivision Review.

**403.3 Failure To Act:** Failure of the Commission to act within the period prescribed shall constitute approval of the preliminary plan and a certificate of the Administrative Officer as to the failure of the Commission to act within the required time and the resulting approval shall be issued on request of the applicant.

#### **Section 404 - Expiration of Approval:**

Approval of a Minor Land Development Project or Minor Subdivision Plan shall expire ninety (90) days from the date of final approval unless within such period a plan, in conformity with such approval, and as defined in this act, is submitted for signature and recording as specified in

Section 808. Validity may be extended for a longer period of up to one year at a time, for cause shown, if requested by the applicant in writing, and approved by the Commission.

**Section 405 - Submission Requirements** - Application forms must be filled out completely. All plans shall include a certification, with signature and seal of a Registered Land Surveyor, that all plans and improvements conform to all existing and amended standards of the State of Rhode Island Board of Registration of Land Surveyors.

**405.1 - Plans to be Recorded** - One (1) copy of the Approved Plan showing all required elements thereon, drawn on Mylar to a scale of one inch equals eighty feet (1" = 80'), on sheets not less than 8<sup>1/2</sup>" X 11" and not more 24" X 18".

**405.2 - Checklist** - The checklist, indicated below and attached to the Application Form indicates required submissions. "P" stands for "Preliminary Plan Stage," and "F" stands for "Final Plan Stage." Open boxes indicate a required item; shaded boxes indicate that the item is not required for the stage of review. The Commission may waive any submission item, if deemed appropriate.

	P	F	Checklist for Minor Subdivision
1			Completed Application Form
2			Two (2) copies of the preliminary site plans drawn to a scale of one inch equals eighty feet (1" = 80').
3			Size of sheets shall be a minimum of 8 <sup>1/2</sup> " X 11" but not more 24" X 18". Multiple sheets shall include Key Map and shall be numbered sequentially (e.g., sheet 1 of 3, 2 of 3, etc.).
4			Plans to be Recorded - One (1) copy of the Final Plan, which shall be an approved version of the Preliminary Plan, showing all required elements thereon, drawn on mylar to a scale of one inch equals eighty feet (1" = 80').
5			Any changes or requirements voted upon by the Planning Board at the Preliminary Plan stage.
6			Surveyor's Stamp or Certification.
7			Date of plan preparation, with revision date(s) (if any).
8			Graphic scale and true north arrow.
9			Plat and lot number(s) of the parcel being subdivided.
10			Zoning district(s) of the parcel being subdivided. If more than one district, zoning boundary lines must be shown.
11			Deed Book and Page numbers from the Recorder of Deeds.

P	F	Checklist for Minor Subdivision
12		Perimeter boundary lines of the development, drawn so as to distinguish them from other property lines. Curves shall include radius, arc length, central angle, and tangent and chord length.
13		Location and dimensions of existing property lines within or adjacent to the development parcel.
14		Existing property lines shall show interior angles and distances, easements and rights-of-way within or immediately adjacent to the parcel(s) being developed.
15		Location and dimensions of existing easements and rights-of-way.
16		Location, width and names of existing streets within and adjacent to the development parcel.
17		Location of wetlands, watercourses or coastal features, if present, on or within 50 feet of the development parcel.
18		Provisions for collecting and discharging stormwater.
19		Location of National Register District properties on or immediately adjacent to the development (if any).
20		Proposed improvements including streets, lots, lot lines, with approximate lot areas and dimensions. Proposed lot lines shall be drawn so as to distinguish them from existing property lines.
21		Base flood elevation data.
22		Grading plan to show existing and proposed contours at two-foot intervals for all grading proposed for on and off-site street construction, drainage facilities and upon individual lots if part of proposed improvements.
23		Two (2) copies of a drainage plan showing the measures to be taken to control erosion and sedimentation during and following the development and the measures planned to provide for the control of stormwater runoff.
24		Proposed street plan, profiles and cross-sections drawn at a scale of 1" = 50' if street is proposed.
25		Proposed street names (if applicable).
26		The names and addresses of owners of all properties, agencies or communities requiring notification as required by these Regulations.
27		If Public Hearing required - The Applicant shall notify owners of all properties, abutters, agencies or communities requiring notification as required by these Regulations. Completed US Postal Service Certified, Return-Receipt labels to be submitted.
28		Drainage calculations.

	P	F	Checklist for Minor Subdivision
29			Written approval of the proposed development, including any required off-site construction, from the Rhode Island Coastal Resources Management Council in the form of an Assent as provided in the Rhode Island Coastal Resources Management Program, (if necessary).
30			A Physical Alteration Permit issued by the RI Department of Transportation for any connection to or construction work within a State highway or other right-of-way (if necessary).
31			Draft copies of all legal documents describing the property, proposed easements and rights-of-way, dedications, restrictions, or other required legal documents.
32			Final written comments on the Preliminary Plan - Referral Form and attachments.
33			Payment of Required Fees
			a. Application Filing Fee - See Section 703.1
			b. Inspection Fee - See Section 703.2
			c. Recording Fee
34			Either of the following: a. A letter stating it is the intent of the applicant to complete the required improvements; or, b. A letter requesting that security be set by the Commission sufficient to cover the cost of required improvements:
35			Performance bond or other financial guarantees (Initial amount and date set by City Plan Commission)
36			Maintenance bond for acceptance of public improvements (optional)



## **ARTICLE 5 - APPLICATION PROCEDURES AND REQUIREMENTS, MAJOR SUBDIVISIONS AND MAJOR LAND DEVELOPMENT PROJECTS**

**Section 501 - Review Stages:** Major subdivision and major land development plan reviews shall be required of all applications for major subdivision and major land development projects subject to these Regulations. Major subdivision and major land development plan review shall consist of four (4) stages of review: (1) pre-application, (2) master plan, (3) preliminary plan and (4) final plan. The Commission may vote to combine review stages and to modify and/or waive requirements. Review stages may be combined only after the Commission determines that all necessary requirements have been met by the applicant. The Commission is required to hold at least one public informational meeting at the master plan stage and one public hearing at the preliminary plan stage, unless the master plan and preliminary plan stages are combined, in which case, only the public hearing pursuant to Section 504.5 is required.

**Section 502 - Pre-Application:** Any applicant requesting approval of a proposed major land development or major subdivision, as defined in these Regulations, shall first contact the Administrative Officer, (Director of the Department of Planning and Development, who may act through the Planning Division Staff), with offices located at 400 Westminster Street, in Providence. To facilitate the discussion, the Applicant is urged to provide one (1) copy of the proposed subdivision or land development plan, which may be a copy of the appropriate sheet(s) of the City Assessors Plat map. The Applicant need only depict an illustrative site plan, sufficient for general discussion and concept review.

**Section 503 - Master Plan:** Any applicant requesting approval of a proposed major subdivision or major land development, as defined in these Regulations, shall adhere to the following:

**503.1 - Purpose:** The purpose of the master plan 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.

**503.2 Required Elements:** Requirements for the master plan and supporting material for this phase of review shall include a completed Application Form for Submission of Major Subdivision Plan or Major Land Development (new copies will not be necessary for preliminary and final plans) and nine (9) copies of a narrative report (8 ½ x 11 sheets, stapled or bound) providing a general description of the existing physical environment and existing use(s) of the property along with a general description of the uses and type of development proposed by the Applicant. Required submissions are noted in the Checklist. In addition, the report shall include items noted below:

- A) An aerial photograph or a copy of an existing aerial photograph of the proposed land development subdivision or parcel and surrounding area may be required by the Administrative Officer.

- B) Site Plan suitable for public presentation.
- C) An estimate of the approximate number of people, including school-aged children to be housed in the proposed subdivision or land development.
- D) Proposed phasing, if any.
- E) A vicinity map (which may be drawn or copied from the City Assessors Plats or other such map at an appropriate scale) to show the area within one-half mile of the subdivision or land development parcel(s) depicting the locations of all streets, existing lot lines, and zoning district boundaries. Schools, parks, fire stations and other significant public facilities shall be indicated by shading and labeling the specific use.

**503.3 - Comments:** Initial comments shall be solicited from (a) City Departments as determined by the Administrative Officer; (b) adjacent communities, if the major land development or major subdivision is located within 2,000 feet of a municipal boundary; (c) state agencies, as appropriate, including the Departments of Environmental Management, and Transportation, and the Coastal Resources Management Council; and (d) federal agencies, as appropriate. The Administrative Officer shall coordinate review and comments by local officials, adjacent communities, and state and federal agencies.

**503.4 - Certification of Master Plan Application:** The Administrative Officer shall certify the Application:

**COMPLETE OR**

**INCOMPLETE,**

**WITHIN NINETY (90) CALENDAR DAYS OR LESS FROM DATE OF  
SUBMISSION,**

according to the provisions of Section 702.

**503.5 - Review Procedure**

- A) **Administrative Review and Comment:** The Administrative Officer shall review the master plan and shall comment and make recommendations to the Commission.
- B) **Informational Meeting:** A public informational meeting shall be held by the Commission prior to its decision on the master plan if the preliminary plan approval as provided in Section 504 will be acted upon separately. The public informational meeting shall be optional if the master plan and preliminary plan approvals are being combined. In the latter case, review stages may be combined only after the Commission determines that all necessary requirements for all stages

so combined have been met by the applicant.

Public notice for the informational meeting is required and shall be given at least fourteen (14) days prior to the date of the meeting in a newspaper of general circulation within the City. Postcard notice shall be mailed by the applicant to all property owners within two hundred (200) feet of the subject site.

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

- C) **Decision:** The Commission shall, within one hundred and twenty (120) days of certification of completeness of the master plan application, or within such further time as may be consented to by the applicant, approve the master plan as submitted, approve with changes and/or conditions, or deny the application. Any decision to approve a master plan shall be based on findings as required by Section 806 of these Regulations.
- D) **Failure to Act:** Failure of the Commission to act within the period prescribed shall constitute approval of the master plan and a certificate of the Administrative Officer as to the failure of the Commission to act within the required time and the resulting approval shall be issued on request of the applicant.
- E) **Expiration of Master Plan Approval:** Approval of a major land development and major subdivision master plan shall expire one (1) year from the date of approval, with a one (1) year extension upon written request by the applicant, who must appear before the Commission for the annual review. Vesting may be extended for a longer period, for good cause shown, if requested by the applicant in writing, and approved by the Commission. Master plan vesting shall include the zoning requirements, conceptual layout and all conditions shown on the approved master plan drawings and supporting materials.

**Section 504 - Preliminary Plan:** Any applicant requesting approval of a proposed major land development or major subdivision, as defined in these Regulations, shall first submit to the Administrative Officer the plans and supporting materials provided in Section 506.

504.1 - Certified Survey - Plans shall include a certification that all plans and improvements conform to all existing and amended standards of the State of Rhode Island, Board of Registration of Land Surveyors.

504.2 - Required Design and Construction Standards: If a new street or public right-of-way is proposed, such new street shall meet the design and construction requirements of the City of Providence, Department of Public Works.

504.3 - Certification of Preliminary Plan Application: The application shall be certified

**COMPLETE OR  
INCOMPLETE**

**BY THE ADMINISTRATIVE OFFICER WITHIN SIXTY (60) DAYS OF ITS RECEIPT.**

504.4 - Administrative Review and Comment: The Administrative Officer shall review the preliminary plan and shall comment and make recommendations to the Commission. Any street or roadway plan shall also be forwarded to the City's Department of Public Works for review and comment.

504.5 - Public Hearing and Notice Requirements: The Commission shall hold a public hearing prior to its decision on the preliminary plan, in accordance with Article 8, for a major land development or major subdivision, or where a street extension or creation requires a public hearing for a minor subdivision.

504.6 - 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 Commission at the time of preliminary plan approval. Such arrangements may be revised by the applicant, with Commission approval, based on updated information on construction scheduling and financial guarantees.

504.7 - Decision: The Commission shall, within one hundred and twenty (120) days of certification of completeness of the preliminary plan application, or within such further time as may be consented to by the applicant, approve of the preliminary plan as submitted, approve with changes and/or conditions, or deny the application. Any decision to approve a preliminary plan shall be based on findings as required by Section 806 of these Regulations.

504.8 - Failure to Act: Failure of the Commission to act within the period prescribed shall constitute approval of the preliminary plan and a certificate of the Administrative Officer as to the failure of the Commission to act within the required time and the resulting approval shall be issued on request of the applicant.

504.9 - Expiration of Preliminary Approval: The approved preliminary plan shall be vested for a period of one (1) year and vesting may be extended for a longer period for good cause shown, if requested in writing by the applicant and approved by the Commission. 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.

**Section 505 - Final Plan:** Any applicant requesting final approval of a proposed major land development and major subdivision, as defined in these Regulations, shall first submit to the Administrative Officer the plans and supporting materials required Section 506 of these Regulations, in addition to any material required by the Commission when the application was

given preliminary approval.

**505.1 - Certification of Final Plan:** The application for final plan approval shall be certified

**COMPLETE OR**

**INCOMPLETE**

**BY THE ADMINISTRATIVE OFFICER WITHIN FORTY-FIVE (45) DAYS OF ITS RECEIPT.**

If the Administrative Officer certifies that the application is complete and is in compliance with the conditions and requirements set forth by the Commission in its approval of the preliminary plan and by other provisions of these Regulations, the final plan need not be submitted to the Commission as per Section 505.2 below, and shall be considered complete.

**505.2 - Commission Review:** If the Administrative Officer determines that the application is not complete and does not comply with the conditions and requirements set forth by the Commission in its approval of the preliminary plan and by other provisions of these Regulations, the Administrative Officer shall refer the final plans to the Commission for review. The Commission 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, or within such further time as may be consented to by the applicant, approve or deny the final plan as submitted. Any decision to approve a final plan shall be based on findings as required by Section 806 of these Regulations. If approved, the Administrative Officer shall affix an approval stamp to the original Mylar drawing, stating:

<p>City of Providence</p> <p>City Plan Commission</p> <p>Major Subdivision or Land Development Project</p> <p>Name: _____</p> <p>CPC Project # _____</p> <p>Approved Pursuant to Article 5 of the City of Providence Development Review Regulations, as amended, and RIGL 45-23-39 through 43 on (date) and shall be recorded and filed with the Recorder of Deeds no later than ninety (90) days following this approval, unless extended.</p> <p>(signature) Administrative Officer and date.</p> <p>(signature) Chair, City Plan Commission and date.</p>
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Such approved Mylar drawing shall be returned to the applicant with a letter indicating approval, with copies sent to the City Assessor and Department of Inspections and Standards and report his/her actions to the Commission at its next regular meeting, to be made part of the record. In the event that the Administrative Officer determines that all of the requirements for final plan approval have not been met, then the Administrative Officer shall refer the final plan to the Commission for Final Plan Review.

**505.3 - Failure to Act:** Failure of the Administrative Officer or Commission to act within the period prescribed shall constitute approval of the final plan and a certificate of the Administrative Officer as to the failure to act within the required time and the resulting approval shall be issued on request of the applicant.

**505.4 - Expiration of Final Approval and Recording:** The final plan of a major subdivision shall expire one (1) year from the date of approval by the Commission unless, within that period, the plan shall have been submitted for signature by the Commission Chairman and Administrative Officer and recording as specified in Section 808 of these Regulations. The Commission may, for good cause shown, extend the period for recording for an additional period, if requested by the applicant in writing.

**505.5 - Acceptance of Public Improvements:** Signature and recording as specified in Section 505.4 shall constitute the acceptance by the City of any street or other public improvement or other land intended for dedication. Final plan approval shall not impose any duty upon the City to maintain or improve those dedicated areas until the City Council accepts the completed public improvements as constructed in compliance with the final plans.

**505.6 - Validity of Recorded Plans:** The approved final plan, once recorded, shall remain valid as the approved plan for the site unless and until an amendment to the plan is approved under the procedure forth in Section 809 of these Regulations, or a new plan is approved by the Commission.

**Section 506 - Submission Requirements** - Application forms must be filled out completely. All plans shall include a certification, with signature and seal, that all plans and improvements conform to all existing and amended standards of the State of Rhode Island Board of Registration of Land Surveyors.

**505.1 - Plans to be Recorded** - One (1) copy of the Approved Plan showing all required elements thereon, drawn on Mylar to a scale of one inch equals eighty feet (1" = 80'), on sheets not less than 8<sup>1/2</sup>" X 11" and not more 24" X 18".

**505.2 - Checklist** - The checklist, indicated below and attached to the Application Form indicates required submissions. "P" stands for "Preliminary Plan Stage," and "F" stands for "Final Plan Stage." Open boxes indicate a required item; shaded boxes indicate that the item is not required for the stage of review. The Commission may waive any submission item, if deemed appropriate.

	M	P	F	Checklist for Major Subdivision
1				Application Form with name and address of Applicant and/or property owner
2				Date of plan preparation, with revision date(s) (if any).
3				Graphic scale and true north arrow.
4				Plat and lot number(s) of the parcel or parcels being developed or subdivided.
5				Zoning district(s), including overlay zones, of the parcel(s) in question. If more than one district, zoning boundary lines must be shown.
6				Deed Book and Page numbers from Recorder of Deeds.
7				Perimeter boundary lines of the development, drawn so as to distinguish them from other property lines.
8				Perimeter boundary lines - Curves shall include radius, arc length, central angle, tangent and chord length.
9				Location and dimensions of existing property lines within or adjacent to the development parcel(s).
10				Existing property lines shall show interior angles and distances.
11				Location and dimensions of existing easements and rights-of-way, including, buildings, water courses, railroads, utilities, and other similar features, if any.
12				Location, width and names of existing streets within and adjacent to development parcel.
13				The names and addresses of abutting property owners, within a two hundred (200) foot radius of the subject lot(s) to be subdivided or developed (taken from the most recent records of the City Assessor) and names and addresses of agencies or communities requiring notification as required by these Regulations.
14				Required Public Hearing: Certified mail receipts. Return receipts (green post-cards) to be addressed to the CPC, c/o the Administrative Officer. See Section 805.3.
15				Location of wetlands, watercourses or coastal features, if present on or within two hundred (200) feet of the property being developed to be generally identified on a plat map.
16				Written confirmation of compliance, if required, with the appropriate State Agency, including but not limited to the Coastal Resources Management Council or the Rhode Island Department of Environmental Management (RIDEM) Freshwater Wetlands Act.

	M	P	F	Checklist for Major Subdivision
17				Location and dimension of all existing and proposed utilities within and immediately adjacent to the development, including sewer, water, gas, electric, telephone, cable TV, fire alarm, hydrants, existing utility poles, (including location and type of proposed poles and fixtures), stormwater drainage or other existing above or underground utilities.
18				Location and approximate size of existing buildings or significant above-ground structures on or immediately adjacent to the development.
19				Provisions for collecting and discharging stormwater.
20				Location of properties within the Historic District Overlay Zones and National Register District.
21				Proposed improvements including streets, lots, lot lines, with lot areas and dimensions. Proposed lot lines shall be drawn so as to distinguish them from existing property lines.
22				Base flood elevation data.
23				Soil erosion and sediment control plan.
24				Conceptual Landscape Plan.
25				Grading plan to show existing and proposed contours at two-foot intervals for all grading proposed for on and off-site street construction, sewer and water installations, drainage facilities and upon individual lots if part of proposed subdivision or land development improvements.
26				Proposed street plan, profiles and cross-sections drawn at a scale of not less than 1" = 40'.
27				Proposed street names.
28				Two (2) copies of a drainage plan and calculations showing the measures to be taken to control erosion and sedimentation during and following the development and the measures planned to provide for the control of stormwater runoff.
29				Location, dimension and area of any land proposed to be dedicated to the City of Providence or payment in lieu of such dedication.
30				A Physical Alteration Permit issued by the RI Department of Transportation for any connection to or construction work within a State highway or other right-of-way (if necessary).
31				Copies of all legal documents describing the property, proposed easements and rights-of-way, dedications, restrictions, or other required legal documents.



	M	P	F	Checklist for Major Subdivision
32				Written comments on the Preliminary Plan.
33				Compliance with any additional improvements or conditions as required by the CPC in the Preliminary Plan stage.
34				Certification by a Registered Land Surveyor that a perimeter survey of the land being developed has been performed and conforms to the survey requirements of these Regulations.
35				Deed or instrument transferring to the City all public streets and/or other public improvements, and subject to approval by the Department of Public Works.
36				Deed transferring land proposed for dedication to the City or other qualified group or agency for open space purposes (if applicable).
37				Payment of Required Fees
a				Application Filing Fee - See Section 703.1
b				Engineering Inspection Fees - See Section 703.2
c				Recording Fee
38				Either of the following: <ul style="list-style-type: none"> <li>a. A letter stating it is the intent of the applicant to complete the required improvements; or,</li> <li>b. A letter requesting that security be set by the CPC sufficient to cover the cost of required improvements:</li> </ul>
39				Performance bond or other financial guarantees (Initial amount and date set by CPC)
40				Maintenance bond for acceptance of public improvements, if applicable.



## **ARTICLE 6 - POWERS OF THE CITY PLAN COMMISSION**

**Section 601- Dedication of Land for Public Purposes:** The Commission may require the dedication of a portion of the land area of the development project or subdivision, or other public improvements, where such land is deemed to be of unique natural character or is identified in the Comprehensive Plan, or where the proposed development project or subdivision is of sufficient size so as to warrant consideration of the provision of open space to serve residents of the development project. The Commission shall make such determination prior to granting preliminary approval, or prior to granting final approval where no preliminary approval is required. The intended use of the land so dedicated shall be so indicated on the final plan.

**601.1 - Requirements:** Prior to the Commission requiring the dedication of such land, the following requirements shall be met and set forth as findings by the Commission in its approval.

- A) **Need** - The need for all dedications of land to the public or for payments-in-lieu of such dedications must be consistent with the Comprehensive Plan, adopted neighborhood plan or the Zoning Ordinance; and
- B) **Documentation** - No dedications of land to the public or payments-in-lieu of dedications may be required until the need for such are identified and documented by the Commission, and the land proposed for dedication is determined through specific findings to be appropriate for the proposed use.

### **Section 602 - Fees in Lieu of Dedication of Land for Public Purposes**

**602.1 - Applicability and Determination:** This section shall only be applicable to fees in lieu of dedication of land for public purposes, as set forth in Section 601 above. This section shall not apply to any fees in lieu of required off-site improvements or in lieu of mitigation of negative impacts (see Section 603 of these Regulations). It shall be the sole decision of the Commission as to whether a fee in lieu of dedication of land for public purposes would be beneficial to the goals of the City, as documented pursuant to Section 601.

**602.2 - Formula:** Where a fee is required by the Commission to be paid in lieu of land dedication, the amount of such fee shall be based on the fair market value of developable land.

**Section 603 - Mitigation of Negative Impacts:** The Commission shall have the power to require dedications of land, the construction of on- or off-site improvements, or other activities

(collectively referred to as "mitigating activity"); in order to mitigate negative impacts of a planned development project. The Commission shall also have the power to require a fee in lieu of such mitigating activity. The fee shall be determined by the estimated costs of such mitigating activity. All such mitigating activity, or payments-in-lieu thereof, shall be for mitigation of identified negative impacts of proposed projects and must meet the requirements set forth in Section 601.1 of these Regulations. Furthermore, the significant negative impacts of the proposed development on the existing conditions must be clearly documented. Any mitigating activity, or fee in lieu thereof, required as a condition of approval must be related in kind and degree to the identified impact.

**Section 604 - Restricted Accounts:** All payment-in-lieu fees shall be kept in restricted accounts and shall only be spent on the mitigation of the identified impacts for which it is required, in which the proposed development is located.

**Section 605 - Performance and Maintenance Guarantees:** For any planned development requiring public improvements, the applicant shall have the option of completing all such improvements (including inspection thereof) prior to final plan approval. If all required public improvements are not completed prior to Final Plan Approval, then the Commission shall require performance guarantees as set forth herein. The Commission may also require maintenance guarantees to be provided for a one (1) year period subsequent to completion, inspection and acceptance of the improvement(s), unless there are extenuating circumstances that require a longer period, such as seasonal delay in planting or paving. The procedures for setting, maintaining and releasing such guarantees shall be as follows:

**605.1 - Security:** As a condition precedent to the endorsement of approval of the final and recorded plan, the applicant shall file a certified check, bank book, letter of credit, or certificate of deposit, in the sole name of the City, in an amount determined by the Commission. This amount shall be based on the retail cost of all improvements to be constructed or maintained. The Commission may fix the guarantee in a reasonable amount, not to exceed 20%, in excess of the estimated costs to anticipate for economic or construction conditions. In the case of developments which are being approved and constructed in phases, the Commission shall specify improvement guarantee requirements related to each particular phase, including additional amounts to account for inflation over the time required for all phases to be completed and/or maintained. All funds shall be verified by the Commission before being accepted. The release of said funds shall be conditioned on the faithful completion of all required improvements or the successful maintenance of any improvements subject to maintenance guarantees within the time period set forth in the decision of the Commission, and the payment of all invoices issued by the Commission to cover the cost of the subdivision or development project inspections.

**605.2 - Inspection and Report:** During construction and upon completion of the required improvements, the applicant shall notify the Administrative Officer who shall conduct a detailed inspection of the completed work. Upon determining that the improvements have been completed in a satisfactory manner, the Administrative Officer shall prepare a final written report and shall transmit said report to the Commission, which shall initiate appropriate action to release the guarantee.

**605.3 Extension of Time:** If, due to circumstances beyond the control of the applicant, the required improvements are not completed within the prescribed time period, the Commission may grant a time extension of no more than one year at a time. During such extension, the guarantees shall remain in full force. The Commission may require the extension of guarantees for a period of up to one (1) year after completion of improvements to assure the proper performance of the improvements under all conditions of weather and use.

**605.4 Default:** The Commission shall hold the applicant in default of a guarantee should one or more of the following occur:

- A) Failure to meet all specifications for construction of required improvements to the land;
- B) Failure to properly notify the Administrative Officer of the beginning and completion of all phases of construction of required improvements to the land;
- C) Failure to protect existing improvements and/or properly repair such improvements should damage occur during construction of the subdivision or development project;
- D) Failure to clean debris from the site and adjacent areas upon completion of construction within the subdivision or development project;
- E) Failure to complete required improvements to the land within the time prescribed or within any extension granted by the Commission; or
- F) Failure to provide the Administrative Officer with "As-Built" drawings.

**605.5 - Authority of Commission to Take Action:** Upon notification of default by the Administrative Officer, the Commission shall notify the applicant and order the applicant to show cause why the Commission should not take action against the guarantee. If the Commission in its sole discretion determines that the default has not been cured within the time set by the Commission, then the Commission shall withdraw

or cash in that portion of the security necessary to correct the deficiencies for which the applicant is deemed to be in default, and the Commission shall cause the required improvements to be completed in a satisfactory manner. In the event of a default posing an immediate danger to health, safety or welfare of the City or its residents, the Administrative Officer shall act immediately to remove or abate such danger, and the Commission may seek reimbursement through the guarantee.

**Section 606 - Impact Statements:** In certain instances, the Commission may require an impact statement, at the expense of the applicant. The applicant may chose the person or company to prepare such statement subject to the prior approval of the Commission or the Commission staff may solicit proposals for such services if the applicant is unable to find a suitable contractor for such purpose. The Commission's decision to require an impact statement shall only be made pursuant to a vote of the Commission with findings setting forth the need for such statement. Such impact statements shall include, but are not limited to, the following:

**606.1 Natural and Built Environmental:** In accordance with RIGL 45-23-60(3), in order to make a positive finding that there will be no significant negative natural and built environmental impacts, the Commission may require that an environmental impact statement be prepared by the applicant of any development project.

**606.2 Fiscal:** In accordance with RIGL 45-23-60(1), a fiscal report and impact statement, detailing the estimated cost of providing municipal services to the proposed development and the estimated revenue to be derived from taxes and other fees, shall be required of all major LDP's. A fiscal impact statement may be required of any Development Plan Review applicant.

**606.3 Traffic:** In accordance with RIGL 45-23-60(1) and (3), a traffic impact statement, detailing the existing traffic conditions and any changes thereto caused by the proposed development, shall be required of all major LDP's.

**Section 607 - Acceptance of Public Improvements:** Approval of a plan by the Commission shall be deemed the acceptance by the City of any street or other open space offered therein for dedication. Notwithstanding the acceptance of any land, street, or facility offered for dedication, such acceptance shall not impose any duty or responsibility upon the City to maintain or improve any dedicated streets, areas, or facilities until the City Council shall have specifically authorized maintenance or improvement under procedures established State Law, City Ordinance, or other local provisions governing public expenditures for such purposes. The above shall be stated on all approved final plans that include new streets.

**Section 608 - Waivers and Modifications:** Pursuant to the procedures set forth in Article 8 of these Regulations, the Commission shall have the power to grant such waivers and/or modifications from the requirements for development project or subdivision approval as may be reasonable and within the general purposes and intents of the provisions for these Regulations. The Administrative Officer may not grant waivers, and a public hearing or public information meeting (see Sections 805 and 807) shall be required before any waiver may be granted. The only grounds for such waivers and/or modifications shall be where the literal enforcement of one (1) or more provisions of these Regulations is impracticable and will exact undue hardship because of peculiar conditions pertaining to the land in question or where such waiver and/or modification is in the best interest of good planning practice and/or design as evidenced by consistency with the Comprehensive Plan and Zoning Ordinance.





## **ARTICLE 7 - ADMINISTRATION AND ENFORCEMENT OF REGULATIONS**

**Section 701 - Administrative Officer:** Local administration of these Regulations shall be under the direction of the Administrative Officer, who shall oversee and coordinate the review, approval, recording and enforcement provisions of these Regulations. Whenever reference is made to the Administrative Officer, it shall include any member of the staff of the Department of Planning and Development who has been delegated to carry out such duties by the Administrative Officer.

**701.1 Appointment and Qualifications:** The Director of the Department of Planning and Development shall be the Administrative Officer under these Regulations, and shall have the following minimum qualifications as specified in the City's Home Rule Charter. The Administrative Officer shall be required to attend any training for administrative officers provided by or sponsored by the Rhode Island Department of Administration, Division of Planning, or as otherwise directed by the Commission.

**701.2 Coordination of Reviews:** The Administrative Officer shall be responsible for coordinating reviews of proposed subdivision or development projects with adjacent municipalities as is necessary to be consistent with applicable federal, state and local laws and as directed by the Commission.

**701.3 Enforcement:** Enforcement of these Regulations shall be under the direction of the Administrative Officer who shall report to the Commission. The Administrative Officer shall be responsible for coordinating the enforcement efforts of the Director of the Department of Inspections and Standards and the Director of the Department of Public Works, and other local officials responsible for the enforcement or carrying out of discrete elements of these Regulations.

### **Section 702 - Certification and Time Periods**

**702.1 Classification:** The Administrative Officer shall advise the applicant as to which approvals are required and the appropriate commission, board or department for hearing an application for a development project.

**702.2 Certification of A Complete Application:** An application shall be complete for purposes of commencing the applicable time period for action when so certified, in writing, by the Administrative Officer. In the event such certification of the application is not made within the time specified in these Regulations for the type of plan, 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 the local regulations and the Administrative Officer has notified the applicant, in writing, of the deficiencies in the application.

**702.3 Correction of Information:** Notwithstanding the foregoing subsection, the Commission may subsequently require correction of any information found to be in error and submission of additional information specified in the regulations but not required by the Administrative Officer prior to certification, as is necessary to make an informed decision.

**702.4 Postponement:** Where the review is postponed with the consent of the applicant pending further information or revision of information, the time period for review shall be stayed and shall resume when the Commission determines that the required application information is complete. All such postponements, including the consent of the applicant, shall be documented in writing.

### Section 703 - Administrative Fees

**703.1 Application Fees:** The applicant shall be required to pay a fee at the time of application, for all subdivisions and development projects. Such fees shall be reviewed annually by the Commission and revised as appropriate. The fees are as follows:

- |     |  |      |
|-----|--|------|
| (1) | Administrative Subdivision:  | \$0  |
| (2) | Minor Subdivision (with or without street) or<br>Minor Land Development Project (LDP): | \$25 |
| (4) | Major Subdivision or<br>Major Land Development Project (LDP):                          | \$50 |

In addition, the applicant shall pay all costs, including but not necessarily limited to advertising, certified mail to abutters, stenographer, and notice for public hearings, if required, in accordance with Section 805.3.

**703.2 Engineering Inspection Fees:** The applicant will also be required to reimburse the City for the cost of review and inspection by the Department of Public Works. Such cost shall be estimated by the City at each stage of review, and shall be paid in advance by the applicant in order for that stage of application to be certified complete. Such estimate shall not be exceeded without the consent of the Commission, which shall first notify the applicant and extend an opportunity to object. The total fee shall be paid by the applicant before proceeding to the next stage of approval.

**703.3 Other Fees:** As set forth herein, the Commission shall have the power to require various information and studies from an applicant, provided that the proper findings of fact have been made. Such items include, but are not limited to: an environmental impact study, a market analysis, or a traffic study. Any such item, whether conducted by the applicant or by the Commission, shall be paid for by the applicant, provided that the Commission shall first notify the applicant and extend an opportunity to object. The total fee shall be paid by the applicant before proceeding to the next stage of approval.

#### **Section 704 - Violations and Penalties**

**704.1 Violations:** The failure to comply with these Regulations or any of the terms or conditions of an approval (whether Master Plan, Preliminary or Final) issued by the Commission, shall be a violation of these Regulations. The violation of any terms or conditions of any action imposed by the Commission or of any other agency or officer charged in these Regulations with enforcement of any of the provisions shall also be a violation of these Regulations. Violation of the regulations shall also include any action related to the transfer or sale of land in unapproved subdivision or development projects. Any owner, or agent of the owner, who transfers, sells or negotiates to sell any land by reference to or exhibition of, or by other use, a plat of the subdivision or development project before the plat has been approved by the Commission and recorded in the Recorder of Deeds, shall be in violation of these Regulations and subject to the penalties described below.

**704.2 Penalties - Fine:** The Administrative Officer, in consultation with the City Solicitor, shall be empowered to levy a fine for any violation as defined herein. The Administrative Officer shall ordinarily issue a notice of violation and order the violator to correct the violation within a reasonable time, with such time to be indicated on the notice. However, in cases of willful violation or danger to public health, safety or welfare, the Administrative Officer may levy a fine immediately. The penalty for violation shall reasonably relate to the seriousness of the offense, and shall not exceed five hundred dollars (\$500) for each violation, and each day of existence of any violation shall be deemed to be a separate offense. Any such fine shall inure to the City. The Administrative Officer shall report any fines levied to the Commission at its next meeting and shall file a copy of such report in the record of any subdivision or development project so fined. Any fine may be appealed to the appropriate division of the Rhode Island District Court.

**704.3 Penalties - Injunction:** The City, through its City Solicitor, may also cause suit to be brought in the Supreme Court or Superior Court, in the name of the City, to restrain the violation of, or to compel compliance with, the provisions of these

Regulations. The City may consolidate an action for injunctive relief and/or fines under these Regulations or other local ordinance in the Superior Court for Providence County.

## **ARTICLE 8 - PROCEDURES OF THE CITY PLAN COMMISSION**

### **Section 801 - City Plan Commission**

**801.1 Appointment:** The Commission shall consist of seven (7) members according to the Section 1013 of the Providence Home Rule Charter of 1980, which shall govern the Commission's powers and duties. These Regulations are intended to establish the procedures through which subdivisions, land development projects and site plans are reviewed and approved.

**Section 802 - Publication and Availability of Regulations:** Printed copies of these Regulations shall be available to the general public and shall be revised to include all amendments. Any appendices shall also be available. A reasonable charge may be made for copies. Upon publication of these Regulations and any amendments thereto, the City shall send a copy to the Rhode Island Department of Administration's Division of Planning and to the State Law Library.

### **Section 803 - Records of the Commission**

**803.1 Public Availability:** All records of the Commission proceedings and decisions shall be written and kept permanently available for public review. Completed applications and related materials shall also be available for public review. Copies of any document or plan may be purchased for a fee not to exceed the actual cost including research time, pursuant to Chapter 2 of Title 38 of the General Laws of Rhode Island. No commercial use may be made of such records.

**803.2 Contents:** All final written comments to the Commission from the Administrative Officer, other City departments, state and federal agencies, and local commissions shall also be part of the permanent record of the development application.

### **Section 804 - Meetings and Votes**

**804.1 Qualified Immunity:** Participation in a Commission meeting or other proceedings by any party shall not be a cause for civil action or liability except for acts not in good faith, intentional misconduct, knowing violation of law, transactions where there is an improper personal benefit, or malicious, wanton, or willful misconduct.

**804.2 Quorum and Votes:** A quorum of the Commission shall be at least four (4) members. All votes of the Commission shall be made part of the permanent record and shall show the members present and their votes. Any decision by the Commission to approve or deny any development project or subdivision application shall require the

affirmative vote of at least four (4) members of the Commission. A denial of an application shall always require a separate vote with appropriate findings.

**804.3 Regular and Special Meetings:** The Commission shall hold a regular meeting each month in accordance with a published schedule. The Commission may hold special meetings at the direction of the chair.

**804.4 Conflict of Interest:** As soon as any conflict of interest for a member occurs or is revealed, that member shall immediately recuse himself or herself, and shall not sit as an active member and shall take no part in the conduct of the meeting or hearing on such matter. The member shall notify the chairman in writing (or notify the vice chairman if the conflict is for the chairman), and the member shall also notify the Rhode Island Ethics Commission in writing as required by law.

### **Section 805 - Public Hearings and Public Information Meetings**

**805.1 Public Information Meeting:** For a major development project, a public informational meeting shall be held prior to the Commission 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 (i.e. may be combined with the public hearing), based upon Commission determination.

- A) **Purpose** - The purpose of an informational meeting is both to inform the neighboring property owners and other interested parties as to the nature of the proposed development project, and to inform the Commission of issues of concern to such parties of which the Commission may not be aware.
- B) **Part of the Record** - At the public informational meeting, the applicant shall present the proposed development project. The Commission shall allow oral and written comments from the general public. All public comments shall be made part of the public record of the project application.
- C) **Transcript** - The applicant is responsible for securing a stenographer for the meeting, and for providing the Commission with a certified transcript no later than twenty-one (21) calendar days after the meeting.
- D) **Notice: How Provided** - Public notice for the informational meeting is required and shall be given at least fourteen (14) calendar days prior to the date of the meeting in a newspaper of general circulation within the City. Postcard notice shall then be mailed by the applicant and to those in the notice area as set forth in Section 805.3 below, not less than ten (10) calendar days prior to the date of

the meeting.

**805.2 Public Hearing:** A public hearing shall be required for a major development project or a minor subdivision where a street is proposed to be extended or created, or for any request for waiver or modification of these Regulations.

- A) **Purpose** - The purpose of a public hearing is to provide the applicant with an opportunity to present the application to the public, and to provide the public with an opportunity to inform the Commission of concerns relating only to the proposed development project.
- B) **Part of the Record** - At the public hearing the applicant shall present the proposed development project. The Commission shall allow oral and written comments from the general public. All public comments shall be made part of the public record of the project application.
- C) **Transcript** - The applicant is responsible for securing a stenographer for the hearing, and for providing the Commission with a certified transcript no later than twenty-one (21) calendar days after the hearing.
- D) **Notice: How Provided** - Public notice of the hearing shall be given at least fourteen (14) days prior to the date of the hearing in a newspaper of general circulation within the City. Notice shall be sent by the applicant to each owner within the notice area as set forth in Section 805.3 below, by certified mail, return receipt requested, not less than ten (10) days prior to the date of the hearing. The applicant shall be required to pay for the advertisement and all costs related to sending notices to abutters.

**805.3. Notice Requirements For Public Information Meeting and Public Hearing**

- A) **Content of Notice** - The notice shall provide the time and place of hearing or meeting, and shall include the street address of the subject property, or if no street address is available, the distance from the nearest existing intersection in tenths (1/10's) of a mile. The notice shall also provide a brief description of the extent of the subdivision or development project, and if any waiver or modification is required, shall describe the waiver or modification.
- B) **Applicant's Submissions** - The applicant shall supply the Commission with a radius map, drawn to scale, showing the entire subject property and all property within the required notice area. If a public hearing is held, the applicant shall also supply the Commission with a list of all parties requiring notice.

completed "Receipts for Certified Mail," and completed "Domestic Return Receipts" (directed to the Commission), for all parties requiring notice.

- C) Notice Area - Notice shall be sent by certified mail, return receipt requested, by the applicant to:
- a. all owners of real property whose property is located within two hundred (200) feet of the perimeter of the subject property.
  - b. the city or town planning board or department 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 feet (2,000') of the City's boundaries.
  - 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 surface watershed that is used or is suitable for use as a public water source located within either the municipality or two thousand feet (2,000') of the municipal boundaries, provided, however, that a map survey has been filed with the building official as specified in R.I.G.L. Section 45-24-53(E).
  - d. the administrative officer of an adjacent town if (1) the notice area extends into the adjacent city or town, or (2) the development site extends into the adjacent city or town, or (3) if the Administrative Officer determines that there is a potential for significant negative impact on the adjacent city or town.
- D) Notice cost - The cost of all such notice, including any additional fees for special meetings, shall be borne by the applicant.

**Section 806 - Required Findings:** For all subdivision or development project applications, the approving authority, whether Administrative Officer or Commission, shall address each of the general purposes stated in Article 1 of these Regulations and R.I.G.L. Section 45-23-30, and shall make positive findings on each of the following provisions as they apply to the application under review, as part of the proposed project's record prior to approval. The requirement to address the purposes of these Regulations and make written findings on each of the following provisions shall also apply in the case of a vote to deny an application.

**806.1 Consistency:** The proposed development is consistent with the Comprehensive Plan and/or has satisfactorily addressed the issues where there may be inconsistencies;



**806.2 Compliance with Zoning Ordinance:** The proposed development is in compliance with the standards and provisions of the Zoning Ordinance;

**806.3 Environmental Impact:** There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval;

**806.4 Buildable Lot:** The subdivision or development project, 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; and

**806.5 Street Access:** All proposed development projects and all subdivision lots shall have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered compliance with this requirement.

## **Section 807 - Waiver, Modification, Reinstatement and Extension**

**807.1 Waiver and/or Modification of Requirements:** The Commission shall have the power to grant such waivers and/or modifications from these Regulations for development project and subdivision approval as may be reasonable and within the general purposes and intents of the provisions for local regulations. The only grounds for such waivers and/or modifications shall be where the literal enforcement of one (1) or more provisions of the regulations is impracticable and will exact undue hardship because of peculiar conditions pertaining to the land in question or where such waiver and/or modification is in the best interest of good planning practice and/or design as evidenced by consistency with the Comprehensive Plan and Zoning Ordinance. The Commission shall not have the power to grant any waiver or modification from the terms of any other regulation, rule or ordinance, including the Zoning Ordinance, unless specifically provided therein.

**807.2 Required Procedure for any Waiver or Modification:** The Commission may approve, approve with conditions, or deny the request for either a waiver or modification. No waiver or modification may be granted without first being heard as part of either a public information meeting or public hearing as set forth in Section 805. The notice for such public information meeting or public hearing shall include a description of the proposed waiver or modification.

**807.3 Expiration and Reinstatement:** When the deadlines set in these Regulations or in conditions of approval are exceeded, the subdivision or development project approval is deemed to have expired and shall be rendered invalid. The approval may be reinstated by the Commission, upon written application, under the following conditions:

- A) **Good Cause - Burden on Applicant -** The Applicant shall have no guarantee of reinstatement and shall bear the burden of proof to show that said applicant has proceeded with due diligence and that:
  - 1. The subdivision or development project is consistent with the Comprehensive Plan, and the Comprehensive Plan has not changed substantially since the time of the original application as it would apply to this subdivision or development project.
  - 2. These Regulations, the Zoning Ordinance, and all applicable state and federal regulations are substantially the same as they were at the time of original application, as they would apply to this subdivision or development project.
  - 3. The Zoning Map designation for the subdivision or development project has not changed substantially since the time of original application.
  - 4. No substantial change to the physical conditions of the subdivision or development project or the neighboring property has occurred since the time of original application.
- B) **Procedure and Stage of Review -** The request for reinstatement shall be in writing and the applicant shall be required to appear before the Commission. The Commission shall make written findings of fact in approving or denying such request. If reinstated, the applicant shall proceed from the stage previous to where expiration occurred. For example, if preliminary approval had been granted and then expired, then the applicant shall reapply for preliminary approval. If, and only if, reinstatement is granted for a stage of approval, then all previous stages of approval shall automatically be reinstated.
- C) **Vesting -** There shall be no vesting for any subdivision or development project the deadline for which has expired, unless reinstatement is granted, in which case the date of reinstatement shall mark the beginning of any vesting time period.

**807.4 Extension:** Prior to expiration of any deadline set forth in these Regulations o

in any approval of the Commission, an applicant may request an extension thereof in writing. The applicant shall demonstrate to the Commission that the factors set forth in subsections 807.3(A)(1) through 807.3(A)(4) above have been met. No extension shall be granted for a period of more than one (1) year.

## **Section 808 - Signing and Recording of Plats and Plans**

**808.1 Signing:** All approved final plans and plats for development project and subdivision projects shall be signed by the appropriate Commission official with the date of approval. For administrative subdivisions, minor subdivisions, or Development Plan Review conducted by the Administrative Officer, they shall be signed by the Administrative Officer. They may also be signed by the Deputy Director or Associate Director of the Department of Planning and Development in the absence of the Administrative Officer. Plans and plats for all other development projects, subdivisions and Development Plan Review must be signed by the Commission Chairperson or Vice-Chairperson/Secretary, attesting to the approval by the Commission.

**808.2 Recording:** Upon signature, all plans and plats shall be submitted to the Administrative Officer prior to recording and filing with the City Clerk and Recorder of Deeds. The material to be recorded for all plans and plats shall include all pertinent plans with notes thereon concerning all the essential aspects of the approved project design, the implementation schedule, special conditions placed on the development by the City, permits and agreements with state and federal reviewing agencies, and other information as required by the Commission.

**808.3 Permanent Records:** Other parts of the applications record for subdivisions and development projects, including all meeting records, approved master plan and preliminary plans, site analyses, impact analyses, all legal agreements, records of the public hearing and the entire final approval set of drawings shall be kept permanently by the offices of the Department of Planning and Development.

**808.4 Emergency Services Notification:** The Administrative Officer shall notify the statewide "911" emergency authority, the Department of Communications, and Providence Police and Fire Departments with the information required by each of the authorities.

## **Section 809 - Changes to Recorded Plats and Plans**

**809.1 Amendment Required For All Changes:** For all changes to the approved plans of development or subdivision, an amendment of the final plan is required prior to the

issuance of any building permit. Any changes approved in the final plan shall be recorded as amendments to the final plan in accordance with the procedure established for recording of plats in Section 808.

**809.2 Minor Changes:** Minor changes are defined as any change that does not substantially impact the proposed development project or subdivision or any of the neighboring properties and that meets all of the following criteria:

- A) There is no increase the number of lots or dwelling units.
- B) There is no change to any dimension of the plan, including building envelopes, exceeding twenty percent (20%).
- C) There is no change to the type of street, driveways or parking lots, if any.
- D) There is no change required to any public infrastructure.

Such minor change may be approved by the Administrative Officer, whereupon a permit may be issued. Such changes may be authorized without additional public hearings at the discretion of the Administrative Officer. All such changes shall be made part of the permanent record of the project application. This provision shall not prohibit the Administrative Officer from requesting a recommendation from the Commission. Denial of the proposed change(s) shall be referred to the Commission for review as a major change.

**809.3 Major Changes:** Major changes, which are hereby defined as any changes other than minor changes as defined above, to a development project or subdivision plan may be approved only by the Commission and must follow the same review and public hearing process required for preliminary approval of the type (minor subdivision or LDP, major subdivision or LDP) of the development project or subdivision which is proposed to be changed.

## **Section 810 - Precedence of Approvals with Other Permitting Authorities**

### **810.1 Zoning Board of Review:**

- A) Variance - Where an applicant requires both a variance from the Zoning Ordinance and approval under these Regulations, the applicant shall first file an application with the Zoning Board. The applicant may also file a simultaneous application with the City Plan Commission and request an advisory opinion from the Administrative Officer or Commission, which shall not be binding on

the Zoning Board. If approved by the Zoning Board, the applicant shall return to the City Plan Commission for all required approval(s).

- B) **Special Use Permit** - Where an applicant requires both a special-use permit under the Zoning Ordinance and approval under these Regulations, the applicant shall first file an application with the Zoning Board. The applicant may also file a simultaneous application with the City Plan Commission and request an advisory opinion from the Administrative Officer or Commission, which shall not be binding on the Zoning Board. If approved by the Zoning Board, the applicant shall return to the City Plan Commission for all required approval(s).

**810.2 Historic District Commission:** Where an applicant requires both a Certificate of Appropriateness from the Historic District Commission (HDC) and approval under these Regulations, the applicant shall first file an application with the HDC. The applicant may also file a simultaneous application with the City Plan Commission and request an advisory opinion from the Administrative Officer or Commission, which shall not be binding on the HDC. If approved by the HDC, the applicant shall return to the City Plan Commission for all required approval(s).

**810.3 Downcity Review Committee:** Where an applicant requires both a Certificate of Design Approval from the Downcity Review Committee (DRC) and approval under these Regulations, the applicant shall first file an application with the DRC. The applicant may also file a simultaneous application with the City Plan Commission and request an advisory opinion from the Administrative Officer or Commission, which shall not be binding on the DRC. If approved by the DRC, the applicant shall return to the City Plan Commission for all required approval(s).

**810.4 City Council:** Where an applicant requires both City Plan Commission approval and City Council approval for a Zoning Ordinance or Zoning Map (or overlay zoning map) change, the applicant shall first obtain an advisory recommendation on the zoning change from the City Plan Commission, as well as conditional City Plan Commission approval for the first approval stage for the proposed project, which may be simultaneous, then obtain a conditional zoning change from the City Council, and then return to the Planning Commission for subsequent required approval(s).

## **Section 811 - Appeal of City Plan Commission Action**

**811.1 The Board of Appeals:** As authorized by the Zoning Ordinance and pursuant to state law, the Zoning Board of Review shall be the Board of Appeals to hear appeals of decisions of the City Plan Commission or the Administrative Officer on matters of review and approval of development or subdivision project.

**811.2 Right of Appeal:** An appeal from any decision of the Commission or Administrative Officer may be taken to the Board of Appeals by an aggrieved party, as defined in Article 10.

**811.3 Process of Appeal**

- A) Time Period and Standing - An appeal to the Board of Appeals from a decision or action of the Commission or Administrative Officer may be taken by an aggrieved party. Such appeal must be taken within twenty (20) days after the decision has been recorded and posted in the office of the City Clerk.
- B) Form and Content of Appeal - The appeal shall be in writing and shall state clearly and unambiguously the issue or decision which is being appealed, the reason for the appeal, and the relief sought. The appeal shall either be sent by certified mail, with a return receipt requested, or shall be hand-delivered to the Office of the Zoning Board of Review. The Zoning Enforcement Officer shall accept delivery of an appeal on behalf of the Board of Appeals. Two copies of the appeal shall be filed, and the City Clerk shall immediately transmit one copy to the Zoning Enforcement Officer and the other copy to the Administrative Officer.
- C) Transmittal of Record - Upon receipt of an appeal, the Board of Appeals shall require the Commission or Administrative Officer to transmit forthwith to the Board of Appeals, all papers, documents and plans, or a certified copy thereof, constituting the record of the action which is being appealed.

**811.4 Stay of Proceedings:** An appeal shall stay all proceedings in furtherance of the action being appealed.

**811.5 Public Hearing**

- A) Time Limits and Notice - The Board of Appeals shall hold a public hearing on the appeal within forty-five (45) days of the receipt of the appeal, give public notice thereof, as well as due notice to the parties of interest. The Board of Appeals shall render a decision within ten (10) days of the close of the public hearing.
- B) Cost - The cost of any notice required for the hearing shall be borne by the appellant.
- C) Special Meeting Required - The Board of Appeals shall only hear appeals of ti

actions of the Commission or Administrative Officer at a meeting called especially for the purpose of hearing such appeals and which has been so advertised. The hearing, which may be held on the same date and at the same place as a meeting of the Zoning Board of Review, must be held as a separate meeting from any Zoning Board of Review meeting. Separate minutes and records of votes shall be maintained by the Board of Appeals.

- D) **Appearance and Testimony** - At the hearing any party may appear in person, or may be represented by an agent or attorney. The Administrative Officer shall appear at the hearing. For an appeal of a decision of the Commission, the Commission shall designate one individual, who may be the Administrative Officer or a member of the Commission, who shall represent the Commission at the hearing. Other members of the Commission may attend and speak at the hearing, but not as official representatives of the Commission.

#### **811.6 Standards of Review**

- A) **Upon Findings and Record** - In instances of a Board of Appeals' review of a Commission or Administrative Officer's decision on matters subject to this Section, the Board of Appeals shall not substitute its own judgment for that of the Commission or the Administrative Officer but must consider the issue upon the findings and record of the Commission or Administrative Officer. The Board of Appeals shall not reverse a decision of the Commission or Administrative Officer except on a finding of prejudicial procedural error, clear error, or lack of support by the weight of the evidence in the record.
- B) **Required Vote** - The concurring vote of three (3) of the five (5) members of the Board of Appeals sitting at a hearing shall be necessary to reverse any decision of the Commission or Administrative Officer
- C) **Required Records** - The Board of Appeals shall keep complete records of all proceedings including a record of all findings and votes taken, and shall put all decisions on appeals in writing. The Board of Appeals shall include in the written record the reasons for each decision.

**811.7 Remand to City Plan Commission:** In the instance where the Board of Appeals overturns a decision of the Commission or Administrative Officer, the proposed application shall be remanded to the Commission or Administrative Officer, at the stage of processing from which the appeal was taken, for further proceedings before the Commission or Administrative Officer and/or for the final disposition, which shall be consistent with the Board of Appeals' decision.

**Section 812 - Appeal of Board of Appeals to Superior Court:** An appeal from a decision of the Board of Appeals may be taken by an aggrieved party to the Superior Court for Providence County.

**812.1 Procedure For Appeal:** An aggrieved party may appeal a decision of the Board of Appeals, to the Superior Court, by filing a complaint setting forth the reasons of appeal within twenty (20) days after the decision has been recorded and posted in the office of the City Clerk. The Board of Appeals shall file the original 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 within thirty (30) days after being served with a copy of the complaint. When the complaint is filed by someone other than the original applicant or appellant, such original applicant or appellant and the members of the Commission shall be made parties to the proceedings. The appeal shall not stay proceedings upon the decision appealed from, but the court may, in its discretion, grant a stay on appropriate terms and make such other orders as it deems necessary for an equitable disposition of the appeal.

**812.2 Evidence Before the Court:** The review shall be conducted by the Superior Court without a jury. The court shall consider the record of the hearing before the Commission and, if it shall appear to the court that additional evidence is necessary for the proper disposition of the matter, it may allow any party to such appeal to present such evidence in open court, which evidence, along with the report, shall constitute the record upon which the determination of the court shall be made.

**812.3 Standard of Review:** The court shall not substitute its judgment for that of the Commission as to the weight of the evidence on questions of fact. The court may affirm the decision of the Board of Appeals or remand the case for further proceeding or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions or decisions which are:

- A) In violation of constitutional, statutory, ordinance provisions, or provisions of these Regulations;
- B) In excess of the authority granted to the Commission by statute or ordinance;
- C) Made upon unlawful procedure;
- D) Affected by other error of law;
- E) Clearly erroneous in view of the reliable, probative, and substantial evidence



the whole record; or

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



## ARTICLE 9 - ADOPTION, AMENDMENT AND APPEAL OF REGULATIONS

**Section 901 - Authority to Adopt:** Pursuant to the Rhode Island Development Review Act of 1992 (Chapter 23 of Title 45 of the General Laws of Rhode Island, as amended) and Article XV Sec. 2-256 of the Code of Ordinances of the City of Providence, as amended, the City Plan Commission is authorized to adopt, modify, and amend rules and regulations governing and restricting the platting or subdivision or development of land within the City.

**Section 902 - Procedure for Adoption and Amendment:** The City Plan Commission shall consider any amendments to these Regulations. Provisions of these Regulations and appendices shall be set forth in text and may incorporate maps and other technical and graphic material. These Regulations, and all the amendments thereto, shall be consistent with all provisions of the Rhode Island Development Review Act of 1992 (Chapter 23 of Title 45 of the General Laws of Rhode Island, as amended), the Rhode Island Zoning Enabling Act of 1991 (Chapter 24 of Title 45 of the General Law of Rhode Island, as amended), as well as *Providence 2000* the Comprehensive Plan and the Zoning Ordinance.

**902.1 Receiving Officer:** Other than for proposals originated by the City Plan Commission, the Administrative Officer shall be the officer to receive a proposal for amendment to these Regulations. Upon receipt of such proposal, the Administrative Officer shall refer such proposal to the City Plan Commission for study.

### **Section 903 - Public Hearing and Notice Requirements**

**903.1 Public Hearing:** No local regulations shall be adopted, repealed, or amended until after a public hearing has been held upon the question before the City Plan Commission. At this hearing opportunity shall be given to all persons interested to be heard upon the matter of the proposed regulations. The proposal 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. However, any such alteration or amendment must be presented for comment in the course of said hearing.

**903.2 Newspaper Notice:** The City Plan Commission shall first give notice of the public hearing by publication of notice in a newspaper of general circulation within the City at least once each week for three (3) successive weeks prior to the date of the hearing, which may include the week in which the hearing is to be held, but shall not include the day of the hearing. 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.

**903.3 Notice Contents:** All notices, whether newspaper, posted, or mailed, shall:

- A) Specify the place of said hearing and the date and time of its commencement;
- B) Indicate that adoption, amendment or repeal of local regulations is under consideration;
- C) Contain 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;
- D) Advise those interested where and when a copy of the matter under consideration may be obtained or examined and copied; and
- E) State that the proposals shown thereon may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any such alteration or amendment must be presented for comment in the course of said hearing.

**903.4 Mail Notice:** Notice of the public hearing, which may be a copy of the newspaper notice, shall also be sent, at least two (2) weeks prior to the hearing, by first class mail to:

- A) The Associate Director of the Division of Planning of the Rhode Island Department of Administration, and
- B) The city or town Planning Board or Commission 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 feet (2,000') of the City's boundaries.
- 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 surface watershed that is used or is suitable for use as a public water source located within either the municipality or two thousand feet (2,000') of the municipal boundaries, provided, however, that a map survey has been filed with the building official as specified in RIGL Section 45-24-53(E).

**903.5 Defects:** No defect in the form of any notice under this section shall render any regulations invalid, unless such defect is found to be intentional or misleading.

## **Section 904 - Appeals to Superior Court**

**904.1 Time Period, Standing and Stay:** An appeal of an enactment of or an amendment to these Regulations may be taken to the Superior Court for Providence County by filing a complaint, as set forth herein, within thirty (30) days after such enactment, or amendment has become effective. The appeal may be taken by any legal resident or landowner of the City or by any association of residents or landowners of the City. The appeal shall not stay the enforcement of 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. Pursuant to RIGL 45-23-73, the court shall, at the request of either party, advance the case, so that the matter shall be afforded precedence on the calendar and shall thereupon be heard and determined with as little delay as possible.

**904.2 Grounds for Appeal:** The complaint shall set forth with specificity the area or areas in which the enactment or amendment is not consistent with the Comprehensive Planning Act, RIGL 45-22.2-1 *et. seq.*; the Zoning Enabling Act of 1991, RIGL 45-24-27 *et. seq.*; the Providence Comprehensive Plan; or the Providence Zoning Ordinance.

**904.3 Review by Court:** The review shall be conducted by the court without a jury. The court shall consider whether the enactment or amendment of the local regulations is consistent with the Comprehensive Planning Act, the Zoning Enabling Act of 1991, the Development Review Act of 1992, the Comprehensive Plan, and the Zoning Ordinance. If the enactment or amendment is not consistent, then the court shall invalidate the enactment or the amendment, or those parts of such enactment or amendment which are not consistent. The court shall not revise the local regulations to be consistent, but may suggest appropriate language as part of the court decision.

**904.4 Attorneys Fees:** 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.

**Section 905 - Prior Applications:** Any development project or subdivision plan which had been legally recorded with the Recorder of Deeds shall not be subject to these Regulations, unless the applicant seeks to amend or make a change in such project or plan, in which case the provisions of these Regulations shall govern only such amendments or changes.

**Section 906 - Severability:** If any provision of these Regulations or of any rule, decision or determination made thereunder, or the application thereof to any person, agency or circumstances, is held invalid by a court of competent jurisdiction, the remainder of the Regulation, rule, decision, or determination and the application of such provisions to other persons, agencies, or circumstances shall not be affected thereby. The invalidity of any section or sections of these Regulations shall not affect the validity of the remainder of these Regulations.

**Section 907 - Effective Date:** These Regulations shall become effective upon passage by the City Plan Commission, as of September 19, 1996.

## **ARTICLE 10 - DEFINITIONS**

The following words and terms are hereby defined relative to their use in these Regulations:

**1001 - Administrative Officer:** In accordance with Section 701.1, the Administrative Officer is the Director of the Department of Planning and Development and is designated to administer these land development and subdivision regulations and to coordinate with other City Boards and Commissions, City staff, and state agencies.

**1002 - Administrative Subdivision:** The re-subdivision of existing lots that yields no additional lots for development, and involves no creation or extension of streets. Such re-subdivision shall only involve divisions, mergers, mergers and division or adjustments of boundaries of existing lots.

**1003 - Aggrieved Party:** Either: (a) any person or persons or entity or entities who can demonstrate that their property will be injured by a decision of any officer or agency responsible for administering these Regulations; or (b) anyone requiring notice pursuant to these regulations.

**1004 - Applicant:** Any person who applies to the City Plan Commission or Administrative Officer for approval of a development plan or subdivision.

**1005 - Board of Appeal:** The Providence Zoning Board of Review, which shall be constituted as the Board of Appeal for appeals of actions of the Administrative Officer or City Plan Commission on matters relating to land development or subdivisions.

**1006 - Bond:** Any type of improvement guarantee.

**1007 - Buildable Lot:** A lot where construction for the use(s) permitted on the site under the Zoning Ordinance is considered practicable by the City Plan Commission, considering the physical constraints to development of the site as well as the requirements of pertinent federal, state and local regulations.

**1008 - 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.

**1009 - Commission:** The City Plan Commission or the official planning agency of the City of Providence.

**1010 - Concept Plan:** A drawing with accompanying information showing the basic

elements of a proposed development, as used for preapplication meetings and early discussions, and classification of the project within the approval process.

**1011 - 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 closed end.

**1012 - Development:** The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance; any change in use, or alteration or extension of the use, of land.

**1013 - Development Plan Review:** Pursuant to RIGL Section 45-23-50, the process whereby City Plan Commission staff members review the site plans, maps, and other documentation of a development to determine the compliance with the stated purposes and standards of the Zoning Ordinance and these Regulations. In these Regulations, the term "Site Plan Review" shall be used in place of and shall be synonymous with "Development Plan Review."

**1014 - Development Regulation:** Zoning, subdivision, land development plan, development plan review, flood plain regulation, soil erosion control or any other governmental regulation of the use and development of land.

**1015 - Division of Land:** Any subdivision.

**1016 - Easement:** The right of a party to use all or part of the property of another for a specific purpose.

**1017 - Endorsement:** The signature of the Administrative Officer, City Plan Commission Chairperson or City Plan Commission Vice-Chairperson/Secretary on an approved plan, permitting recording of the plan.

**1018 - Final Plan:** The final stage of subdivision.

**1019 - Final Plat:** Final drawing(s) of all or a portion of a subdivision, and any accompanying materials, to be recorded in the Recorder of Deeds after approval by the City Plan Commission.

**1020 - Floodplain or Flood Hazard Area:** An area that has a one percent (1 %) or greater chance of inundation in any given year, as delineated by the Federal Emergency Management Agency (FEMA) pursuant to the National Flood Insurance Act of 1968, as amended (P.L. 90-448) [42 U.S.C. 4011 et. seq.].

**1021 - Improvement:** Any natural or built site, that becomes part of, is placed upon,



is affixed to real estate.

**1022 - Improvement Guarantee:** A security instrument accepted by the City Plan Commission and held by City Treasurer to ensure that all improvements, facilities, or work required by these regulations, or as a condition of approval, will be completed in compliance with the approved plans and specifications.

**1023 - 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 as defined in Section 421 of the Zoning Ordinance.

**1024 - Lot Not for Development:** A parcel of land recorded in the Recorder of Deeds that is created or reserved for open space and conservation and has been or will be deeded to the City of Providence or the State Rhode Island, or any privately owned parcel that cannot be developed due to size, physical limitations or is lacking required frontage on a public right-of-way, with appropriate deed and plat restrictions forbidding any development thereon, in accordance with State law.

**1025 - Major Subdivision:** Any subdivision not classified as either an administrative subdivision or a minor subdivision.

**1026 - Master Plan:** An overall plan for a major development or subdivision outlining general, rather than detailed, development intentions. It describes the basic parameters of a major development or subdivision, rather than giving full engineering details. It is required for review of major developments or subdivisions.

**1027 - Minor Subdivision:** A plan for residential development that requires the subdivision of land consisting of five (5) or fewer lots, and does not require any waivers or modifications as specified in these Rules and Regulations. All nonresidential subdivisions shall be considered as major subdivisions.

**1028 - Open space:** Any parcel or area of land or water set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that the area may be improved with only those structures and other improvements that are designated to be incidental to the natural openness of the land. (Not to be confused with the Open Space Zoning District Sec. 101.6 of the Zoning Ordinance).

**1029 - Parcel:** A lot, or contiguous group of lots, in single ownership or under single control, and usually considered a unit for purposes of development.

**1030 - Phased Development:** Development where construction of public and/or private improvements proceeds in successive increments subsequent to approval of a master plan for the entire site.

**1031 - 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.

**1032 - Plat:** A drawing or drawings of a subdivision plan showing the location, boundaries, and lot lines of individual properties, as well as other necessary information as specified in these Regulations.

**1033 - Preapplication Conference:** An initial meeting between developers and City Plan Commission and/or the Department of Planning and Development staff that affords developers the opportunity to present their proposals informally and to receive comments and directions from the City Plan Commission and staff.

**1034 - Preliminary Plan:** The stage of subdivision review that requires detailed engineered drawings and all required state and federal permits.

**1035 - Public Improvement:** Any street or other roadway, sidewalk, pedestrian way, tree, lawn, off-street parking area, drainage feature, or other facility for which the City of Providence or other governmental entity is presently responsible, or will ultimately assume responsibility for maintenance and operation upon the City's acceptance.

**1036 - Public Informational Meeting:** A meeting of the City Plan Commission, preceded by notice, open to the public and at which the public shall be heard.

**1037 - Re-subdivision:** Any change of an approved or recorded subdivision plat or in a lot recorded in the Recorder of Deeds, 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 Rules and Regulations.

**1038 - Site Plan Review -** See Definition 1012.

**1039 - 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.

**1040 - Storm Water Retention:** A provision for storage of storm water runoff.

**1041 - Street:** See Zoning Ordinance Sec 1000.127.

**1042 - 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.

**1043 - Street, public:** All public property reserved or dedicated for street traffic.

**1044 - Street, stub:** A portion of a street reserved to provide access to future development, which may provide for utility connections.

**1045 - Street Classification:** A method of roadway organization which identifies a street hierarchy according to function within a road system, that is, types of vehicles served and anticipated volumes, for the purposes of promoting safety, efficient land use and the design character of neighborhoods and districts. The following are major categories:

- A) **Arterial** - A major street that serves as an avenue for the circulation of traffic into, out of, or around the City.
- B) **Collector** - A street whose principal function is to carry traffic between local streets and arterial streets but that may also provide direct access to abutting properties.
- C) **Local** - A street whose primary function is to provide access to abutting properties.

**1046 - Subdivider:** A person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision, or who (2) directly or indirectly, sells, leases or develops or offers to sell, lease or develop, or advertises to sell, lease or develop any interest, lot, parcel, site, unit, or plat in a subdivision, or who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision of any interest, lot parcel, site, unit, or plat in a subdivision.

**1047 - Subdivision:** The division or re-division of a lot, tract, or parcel of land into two or more lots, tracts or parcels. Any adjustments to existing lot lines of a recorded lot by any means shall be considered a subdivision. All resubdivision activity shall be considered a subdivision. The division of property for purposes of financing constitutes a subdivision.

**1048 - 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.