

## CHAPTER X SUBDIVISION/LAND DEVELOPMENT

**10-1. Authority.** These Subdivision and Land Development Regulations are adopted pursuant to the authority contained in Title 45, Chapter 23, Sections 25 through 74 of the Rhode Island General Laws, known as the Rhode Island Development and Subdivision Review Enabling Act of 1992 and by Burrillville General Ordinance Chapter X adopted August 23, 1995. This Chapter shall be known and may be cited as the "Subdivision & Land Development Regulations of the Town of Burrillville".

**10-2. Town of Burrillville Enabling Ordinance.** The Town Council does hereby empower the Planning Board, pursuant to Rhode Island General Law 45-23-51, to adopt, modify and amend regulations and rules governing land development and subdivision projects within the Town of Burrillville and to control land development and subdivision projects pursuant to these regulations and rules.

### **10-3. General Conditions.**

**10-3.1 Purpose.** The purpose of these Regulations is to establish procedural and substantive provisions for the subdivision and development of land that will, consistent with the provisions of the Comprehensive Community Plan and the Zoning Ordinance, accomplish the following:

1. Provide for the orderly, thorough and expeditious review and approval of subdivisions and land development projects.
2. Promote high quality, and appropriate design and construction of subdivisions and land development projects.
3. Protect existing natural and built environments and mitigate the significant negative impacts of proposed development on those environments.
4. Promote subdivision and land development designs that are well integrated into surrounding neighborhoods, and concentrate development in areas that can best support intensive use because of natural characteristics and existing infrastructure.
5. Mandate design and improvement standards, which reflect the intent of the Town's Comprehensive Plan with regard to the physical character of the various villages and neighborhoods of Burrillville.
6. Require measures for mitigating the impact of new development on the community that are based on clear documentation of needs and are fairly

applied and administered.

7. Promote thorough review of all proposed land developments and subdivisions by appropriate local officials.
8. Encourage the establishment and consistent application of procedures for local record keeping for all land development and subdivision review, approval and construction.
9. Protect the public health, safety and welfare of the community.
10. Direct the development of land consistent with state of the art practices that promote and foster growth in a manner that protects the Town's distinctive character while at the same time accommodating economic growth.
11. Guide land development with an emphasis on siting improvements so as to redevelop and preserve existing dense neighborhoods and village centers while preserving the undeveloped, natural landscapes of the rural areas outside of the village areas with a focus on protecting physical constraints to development, such as rock outcrops, steep slopes, wetlands and field areas.
12. Insure that proposed designs institute best management practices and low impact development practices that acknowledge existing site constraints and the natural setting.
13. Encourage local requirements for dedications of public land, and payment-in-lieu thereof, to be based on clear documentation of needs and to be fairly applied and administered.

### **10-3.2 Construction and Intent.**

1. These Regulations are not intended to supersede, abrogate, or interfere with any provision of any ordinance of the Town of Burrillville, other than those dealing with land development projects and the subdivision of land, in which case these Regulations shall apply.
2. These Regulations are intended to be interpreted so as to be consistent with the Burrillville Zoning Code and further the implementation of, the Town of Burrillville Comprehensive Plan 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.
3. If any section or subsection of these Regulations is held invalid by a court of competent jurisdiction, such invalidity shall not affect the validity of the

remainder of these Regulations.

4. The Site Plan Review standards contained herein are considered minimum standards.

**10-3.3 Effective Date.** These Regulations shall take effect on **January 5, 2009** and shall supersede all other Subdivision Regulations in effect at the time of such adoption.

**10-3.4 Vested Rights-Continuation of Prior Regulations.** Subdivisions and Land Developments which have been submitted to the Planning Board for approval under the provisions of the regulations in effect prior to **January 5, 2009** may be continued to be reviewed by the Planning Board and approved under those regulations in accordance with the following:

1. Final Approvals - Any subdivision or development which, at the time of adoption of these amendments, has received final approval, or final approval with conditions, from the Planning Board, may initiate or construct any part of the development, or record plans in accordance with the Subdivision and Land Development Regulations in effect at the time final approval was granted. The Planning Board, may in its discretion, grant extensions to any such final approval in accordance with the procedure for such extensions as set forth in the regulations in effect at the time of final approval.
2. Preliminary Approvals - Any subdivision or development which at the time of adoption of these amendments, has received preliminary approval, or preliminary approval with conditions, from the Planning Board, may continue to be reviewed by the Planning Board in accordance with the Subdivision and Land Development Regulations in effect at the time preliminary approval was granted provided any one of the following conditions have been met.
  - a. The final plat, including all the material required in the Final Plat Checklist, is filed with the Planning Department within one (1) year from the date of preliminary approval; or
  - b. If the development is located within a jurisdictional area of the Rhode Island Department of Environmental Management (RIDEM), the preliminary plans as approved by the Planning Board must have been filed with RIDEM for approval as required by the Freshwater Wetlands Act and final decision has not been received; or
3. Other Status - Any subdivision or development which, at the time of adoption of these Regulations has not received final or preliminary approval; or for which only pre-application conference(s) has (have) been conducted shall be required to be reviewed under the revisions to the Subdivision and Land Development Regulations adopted on **January 5, 2009** pursuant to the Rhode

Island Land Development and Subdivision Review Enabling Act of 1992.

The Planning Board shall determine vested rights for subdivisions or developments submitted for approval prior to **January 5, 2009**. Appeals from a decision regarding the application status and vested rights of any subdivision shall be made to the Planning Board of Appeal as herein provided.

#### **10-4. Definitions.**

**Best Management Practice.** State-of-the-art technology applied to developments in order to protect the natural environment –particularly common with respect to non-point source pollution control.

**Cluster.** A site planning technique that concentrated buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, and/or preservation of environmentally, historically, culturally, or other sensitive features and/or structures. The techniques used to concentrate buildings shall be specified in the ordinance and may include, but are not limited to, reduction in lot areas, setback requirements, and/or bulk requirements, with the resultant open land being devoted by deed restrictions for one or more uses. Under cluster development there is no increase in the number of lots that would be permitted under conventional yield plan development except where ordinance provisions include incentive bonuses for certain types or conditions of development.

**Administrative Officer.** The municipal official designated by the local regulations to administer the Land Development and Subdivision Regulations and to coordinate with local boards and commissions, municipal staff and state agencies. The Administrative Officer may be a member of, or the chair, of the Planning Board, or an appointed official of the municipality. The Town Planning Director and Deputy Planner shall serve as Administrative Officers.

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

**Applicant.** A person, corporation or similar entity who applies to the Planning Board for subdivision or land development approval. Said person shall either be the owner or have expressed written permission from the owner to submit plans for the subdivision or property.

**Block.** A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

**Board of Appeal.** The local review authority for appeals of actions of the Administrative Officer and the Planning Board on matters of land development or subdivision, which shall be the Zoning Board of Review, constituted as the Board of Appeal.

**Bond.** A form of improvement guarantee.

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

**Certificate of Completeness.** A notice issued by the Administrative Officer informing an applicant that the application is complete and meets the requirements of the municipality's regulations, and that the applicant may proceed with the approval process.

**Cluster.** A site planning technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space and/or preservation of environmentally, historically, culturally, or other sensitive features and/or structures. The techniques used to concentrate buildings shall be specified in the ordinance and may include, but are not limited to, reduction in lot areas, setback requirements and/or bulk requirements with the resultant open land being devoted by deed restrictions for one (1) or more uses. Under cluster development there is no increase in the number of lots that would be permitted under conventional development except where ordinance provisions include incentive bonuses for certain types or conditions of development.

**Common Ownership.** Either ownership by one (1) or more individuals or entities in any form of ownership of two (2) or more contiguous lots, or ownership by any association (such ownership may also include a municipality) of one (1) or more lots under specific development techniques.

**Concept Plan.** A drawing with accompanying information showing the basic elements of a proposed land development plan or subdivision as used for pre-application meetings and early discussions, and classification of the project within the approval process.

**Consistency with the Comprehensive Plan.** A requirement of all local land use regulations which means that all such regulations and subsequent actions shall be in accordance with the public policies arrived at through detailed study and analysis and adopted by the municipality as the comprehensive community plan.

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

**Density, Residential.** The number of dwelling units per parcel of land.

**Development Regulation.** Zoning, subdivision, land development plan, development plan

review, historic district, official map, flood plain regulation, soil erosion control or any other governmental regulation of the use and development of land.

**Division of Land.** A subdivision.

**Environmental Constraints.** shall mean natural features, resources, or land characteristics that are sensitive to change and may require cluster techniques to prevent degradation of the site, or may require limited development, or in certain instances, may preclude development. Such features include: rock outcroppings, ledge, hydric soils, wetlands and jurisdictional buffers, old growth forests, archeological sites, scenic meadow areas or slopes exceeding 15 percent in steepness.

**Final Plan.** The final stage of land development and subdivision review.

**Final Plat.** The final drawing(s) of all or a portion of a subdivision to be recorded after approval by the Planning Board and any accompanying material as described in the community's regulations and/or required by the Planning Board.

**Floodplains or Flood Hazard Area.** As defined in R.I.G.L. Section 45-22.2-4 (12) an area that has a one percent (1%) or greater chance of inundation in any given year, as delineated by the federal emergency agency pursuant to the National Flood Insurance Act of 1968, as amended.

**Floor Area, Gross.** Gross floor area shall be the floor area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns or other features or as amended by State Building Code.

**Governing Body.** The body of the local government, generally the Town Council, having the power to adopt ordinances, accept public dedications, release public improvement guarantees, and collect fees.

**Groundwater.** Groundwater and associated terms as defined in R.I.G.L. Section 46-13.1-3 to include the water found underground which completely fills the open spaces between particles of sand, gravel, clay, silt and consolidated rock fractures. The zone of materials filled with groundwater is called the "zone of saturation".

**Historic District.** One or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites, and which has been registered, or is deemed eligible to be included, on the state register of historical places.

**Historic Site.** Any real property, built structure, natural object, or configuration or any portion or group of the foregoing which has been registered, or is deemed eligible to be included, on the state register of historic places.

**Improvement.** Any natural or built item, which becomes part of, is placed upon, or is affixed to, real estate.

**Improvement Guarantee.** A security instrument accepted by a municipality to ensure that all improvements, facilities, including inspections of construction required by the Land Development and Subdivision Regulations, or required by the municipality as a condition of approval, will be completed in compliance with the approved plans and specifications of a development.

**Land Development Project.** A project in which one (1) or more lots, tracts, or parcels of land are to be developed or redeveloped as a coordinated site for a complex of uses, units, or structures, including but not limited to: planned development and/or cluster development for residential, commercial, institutional, recreational, open space, and/or mixed uses as may be provided for in the Zoning Ordinance.

**Local Regulations.** The land development and subdivision review regulations adopted under the provisions of R.I.G.L. Section 45-23-25 through 74.

**Lot Area.** The total area within the boundaries of a lot, excluding any street rights-of-way, usually reported in acres or square feet.

**Lot Building Coverage.** That portion of the lot that is or may be covered by buildings and accessory buildings.

**Lot, Corner.** A lot at the junction of and fronting on two (2) or more intersecting streets.

**Lot Depth.** The distance measured from the front lot line to the rear lot line. For lots where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

**Lot Frontage.** That portion of a lot abutting a street. For the purpose of dimensional regulations, lot frontage shall be the uninterrupted distance between side lot lines, not counting abrupt jogs not running with the direction of travel of the adjacent street. In the case of a corner lot, frontage shall be measured along either street line from the side lot line to the point of intersection of the abutting street line.

**Lot Line.** A line of record, bounding a lot, which divides one (1) lot from another lot or from a public or private street or any other public or private space and shall include:

- a. **Front.** The lot line separating a lot from a street right-of-way.
- b. **Rear.** The lot line opposite and most distance from the front lot line, or in the case of triangular or otherwise irregularly shaped lots, an assumed line at least ten feet (10') in length entirely within the lot, parallel to and at a maximum distance from the front lot line.
- c. **Side.** Any lot line other than a front or rear lot line.

**Lot, Through.** A lot which fronts upon two (2) parallel streets.

**Lot Width.** The horizontal distance between the sidelines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum front setback line.

**Low Impact Development.** A set of strategies that seek to maintain the natural systems during the development process. The idea is to create homes and businesses that are integrated into the landscape, not imposed on it. Natural areas and important features are protected, and stormwater is managed with a distributed network of swales and rain gardens, rather than a centralized system of pipes and ponds. As a result of LID, aquifers are recharged, water quality is protected better, development has a more natural appearance, and maintenance costs are reduced by having fewer stormwater pipes and basins (see Appendix B LID Resources).

**Maintenance Guarantee.** Any security instrument, which may be required and accepted by a municipality to ensure that necessary improvements will function as required for a specific period of time.

**Major Land Development Plan.** Any land development plan not classified as a minor land development plan.

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

**Master Plan.** An overall plan for a proposed project site outlining general, rather than detailed development intentions. It describes the basic parameters of a major development proposal, rather than giving full engineering detail required in major land development or major subdivision review.

**Minor Land Development Plan.** A development plan for a residential project provided that such development does not require waivers or modifications. All nonresidential land development projects shall be considered as major land development plans.

**Minor Subdivision.** A plan for a subdivision of land consisting of five (5) or fewer units or lots, provided that such subdivision does not require waivers or modifications.

**Modification of Requirements.** A waiver from the requirements for subdivision or development plan approval.

**Notice Area.** Properties located in or within not less than 200 feet of the perimeter of the area proposed for change whether within the Town of Burrillville or within an adjacent town.

**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 or occupants of

land adjoining or neighboring such open space; provided that the area may be improved with only those buildings, structures, streets, and off-street parking, and other improvements that are designed to be incidental to the natural openness of the land.

**Overlay District.** A district established in a zoning ordinance that is superimposed on one (1) or more districts or parts of districts and that imposes specified requirements in addition to but not less than those otherwise applicable for the underlying zone.

**Parcel.** A lot, or contiguous group of lots in single ownership or under single control, and usually considered a unit for purposes of development. Also referred to as a tract.

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

**Permitting Authority.** The local agency of government specifically empowered by state enabling law and local ordinance to hear and decide on specific matters pertaining to local land use.

**Phased Development.** Development, usually for large-scale projects, where construction of public and/or private improvements proceeds by section(s) subsequent to approval of a master plan for the entire site.

**Physical Constraints to Development.** Characteristics of a site or area, either natural or built, which present significant difficulties to construction of the uses permitted on that site, or would require extraordinary construction methods. See also environmental constraints.

**Planning Board.** The official planning agency of a municipality, whether designated as the plan commission, planning commission, plan board, or as otherwise known.

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

**Pre-Application Conference.** An initial meeting between developers and municipal representatives, which affords developers the opportunity to present their proposals informally and to receive comments and directions from the municipal officials and others.

**Preliminary Plan.** The required stage of land development and subdivision review, which shall require detailed engineered drawings and all required state and federal permits.

**Public Improvement.** Any street or other roadway, sidewalk, pedestrian way, tree, lawn, off-street parking area, drainage feature, or other facility or landscaping element for which the local government or other governmental entity either is presently responsible, or will ultimately assume the responsibility, for maintenance and operation upon municipal acceptance.

**Public Informational Meeting.** A meeting of the Planning Board or governing body preceded by a notice; open to the public and at which the public shall be heard.

**Receipt of Plan.** Submission for inclusion onto the agenda of the Planning Board must be made to the Administrative Officer. The Administrative Officer will review the submission for completeness.

**Re-Subdivision.** Any change of an approved or recorded subdivision plat or in a lot recorded in the municipal land evidence records, or that affects the lot lines of any areas reserved for public use, or that affects any map or plan legally recorded prior to the adoption of the local land development and subdivision regulations. For the purposes of this act any such action shall constitute a subdivision.

**Setback Line or Lines.** A line or lines parallel to a lot line at the minimum distance of the required setback for the zoning district in which the lot is located that establishes the area within which the principal structure must be erected or placed.

**Storm Water Detention.** A provision for storage of storm water runoff and the controlled release of such runoff during and after a flood or storm.

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

**Street.** A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles. Streets are further classified by the functions they perform as defined in the Street Classifications section of these Regulations.

**Street Line.** A lot line that separates a lot from a street.

**Street, Access To.** An adequate and permanent way of entering a lot. All lots of record shall have access to a street for all vehicles normally associated with the uses permitted for that lot.

**Street, Alley.** A public or private thoroughfare primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

**Street, Cul-De-Sac.** A local street with only one outlet and having an appropriate vehicular turnaround, either temporary or permanent, at the closed end.

**Street, Limited Access Highway.** A freeway or expressway providing for through traffic. Owners or occupants of abutting property on lands and other persons have no legal right to access, except at such points and in such manner as may be determined by the public authority having jurisdiction over the highway.

**Street, Private.** A thoroughfare established as a separate tract for the benefit of multiple, adjacent properties and meeting specific, municipal improvement standards. This definition

shall not apply to driveways.

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

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

**Street Classification.** A method of roadway organization which identifies a street hierarchy according to function within a road system, that is types of vehicles serviced and anticipated volumes, for the purposes of promoting safety, efficient land use and the design character of neighborhoods and districts. Local classifications shall use the major categories as outlined in the Design and Public Improvement Standards.

**Street Right-of-Way.** The area between street lines.

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

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

**Temporary Improvement.** Improvements built and maintained by a developer during construction of a development project and prior to release of the improvement guarantee, but not intended to be permanent.

**Town-accepted Street.** Whether public or private, a street that has been formally accepted by the Town Council as constructed per the Town's road design standards.

**Use.** The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.

**Vested Rights.** The right to initiate or continue the development of an approved project for a specified period of time, under the regulations that were in effect at the time of approval, even if, after the approval, the regulations change prior to the completion of the project.

**Waiver of Requirements.** A written request for a change or modification from the requirements of these Regulations.

**Waters.** As defined in R.I.G.L. Section 45-12-1 (23), i.e., all surface waters including all

inland waters of any river, stream, brook, pond, or lake, and wetlands.

**Wetland, Freshwater.** As defined in R.I.G.L. Section 2-1-20, i.e., marshes; swamps; bogs; ponds; rivers; river and stream floodplains and banks; areas subject to flooding or storm flowage; emergent and submergence plant communities in any body of fresh water including rivers and streams and that area of land within fifty feet (50') of the edge of any bog, marsh, swamp or pond.

**Yard.** An open space on the same lot with a principal building or structure, unoccupied and unobstructed.

**Yard, Front.** A required yard extending along the entire lot street frontage.

**Yard, Rear.** A required yard extending along the entire rear lot line or lines.

**Yard, Side.** A required yard extending from the rear of the required front yard to the front of the rear yard.

**Yield Plan.** The total number of parcels yielded by dividing the total developable land area (minus environmental constraints) by the base zone district minimum lot size requirement.

**Zoning Map.** The map, or maps, which are part of the Zoning Ordinance and which delineate the boundaries of all mapped zoning districts within the physical boundary of the Town.

**Zoning Ordinance.** An ordinance enacted by the Town Council pursuant to R.I.G.L. Section 45-24 and in the manner providing for the adoption of ordinances in the Town's charter, which sets forth regulations and standards relating to the nature and extent of uses of land and structures, which is consistent with the Comprehensive Plan of the Town, which includes a zoning map, and which complies with the provisions of R.I.G.L. Section 45-24.

**Zoning Use Districts.** The basic unit in zoning, either mapped or unmapped, to which a uniform set of regulations applies, or a uniform set of regulations for a specified use. Each district may include sub-districts. Districts may be combined.

## **10-5. ADMINISTRATION OF THESE REGULATIONS.**

**10-5.1 General Provisions.** No subdivision plat or portion thereof shall be filed or recorded in the office of the Town Clerk without written approval of the Planning Board.

**10-5.2 Planning Board.** The duties of the Planning Board are as outlined in the Burrillville Town Charter, Town Ordinances and State statutes.

**10-5.3 Administrative Officer.** The Administrative Officer shall be responsible for the administration of these Subdivision and Land Development regulations, and shall

report to the Planning Board. The Town Planner and Deputy Planner in the Town of Burrillville are hereby designated as the Administrative Officers.

The duties and responsibilities of the Administrative Officer are as follows:

- a. Coordination of the review, approval, recording and enforcement provisions of these Regulations.
- b. Coordination of the review and approval procedures for subdivision and land development projects with adjacent municipalities, local governing boards and commissions, state and federal permitting agencies, abutters and as directed by these Regulations and/or the Planning Board.
- c. Enforcement of these Regulations.
- d. Coordinate with the Director of Public Works.

#### **10-5.4**

**Planning Board of Appeal.** Appeals of the Planning Board or the Administrative Officer on matters of review and approval of land development and subdivision projects shall be made to the Planning Board of Appeal in accordance with the provisions of R.I.G.L. Section 45-23-57 and R.I.G.L. Section 45-23-66 through 70 et seq., and in accordance with these Subdivision and Land Development Regulations, approved by the Planning Board on September 10, 2007.

- A. **Right of Appeal.** There shall be a Subdivision & Land Development Board of Review as established by Chapter X of the Town Ordinances. An appeal from any decision of the Planning Board, or Administrative Officer charged in the regulations with enforcement of any provisions, except as provided herein, may be taken to the Board of Appeal by an aggrieved party. An appeal from a decision of the Board of Appeal may be taken by an aggrieved party to the Superior Court of Providence County. Appeals from a decision granting or denying approval of a final plan shall be limited to elements of such approval or disapproval not contained in the decision reached by the Planning Board at the preliminary stage, providing that a public hearing has been held on the plan pursuant to R.I.G.L. Section 45-23-42.
- B. **Process of Appeal.** An appeal to the Board of Appeal from a decision or action of the Planning Board or Administrative Officer may be taken by an aggrieved party to the extent provided in Section 10-5.4.A. Such appeal must be taken within twenty (20) days after the decision has been filed and posted in the Office of the Town Clerk.

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 Board of Appeal. The Town Clerk shall accept delivery of an appeal on behalf of the Board of Appeal.

Upon receipt of an appeal, the Board of Appeal shall require the Planning Board or Administrative Officer to transmit forthwith to the Board of Appeal, all papers, documents and plans, or a certified copy thereof, constituting the record of the action which is being appealed.

- C. Stay of Proceedings.** An appeal shall stay all proceedings in furtherance of the action being appealed.
  
- D. Public Hearing.** The Board of Appeal shall hold a public hearing on the appeal within forty-five (45) days of the receipt of the appeal, give public notice thereof, as well as due notice to the parties of interest. At the hearing any party may appear in person, or may be represented by an agent or attorney. The Board shall render a decision within ten (10) days of the close of the public hearing. The cost of any notice required for the hearing shall be borne by the appellant.

The Board of Appeal shall only hear appeals of the actions of the Planning Board 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 Appeal.

- E. Standards of Review.** As established by this chapter, in instances of Board of Appeal's review of a Planning Board or Administrative Officer's decision on matters subject to this chapter, the Board of Appeal shall not substitute its own judgment for that of the Planning Board or the Administrative Officer but must consider the issue upon the findings and record of the Planning Board or Administrative Officer. The Board of Appeal shall not reverse a decision of the Planning Board or Administrative Officer except on a finding of prejudicial procedural error, clear error, or lack of support by the weight of the evidence in record.

The concurring vote of three (3) of the five (5) members of the Board of Appeal, sitting at a hearing, shall be necessary to reverse any decision of the Planning Board or Administrative Officer.

In the instance where the Board of Appeal overturns a decision of the Planning

Board or Administrative Officer, the proposed project application shall be remanded to the Planning Board or Administrative Officer, at the stage of processing from which the appeal was taken, for further proceedings before the Planning Board or Administrative Officer and/or for the final disposition, which shall be consistent with the Board of Appeal's decision.

The Board of Appeal shall keep complete records of all proceedings including a record of all votes taken, and shall put all decisions on appeals in writing. The Board of Appeal shall include in the written record the reasons for each decision.

**F. Appeals to the Superior Court.** An aggrieved party may appeal a decision of the Board of Appeal to the Superior Court for Providence County 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 Town Clerk. The Board of Appeal 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 Planning Board 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 deemed necessary for an equitable disposition of the appeal.

The review shall be conducted by the Superior Court without a jury. The court shall consider the record of the hearing before the Planning Board and, if it shall appear to the court that 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.

The court shall not substitute its judgment for that of the Planning Board as to the weight of the evidence on questions of fact. The court may affirm the decision of the Board of Appeal or remand the case for further proceedings, 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:

- (1) In violation of constitutional, statutory, ordinance or Planning Board regulations or provisions;
- (2) In excess of the authority granted to the Planning Board by statute or ordinance;
- (3) Made upon unlawful procedure;

- (4) Affected by other error of law;
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or
- (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

**G. Appeals to the Superior Court – Enactment of or Amendment of Local Regulations.** An appeal of an enactment of or an amendment of local 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 a legal resident or landowner of the Town of Burrillville or by any association of residents or landowners of the Town.

The appeal shall not stay the enforcement of the local 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.

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, the Zoning Enabling Act of 1991, the Town of Burrillville’s Comprehensive Plan; or the Town of Burrillville’s Zoning Ordinance.

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 Town of Burrillville’s Comprehensive Plan, or the Town of Burrillville’s 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 decisions.

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 the Town of Burrillville.

**H. Appeals to the Superior Court – Priority in Judicial Proceedings.** Upon the entry of any case or proceeding brought under the provisions of this chapter, including pending appeals and appeals hereinafter taken to the court, 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.

- I. **Severability.** If any provision of these rules or any regulation or determination made hereunder, or the application thereof to any person, agency or circumstances, is held invalid by a court of competent jurisdiction, the remainder of the rule, regulation, 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 the chapter.

**10-5.5 REVIEW & APPROVAL OF PLANS AND PLATS.**

- A. **Classification.** The Administrative Officer shall advise the applicant as to which approvals are required and the appropriate board for hearing an application for a land development or subdivision project. Review stages for a Minor Subdivision or Land Development Project or a Major Subdivision or Land Development may be combined at the written request of the applicant and presentation of the proposed project and supporting reasons for the combination at a Planning Board meeting. Fees normally collected at each stage of the review process will not be waived. The following types of applications may be filed:

- 1. **Administrative Subdivision**

- The Administrative Subdivision consists of a single stage review, made by the Administrative Officer, to determine that the proposed subdivision conforms to applicable zoning and subdivision requirements.

- If the proposed subdivision does not conform to applicable zoning and subdivision regulations, the subdivision must be referred for review and approval to the Planning Board.

- 2. **Minor Subdivision or Minor Land Development Plan**

- Minor Subdivision/Minor Land Development shall consist of two (2) stages, preliminary and final. The Planning Board may, at its discretion, combine the approval stages, providing that all of the requirements of both sections have been met. If a street extension or creation is required, then a Public Hearing must be held.

- 3. **Major Subdivision or Major Land Development Plan**

- A major subdivision/major land development shall consist of the following submissions:

- a. Pre-Application or Concept Plan Meeting;
    - b. Master Plan;

- c. Preliminary Plan; and
- d. Final Plan.

A public informational meeting and a public hearing are also required. The Planning Board may, at its discretion, combine the approval stages, providing that the requirements of those stages have been met.

**B. Certification of a Complete Application.** An application shall be complete for purposes of commencing the applicable time period for action when so certified by the Administrative Officer. Every certification of completeness required by these regulations shall be in writing. 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.

Notwithstanding subsections (A) and (B) above, the Planning Board 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.

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 Administrative Officer or the Planning Board determines that the required application information is complete.

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

**10-5.6 Administrative Fees.** The following administrative fees are required to be paid by the applicant at the time of submission of any subdivision or land development project or request for placement on the Planning Board agenda.

Type of Application	Fee
Administrative Subdivision	
Review by Planner	\$ 50
Review by Planning Board	\$ 100
Minor Subdivision or Land Development (no road)	
Preapplication/Concept (optional)	\$ 100
Preliminary Plan	\$ 300 & \$20 per lot
Final Plan	\$ 200

<b>Minor Subdivision or Land Development (with road)</b>	
Preapplication/Concept	\$ 350 & \$ 20 per lot
Preliminary Plan	\$ 600 & \$ 20 per lot
Final Plan	\$ 200
<b>Major Subdivision or Land Development</b>	
Preapplication/Concept	\$ 350 & \$ 20 per lot
Master Plan	\$ 600 & \$ 20 per lot
Preliminary Plan	\$ 600 & \$ 20 per lot
Final Plan	\$ 200
<b>Other Fees</b>	
Reinstatement of Subdivision	\$ 200 & Mtg. Costs
Special Meetings (bond release, advisory opinion, request to combine review stages, etc.)	\$ 50 & Mtg. Costs
Resubmission Fee	\$ 40
Inspection Fees	*
Recording of Subdivision Plan	As provided in R.I.G.L. Title 34, Chapter 13

\* The inspection fee shall be two percent (2%) of the total amount of the original performance bond for all required improvements, minus the estimated sewer construction cost. In the absence of a performance bond, inspection fees shall be two percent (2%) of the total estimated cost of all required improvements, minus the estimated sewer construction costs. Inspection fees shall be paid in full for the phase or phases to be constructed before construction begins of any improvements requiring inspection. Upon completion of the project, any unexpended inspection fees shall be returned to the developer.

Fees will not be reimbursed for Applications that are not approved. Applications that are not complete (as indicated by the Certificate of Completeness marked "Incomplete") will be returned to the applicant. Applications, which are resubmitted, must be accompanied by the appropriate submission fee in addition to a resubmission fee of \$20.

**10-5.7 Project Review Fees.** Project review fees are separate from, and in addition to, fees imposed by the Town for application submission and inspection of a project during construction. Project Review Fees are determined on a case by case basis by the Planning Board and may fund information required by the Planning Board such as, but not necessarily limited to: traffic studies, demographic analysis, economic impact analysis, archeological studies, historical analysis, civil engineering evaluation etc.

**10-5.8 Meetings, Votes, Decisions and Records.**

1. All records of the Planning Board proceedings and decisions shall be written and kept permanently available for public review. Completed applications for

proposed land development and subdivision projects under review by the Planning Board shall also be available for public review.

2. Participation in a Planning Board meeting or other proceedings by any party shall not be cause for civil action or liability except for acts not in good faith, intentional misconduct, knowing violation of law, transactions where there is an improper personal benefit, or malicious, wanton, or willful misconduct.
3. All final written comments to the Planning Board from the Administrative Officer, municipal departments, state and federal agencies, and local boards of commissions shall be part of the permanent record of the development application.
4. All votes of the Planning Board shall be made part of the permanent record and shall show the members present and their votes. A decision by the Planning Board to approve any land development or subdivision application shall require a vote for approval by a majority of the current Planning Board membership.
5. All written decisions of the Planning Board shall be recorded in the Land Evidence Records within thirty-five (35) days after the Planning Board vote. A copy of the recorded decision shall be mailed within one business day of recording, by any method that provides confirmation of receipt, to the applicant and to any objector who has filed a written request for notice with the Administrative Officer.

#### **10-5.9**

**Findings.** Prior to approval of any subdivision or land development project, the Board shall make positive findings on all of the standards listed below, as part of the proposed project's record. If a negative findings of any of these standards are made, the Planning Board shall have grounds for denial. The requirements listed below are applicable to all subdivisions and land development projects in the Town of Burrillville.

1. Each proposed development shall be consistent with the Burrillville Comprehensive Plan and/or shall satisfactorily address the issues should inconsistencies exist.
2. Each lot in the subdivision shall conform to the standards and provisions of the Town of Burrillville Zoning Ordinance.
3. There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval.
4. The subdivision or development, 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. 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 noted as "Not a Buildable Lot" on said plans.

5. All proposed land developments and all subdivision lots shall have adequate and permanent physical access to a Town-accepted street. Subdivision lot frontage on a Town-accepted street without physical access shall not be considered compliance with this requirement.
6. Each subdivision or development shall provide for safe circulation of pedestrian and vehicular traffic, for adequate storm water runoff management plan, for suitable building sites, and for preservation of natural, historical, or architectural features that contribute to the Town's historic character.
7. The design and location of street, building lots, utilities, drainage improvements and other improvements in each subdivision or development shall be harmonious with the natural surroundings.

#### **10-5.10 Waivers and Modifications.**

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

- a. The waiver or modification is reasonable and within the general purposes and intents of these Regulations; and
- b. Literal enforcement of the regulation is impracticable and will exact undue hardship because of peculiar conditions pertaining to the land in question; or waiver or modification of the regulation is in the best interest of good planning practice or design as evidenced by consistency with the Comprehensive Community Plan and the Zoning Ordinance.

All requests for waivers, or modifications, along with supporting reasons, shall be made in writing prior to the meeting in which they are to be discussed.

**Decisions on Waivers and Modifications.** The Planning Board shall approve, approve with conditions, or deny a request for a waiver or modification by the following procedure:

- a. The Planning Board's decision shall be made within 45 days of the date

the request for the waiver or modification was first considered by the Planning Board, unless the applicant waives that deadline.

- b. The Planning Board's decision shall be in writing, and shall contain findings of fact.

**10-5.11 Reinstatement of Applications.** When an applicant has exceeded a deadline established by these Regulations for submission of material thereby rendering a previously granted approval invalid, the application may be reinstated by the Planning Board under the following conditions:

- a. The development is consistent with the Town of Burrillville's Comprehensive Plan;
- b. The Subdivision and Land Development Regulations are the same as they were at the time of original approval;
- c. The zoning of the parcel is the same as it was at the time of original approval;
- d. Physical conditions on the parcel are the same as they were at the time of original approval; and,
- e. Any applicable State or Federal Regulations are the same as they were at the time of original approval.

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

Where there have been changes in zoning, Subdivision and Land Development Regulations, etc., the Planning Board may grant reinstatement only after a Public Hearing with the abutters.

#### **10-5.12 Procedures for Recording Plats and Plans.**

- A. **Endorsement.** All approved plans and plats for land development and subdivision projects shall be endorsed by the Planning Board Chairman or Administrative Officer as an indication of final approval. Plats and plans for major land developments and major subdivisions, and for minor land developments and minor subdivisions shall be signed by the Planning Board Chairperson, or designee. Plats and plans for administrative subdivisions shall be signed by the Administrative Officer or designee. All endorsements

shall include the date of such endorsement.

No endorsement of plans and plats shall be made until (a) the Administrative Officer has certified in writing that all of the required improvements have been made, or (b) where applicable, the Director of Finance or Town Solicitor has certified in writing that acceptable improvement guarantees have been received.

- B. Recording.** Upon Final Approval, two sets of mylars and three paper copies sized 18 x 24 inches of all plans and plats shall be submitted to the Administrative Officer prior to recording in the Land Evidence Records of the Town. The material to be recorded shall include all plat drawings and other pertinent information as indicated on the appropriate Final Plat Checklist Requirements. A copy of the written decision of the Board, signed by the Planning Board Chairman or Administrative Officer, including all conditions of approval, shall also be recorded. No plans, plats or supporting materials shall be recorded until the Administrative Officer has certified, in writing, that all required fees have been paid.

Other parts of the application process including all meeting records, approved master plan and preliminary plans, site analysis, impact analysis, environmental impact statements, all legal agreements, records of the public hearing and the entire final approval set of drawings shall be kept permanently by the Town Departments responsible for implementation and enforcement. One copy shall be kept on file by the Planning Department.

Construction drawings need not be recorded. However, a complete blue-line or photocopy set of construction drawings, including street plans and profiles, cross sections, grading plans, drainage plans, landscaping plans, soil erosion and sediment control plans, utility plans and any other construction plans, details and specifications required as a conditions of approval shall be filed with the Administrative Officer prior to recording of the plat. One copy of all construction drawings shall be kept by the Department of Public Works.

The Administrative Officer shall notify the statewide "911" emergency authority and the local police and fire authorities servicing the new plat with the information required by each of the authorities.

- C. Acceptance of Public Improvements.** The signature of the Planning Board and recording of the final plat as specified in R.I.G.L. Section 45-23-64 shall constitute the acceptance by the Town of any street or other public improvement or other land intended for dedication. Final plan approval shall not impose any duty upon the Town to maintain or improve those dedicated areas until the Burrillville Town Council formally accepts the completed public improvements as constructed in compliance with the final plans.

- D. 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 or a new plan is approved by the Planning Board.

#### **10-5.13 Changes to Recorded Plats and Plans.**

- A. General.** For all changes to the approved plans of land development projects or subdivisions subject to these Regulations, an amendment of the final development plans shall be required prior to the issuance of any building permits for construction upon the subject property. Any changes approved in the final plan shall be recorded as amendments to the final plan in accordance with the procedure established for recording of plats and plans.
- B. Minor Changes.** Minor changes to a land development or subdivision plans shall be approved administratively by the Administrative Officer. The Administrative Officer may, at his/her discretion, authorize such changes without review and approval of the Planning Board and without a public hearing thereon. All such changes shall be made a part of the permanent record of the project application. This provision shall not prohibit the Administrative Officer from referring to the Planning Board the matter for review as a major change. Upon written authorization of the approval of a minor change by the Administrative Officer, the Building Official may issue a building permit for any proposed construction upon the subject property.

For the purpose of these Regulations, the term "minor changes" shall mean any change, which, in the opinion of the Administrative Officer, is consistent with the intent of the original approval. Such minor changes shall include, but are not necessarily limited to the following:

- a. Amendments to utility plans, which are acceptable to the appropriate utility company;
- b. Lot line revisions, which can be reviewed and approved as an administrative subdivision;
- c. Amendments to grading plans or drainage plan which are acceptable to the Planning Board and its Engineer and which do not require approval of any state or federal reviewing authorities;
- d. Amendments to construction plans which are required because of unforeseen physical conditions on the parcel being subdivided;
- e. Modifications to any construction plans for off-site improvements which are acceptable to the Administrative Officer and considered

minor in nature; or,

- f. Modifications, which are required by outside permitting agencies such as, but not limited to the RIDEM and the RIDOT.

- C. **Major Changes.** Major changes to a land development or subdivision plan may be approved only by the Planning Board. The procedure for approval of any such major changes shall follow the same review and public hearing process as required for preliminary approval to a major land development and major subdivision.

For the purpose of these Regulations, the term "major changes" shall mean changes, which, in the opinion of the Administrative Officer, are clearly contrary to the intent of the original approval. Such major changes shall include, but are not necessarily limited to the following:

- a. Changes, which would have the effect of creating additional lots or dwelling units for development;
- b. Changes which would be contrary to any applicable provision of the Zoning Ordinance or which require a variance or special use permit from the Zoning Board of Review;
- c. Changes which may have significant negative impacts on abutting property or property in the vicinity of the proposed subdivision or land development project; or
- d. Significant re-alignment of road or entrance changes.

#### **10-5.14 Precedence of Approvals Between Planning Board and Other Local Permitting Authorities.**

- A. **Zoning Board.** Where an applicant requires both a variance from the Zoning Ordinance and Planning Board approval, the applicant shall first obtain a concept plan approval and an advisory recommendation from the Planning Board, which may be simultaneous, then obtain conditional Zoning Board relief, and then return to the Planning Board for subsequent required approval(s).

Where an applicant requires both a special-use permit under the Zoning Ordinance and Planning Board approval, the applicant shall first obtain an advisory recommendation from the Planning Board as well as conditional Planning Board approval for the first approval stage for the proposed project, which may be simultaneous, then obtain a conditional special-use permit from the Zoning Board, and then return to the Planning Board for subsequent

required approval(s).

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

#### **10-5.15 Enforcement and Penalties.**

- A. Violations.** Any person who fails or refuses to adhere to all of the terms and conditions of any subdivision of land or development plan that has been approved by the Burrillville Planning Board or the Administrative Officer shall be in violation of these Regulations.

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 before the plat has been approved by the Planning Board and recorded in the Land Evidence Records shall be in violation of these Regulations.

Any person who, having submitted an application for subdivision or development approval, begins construction of the subdivision or development, or constructs any structure or improvement on the parcel, without having first received approval from the Planning Board or the Administrative Officer, shall be in violation of these Regulations.

- B. Penalties for Violations.** Any person adjudged in violation of these Regulations shall be liable for penalties not to exceed five hundred dollars (\$500) per day, and each day of existence of a violation shall be deemed a separate offense.
- C. Injunctive Relief.** The Town of Burrillville shall have the authority to bring suit in Providence County Superior Court to restrain the violation of, or compel compliance with, the provisions of these Regulations.

An action for injunctive relief brought by the Town of Burrillville in the Superior Court may be consolidated with an action seeking penalties for violations of these Regulations.

#### **10-6. Application Stages and Requirements.**

**10-6.1 Requirements Common to all Submissions.** The applicant shall submit to the Administrative Officer at least thirteen (13) copies of the required plans and any supporting materials. The scale of the plans shall be sufficient to clearly show all of the information required and shall be subject to the approval of the Administrative Officer. Each sheet shall be no larger than 24 x 36 inches, and each sheet shall be numbered sequentially, e.g. Sheet 1 of 3, 2 of 3, etc. The plans must illustrate all parcels, in their entirety, involved in the proposed subdivision or land development. Plans shall include a certification that all plans and proposed improvements conform to all existing and amended standards of the State of Rhode Island and Providence Plantations, Board of Registration for Professional Engineers and Board of Registration of Land Surveyors, as appropriate.

Every submission should also be accompanied by a General Application for Subdivision or Land Development, as contained in the Appendices. The specific submission requirements for each stage of a proposed development are contained in the appendices.

**10-6.2 Pre-Application Meetings and Concept Review.** One or more pre-application meeting must be held for major subdivision/land development applications. Pre-application meetings may be held for administrative or minor subdivision/land development applications, upon request of either the municipality or the applicant. Pre-application meetings shall allow the applicant an opportunity to meet with appropriate officials for advice as to the required steps in the approvals process, the pertinent local plans, ordinances, regulations, rules and procedures and standards which may bear upon the proposed development project.

At the Pre-application stage the applicant may request the Planning Board for an informal concept plan review for a development. The purpose of the concept plan review is also to provide the Planning Board with input in the formative stages of subdivision and land development concept design.

Applicants seeking a Pre-application meeting or an informal concept review shall submit materials in advance of the meeting(s) as described in the Appendix under “Checklist for Preapplication Meetings/Concept Plan Review – Minor/Major – Subdivision Plan/Land Development Project” The Administrative Officer shall have fifteen (15) days to certify that a Pre-application submission is complete or incomplete. Within forty-five (45) days after a submission has been certified as complete, the Preapplication meeting will be held.

Pre-application meetings shall aim to encourage information sharing and discussion of project concepts among the participants. Pre-application discussions are intended for the guidance of the applicant and shall not be considered approval of a project or its elements.

**10-6.3 Administrative Subdivision - Review Procedures.** The application shall be

certified, in writing, by the Administrative Officer as complete or incomplete within fifteen (15) days after submission by the applicant.

Within fifteen (15) days of certification of completeness, the Administrative Officer shall review the application and approve, deny, or refer it to the Planning Board with recommendations at its next regular meeting. If no action is taken by the Administrative Officer within the fifteen (15) day period, the application shall be placed on the next regularly scheduled Planning Board agenda.

If referred to the Planning Board, the Board shall consider the application and the recommendations of the Administrative Officer and/or the technical review committee and shall either approve, approve with conditions, or deny the application within sixty-five (65) days of certification of completeness. Failure of the Planning Board to act within the period prescribed shall constitute approval of the administrative subdivision plan and certificate of the Administrative Officer as to the failure of the Planning Board to act within the required time and the resulting approval shall be issued on request of the applicant.

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

Any approval of an administrative subdivision shall be evidenced by a written decision, which shall be filed and posted in the Town Clerk's office. Approval of the administrative subdivision shall expire within ninety- (90) days from date of approval, unless said plat is recorded with the Land Evidence Records, Town of Burrillville. This time period may be extended, for cause shown, if requested by the applicant in writing, to the Planning Board, prior to the expiration date, and approved by the Planning Board.

**10-6.4 Minor Subdivision/Minor Land Development - Review Procedures.** Minor subdivision/minor land development shall consist of two (2) stages, preliminary and final. As described above, a pre-application meeting may be held at the request of the municipality or applicant. The Planning Board may, at its discretion, combine the approval stages, provided that all of the requirements of both sections have been met. If a street extension or creation is required, then a Public Hearing must be held. The Planning Board may reassign a proposed minor project to major review only when the Planning Board is unable to make the positive findings.

**A. Preliminary Plan.** The submission shall be certified, in writing, complete or incomplete by the Administrative Officer within twenty-five (25) days or within fifteen (15) days if no street creation or extension is required. The running of the time period set forth herein shall be deemed stopped upon the issuance of a certificate of incompleteness and shall recommence upon the submission of a corrected application by the applicant. However, in no event shall the Administrative Officer be required to certify a corrected

submission as complete or incomplete less than fourteen (14) days after its resubmission.

If a street creation or extension is required, the Planning Board shall hold a Public Hearing, prior to approval, approval with conditions or denial of the preliminary plan within ninety-five (95) days of certification of completeness, or within any specified time that is agreed to by the applicant and the Board.

If no street creation or extension is required, the Planning Board shall approve, deny, or approve with conditions the preliminary plan within sixty-five (65) days of certification of completeness, or within any specified time that is agreed to by the applicant and the Board.

Failure of the Planning Board to act within the period prescribed constitutes approval of the preliminary plan and a certificate of the administrative officer as to the failure of the Planning Board to act within the required time and the resulting approve will be issued on request by the application.

- B. Final Plan.** Upon final plan submission a final plan review shall be performed by the Administrative Officer. The Administrative Officer shall be allowed fifteen (15) days for review. The Administrative Officer shall report his/her findings to the Planning Board, in writing, at their next regularly scheduled meeting, to be made part of the record.
- C. Vesting.** Approval of a minor land subdivision/minor land development shall expire ninety- (90) days from date of approval unless within the said time period, a plat is submitted for signature and recorded in the Land Evidence Records, Town of Burrillville. This time period may be extended, for cause shown, if requested by the applicant in writing to the Planning Board, prior to the expiration date, and approved by the Planning Board.

**10-6.5 Major Subdivision or Major Land Development – Review Procedures.** Major subdivision or major land development shall consist of all subdivisions of land, unless classified as an administrative subdivision or minor subdivision or minor land development. A major subdivision/major land development shall consist of the following submission stages:

- a.** Pre-Application Meeting;
- b.** Master Plan;
- c.** Preliminary Plan; and
- d.** Final Plan.

A pre-application meeting is mandatory for a major subdivision or land development project. Provided that at least one (1) pre-application meeting has been held for major land development or subdivision application or sixty (60) days has elapsed

from the filing of the pre-application submission and no pre-application meeting has been scheduled to occur within said sixty (60) days, nothing shall be deemed to preclude an applicant from thereafter filing and proceeding with an application for a land development or subdivision project in accordance with the next appropriate stage of the submission process. A public informational meeting and a public hearing are also required. The Planning Board may, at its discretion, combine the approval stages, providing that the requirements of those stages have been met.

- A. Master Plan.** The submission requirements for the master plan are located in the Appendix under “Master Plan Requirements, Major Subdivisions/Land Development”. The application shall be certified as either complete or incomplete by the Administrative Officer within sixty (60) days after submission by the applicant. The running of the time period set forth herein shall be deemed stopped upon the issuance of a certificate of incompleteness and shall recommence upon the submission of a corrected application by the applicant. However, in no event shall the Administrative Officer be required to certify a corrected submission as complete or incomplete less than fourteen (14) days after its resubmission.

The Planning Board shall, within one hundred twenty (120) days of certification of completeness, either approve, approve with conditions or deny the master plan application. This time period may be extended by consent of the applicant. Failure of the Planning Board to act in the above specified time period shall constitute approval of the master plan.

The Administrative Officer shall solicit comments from (a) local agencies such as, but not limited to; Police and Fire Departments; Planning Department; Department of Public Works; Conservation, Recreation and Economic Development Commissions; (b) abutting communities; (c) state agencies, such as Departments of Environmental Management and Transportation (d) federal agencies, where appropriate. It is the responsibility of the Administrative Officer to coordinate review comments and report to the Planning Board.

**Informational Meeting.** A public informational meeting shall be held prior to the Planning Board decision on the Master Plan, unless the Master Plan and Preliminary Plan approvals are being combined, in which case the public informational meeting shall be optional, based upon Planning Board determination.

Public notice for the informational meeting is required and shall be given at least seven (7) days prior to the date of the meeting in a newspaper of general circulation within the Town. Postcard notice shall be mailed to the applicants and to all property owners within the notice area.

At the public informational meeting the applicant shall present the proposed

development project. The Planning Board shall allow oral and written comments from the general public. All public comments shall be made part of the public record of the project application.

- B. Preliminary Plan.** The submission requirements are located in the Appendix under "Preliminary Plan Requirements, Major Subdivision/Land Development". The application shall be certified, in writing, complete or incomplete by the Administrative Officer within sixty- (60) days of the submission. The running of the time period set forth herein will be deemed stopped upon the issuance of a certification of incompleteness of the application by the Administrative Officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event shall the Administrative Officer be required to certify a corrected submission as complete or incomplete less than fourteen (14) days after its resubmission.

Final written comments shall be solicited from all appropriate local authorities and a Public Hearing shall be held prior to approval of the preliminary plan.

Within one hundred twenty (120) days of certification of completeness by the Administrative Officer, the submission shall be approved, approved with conditions, or denied. This time period may be extended with consent in writing by the applicant. Failure of the Planning Board to act within the prescribed period shall constitute approval of the preliminary plan and a certificate of the Administrative Officer as to the failure of the Planning Board to act within the required time and the resulting approval shall be issued on request of the applicant.

**Public Hearing and Notice.** A public hearing shall be required for a major subdivision or a major land development project or where a street extension or creation requires a public hearing for a minor land subdivision or land development project.

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 Burrillville. Notice shall be sent to the applicant and to each owner within the notice area, by certified mail, return receipt requested, of the time and place of the hearing not less than ten (10) days prior to the date of the hearing. Said notice shall also include the street address of the subject property, or if no street address is available, the distance from the nearest existing intersection in tenths (1/10) of a mile. The Administrative Officer may require a supplemental notice that an application for development approval is under consideration be posted at the location in question. Such posting shall be for informational purposes only and shall not constitute required notice of a public hearing.

Additional notice within watersheds shall also be sent as required:

Notice of the public hearing shall be sent by first class mail to the city or town Planning Board of any municipality where there is a public or quasi-public water source, or private water source that is used or is suitable for use as a public water source, located within two thousand feet (2,000') of the municipal boundaries.

Notice of a public hearing shall be sent to the governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water source and/or surface watershed that is used or is suitable for use as a public water source located within either the municipality or two thousand feet (2,000') of the municipal boundaries, provided, however, that a map survey has been filed with the building inspector.

Notice of the public hearing shall be sent by the Administrative Officer to the Administrative Officer of an adjacent municipality if (1) the notice area extends into the adjacent municipality, or (2) the development site extends into the adjacent municipality, or (3) there is a potential for significant negative impact on the adjacent municipality.

The cost of all such notice shall be borne by the applicant.

- C. Final Plan.** The submission requirements are contained in the Appendix under "Final Plan Requirements, Major Subdivision/Land Development". The application shall be certified, in writing, as complete or incomplete within twenty-five (25) days. This time period may be extended to forty-five (45) days by written notice from the Administrative Officer to the applicant where the final plans contain changes to or elements not included in the preliminary plan approval. The running of the time period set forth herein shall be deemed stopped upon the issuance of a certificate of incompleteness of the application by the Administrative Officer and shall recommence upon the resubmission of a corrected application by the applicant. However, in no event shall the Administrative Officer be required to certify a corrected submission as complete or incomplete less than fourteen (14) days after its resubmission. If the Administrative Officer certifies the application as complete and does not require submission to the Planning Board, the final plan shall be considered approved.

If all of the requirements set forth by the Planning Board's preliminary plan decision have been met and the submission has been certified as complete, then the final plan shall be considered approved.

If the Administrative Officer determines that, the submission is not complete, or does not meet the Planning Board's conditions of approval, the submission

shall be referred to the Planning Board. The Planning Board shall, within forty-five (45) days after certificate of completeness, either approve, or deny the final plan, as submitted. This time period may be extended by written consent of the applicant. Failure of the Planning Board to act within the prescribed period shall constitute approval of the final plan.

- D. Vesting.** The approved master plan shall be vested for a period of two (2) years, with the right to extend for two (2) one-year extensions upon written request by the applicant, who must appear before the Planning Board for the annual review. Vesting may be extended for a longer period, for good cause shown, if requested by the applicant in writing, and approved by the Planning Board. Master plan vesting shall include the zoning requirements, conceptual layout and all conditions shown on the approved master plan drawings and supporting materials.

The approval of the preliminary plan shall be vested for two (2) years, with the right to extend for two (2) one-year extensions, upon written request by the applicant who must appear before the Planning Board for each annual review and provide proof of valid state or federal permits as applicable. Thereafter, vesting may be extended for a longer period, for good cause shown, if requested in writing by the applicant and approved by the Planning Board. The vesting of the preliminary plan approval shall include all general and specific conditions contained on the plan.

The final approval of a major subdivision or major land development shall expire one (1) year from date of approval, with the right to extend for one year, upon written request by the applicant, who must appear before the Planning Board for the annual review, unless within said time period a plat is submitted for signature and recorded in the Land Evidence Records, Town of Burrillville. The Planning Board may, for good cause shown, extend the period for recording for an additional period.

## **10-7. Improvement Guarantees**

- 10-7.1 Purpose.** Improvement Guarantees shall be provided to ensure the proper installation and maintenance of required street, utility, and other physical improvements and to ensure compliance with any non-structural conditions of the final plan approval, if any.

- 10-7.2 General Procedures.** Before any land development project or subdivision is endorsed by the Planning Board, the Planning Board shall be required to approve agreements for the completion of the required improvements. Said agreement shall take the form of:

- completion of construction of all actual improvements;
- improvement guarantees;
- or combination thereof.

At the preliminary stage of the review process, the applicant shall submit either of the following:

- a letter to the Planning Board indicating his/her intent to complete the required improvements prior to the Planning Board's endorsement of the final plat;
- a letter requesting that security sufficient to cover the cost of required improvements be established by the Board.

**A. Improvements Without A Financial Guarantee.** If improvements are to be constructed without a financial guarantee, all work must be completed and accepted by the Town of Burrillville prior to endorsement by the Planning Board and subsequent recording of the plans with the Town Clerk's office. The applicant shall be responsible for notification to, and payment for construction inspection services to, the Administrative Officer, prior to commencing construction.

The Administrative Officer within ten (10) days after all required construction improvements, including submission of "as-built" plans, are complete and acceptable, shall notify the Planning Board of said completion. The final plat shall then be endorsed by the Planning Board and a recommendation for acceptance of the improvements will be forwarded to the Town Council. Final acceptance of the improvements shall be done as outlined in Release of Bond/Acceptance of Improvements of these Regulations.

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

improvements as recommended by the Engineer and the Administrative Officer.

Ninety (90) days prior to the expiration of final plan approval, if the required improvements are incomplete, the Planning Board shall review the status of the improvements with the Administrative Officer and may

1. require the applicant to extend the duration of the entire improvement guarantee;
2. reduce the amount of the improvement guarantee to cover the estimated costs of all uncompleted or unaccepted required improvements;
3. authorize the Administrative Officer to complete the work outstanding utilizing the improvement guarantee funds.

The improvement guarantee shall be acceptable to the Director of Finance and Town Solicitor and shall enable the Town to gain timely access to the secured funds, for cause. An improvement guarantee may be provided by any of the following:

1. Security Bond: The applicant may obtain a bond from a surety bonding company authorized to do business in the State of Rhode Island.
2. Escrow Account: The applicant may deposit cash, or other instruments readily convertible into cash at face value, with the Town or in an escrow account with a bank.

Prior to commencing construction, the applicant shall notify the Administrative Officer of his/her intention. All inspection fees are required to be paid prior to commencing work. It is the responsibility of the applicant to provide the Administrative Officer with an anticipated construction schedule.

At the expiration of the final plan approval period, if all improvements are complete and accepted, any improvement guarantees shall be returned to the applicant. Partial reductions in the improvement guarantee may be requested, in writing to the Planning Board, prior to expiration of final plan approval. Any requests shall be reviewed by the Administrative Officer and the Director of Public Works to insure that there are sufficient funds remaining to complete the improvements. The Planning Board shall act on all such releases or reductions in the improvement guarantees.

When land development projects or subdivisions have been approved by the Planning Board to be constructed in phases, the Planning Board shall specify improvement guarantees related to each particular phase. In doing so, the Board shall clearly establish what off-site improvements or conditions, if any, are to be required for each phase.

**10-7.3 Setting of Improvement Guarantees.** The Town's Engineer shall establish security amounts on what will be public infrastructure, as well as private roadways in the case of private compounds, to ensure adequate, safe construction of said roadways.

**10-7.4 Maintenance Guarantees.** The Planning Board shall require that a maintenance guarantee be provided by the applicant for all improvements, which are being dedicated to the Town for public acceptance and maintenance. The amount of the maintenance guarantee shall be five percent (5%) of the total estimated cost of all required improvements. The initial period for such maintenance guarantee shall be one (1) year. At the end of the one-year maintenance period, the Town's Engineer shall inspect all improvements subject to the guarantee and shall certify in writing to the Administrative Officer as to their condition. If found to be unacceptable, the Administrative Officer shall recommend an extension of the guarantee period to the Finance Director, and the original funds shall not be returned to the applicant. If public improvements are in good condition and have not been damaged due to the fault of the applicant, or through faulty workmanship or design, the maintenance guarantee shall be returned to the applicant.

In cases where the Planning Board finds there are extenuating circumstances; the initial maintenance period may be established for a period longer than one year. The reasons for establishing a longer maintenance period and the nature of the extenuating circumstances shall be made a part of the record.

**10-7.5 Release of Bond/Acceptance of Improvements.** Upon completion of all required improvements, including the submission of "as-built" plans, the applicant shall convey all public improvements to the Town for ownership and maintenance. Previously approved private facilities shall not be conveyed to the Town. Private facilities shall be conveyed to either the Home Owner's Association or other entity previously approved by the Planning Board. The applicant shall first submit a request in writing for a final inspection of the improvements, to the Administrative Officer. Upon receiving written confirmation from the Administrative Officer that the improvements are complete and acceptable, the applicant should submit a request for bond release and acceptance of improvements to be placed on the agenda for the next regularly scheduled Planning Board meeting. If all of the requirements of the Regulations have been met, the Planning Board shall release the bond and recommend acceptance by the Town Council of all such improvements and shall submit such in writing.

Upon the Planning Board's decision, draft deeds should be submitted to the Administrative Officer who will review them with the Town Solicitor. The Administrative Officer will inform the applicant when the deeds are acceptable and that a letter be sent to the Town Council requesting that the improvements be accepted. Upon acceptance by the Town Council and recording of the deeds with the Town Clerk's Office, all improvements shall be permanently owned and maintained by the Town as part of the municipal system, and the applicant is no longer responsible for

care, repair or maintenance.

## 10-8. LAND FOR RECREATIONAL PURPOSES/OPEN SPACE

**10-8.1 Open Space Must Be Provided.** The Planning Board shall require all land developments and subdivisions subject to the provisions of these Regulations to dedicate a portion of the land being subdivided or developed for the purpose of providing open space, conservation, park and recreational land and/or facilities to serve present and future residents of the proposed land development or subdivision. The Planning Board may, in its discretion, require the payment of a fee in-lieu-of land dedication, or a combination of land dedication and payment of a fee, as an alternative to the dedication of land. If payments in lieu of land dedication are required, they must be kept in a restricted account and shall only be spent for the intended purpose of providing open space, conservation, park and/or recreational facilities.

**10-8.2 Relationship to Comprehensive Plan.** No dedication of land to the public or payments-in-lieu of such dedications shall be required unless the need for such is documented in the adopted plans of the Town, i.e., the Comprehensive Plan, the Conservation, Recreation and Open Space Plan or the Capital Improvement Program (CIP). The requirement for dedication of land for open space, conservation, park and recreation facilities shall be based upon the policies and standards set forth in the above plans and shall reflect the character defined by the Comprehensive Plan for the neighborhood or district in which the subdivision is located. The nature of the land dedication must reflect the character of the land being subdivided and must be suitable for the intended use.

**10-8.3 Amount of Land to be Dedicated.** The land conveyed shall be so located and of such a nature as to be readily adaptable and usable for recreation purposes. The minimum amount of land to be dedicated shall be based upon the following formula:

<b>Amount of Dedicated Land (acres)</b>	<b>=</b>	<b>Maximum No. of DU's in the Subdivision<sup>1</sup></b>	<b>X</b>	<b>Persons per DU<sup>2</sup></b>	<b>X</b>	<b>Land Need<sup>3</sup></b>
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1 The maximum number of dwelling units in all phases of the land development project or subdivision.

2 The average number of persons per household per 2000 U.S. Census.

3 Land need shall mean the adopted Town standards for open space and outdoor recreation areas provided in the Burrillville Comprehensive Plan.

The Board may, in its discretion, require that the applicant clear, grade and landscape the land to be dedicated in order to make it suitable for recreation purposes. If the Board requires such improvements then the amount of land may be reduced as to offset the cost of such improvements by the applicant.

If a single applicant intends to subdivide an area consisting of more than one (1)

contiguous subdivision or section, the land to be conveyed shall be computed and selected on the basis of the entire area to be subdivided and shall be delineated and approved by the Planning Board prior to preliminary approval of any component subdivision or section. In addition, the Board, in its discretion, may direct that final approval of such component subdivision or section be conditional upon conveyance of making the required improvement or furnishing the adequate access to the recreation land in question.

**10-8.4 Ownership of Land.** Land dedications required by this section may be made by transfer of fee simple ownership to any of the following:

- a. The Town of Burrillville
- b. The State of Rhode Island
- c. The United States Government
- d. A private Homeowner’s Association
- e. A private non-profit conservation or recreation group

The Planning Board will determine to which organization the land will be dedicated.

**10-8.5 Fees-in-Lieu of Land Dedication.** If the Board determines that a suitable park, playground or recreation area of an adequate size cannot be properly located in such subdivision plat, or is otherwise not practical, then the Board may require, as a condition to approval of any final submission, a payment of a monetary fee by the applicant to the Town.

Where a fee is required by the Planning Board to be paid in lieu of land dedication, the amount of such fee shall be based on the fair market value of the amount of land, which would otherwise be required to be dedicated. The amount of such fee shall be determined by the following formula:

<b>Fee in lieu of dedication =</b>	<b>Fair Market Value of Land<sup>1</sup> X</b>	<b>Max. No. of DU’s<sup>2</sup> X</b>	<b>Persons per DU<sup>3</sup></b>	<b>Land Need<sup>4</sup> X</b>
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<sup>1</sup> Fair market value of land in the parcel being subdivided after subdivision approval has been granted, and which is suitable for use as open space, conservation, park and recreation facilities.

<sup>2</sup> The maximum number of dwelling units to be constructed in the subdivision.

<sup>3</sup> The average number of persons expected to be living in the dwelling units to be constructed.

<sup>4</sup> Land need shall mean the adopted Town standards for open space and outdoor recreation area as provided in the Burrillville’s Comprehensive Plan.

Such fee shall be deposited in an interest-bearing fund titled, “Recreation Capital Account”. The Parks & Recreation Department, upon majority vote of the Town Council, may expend up to 20 percent of the principal for capital acquisition of recreational facilities.

If the applicant questions the amount of said fee in lieu of land, he/she may request a hearing by the Board of Appeal. At this hearing, the Board of Appeal will take evidence and testimony, as it deems appropriate. Said hearing may be part of the final approval hearing if the Planning Board so stipulates.

**10-8.6 Fair Market Value.** Fair market value of the land, assuming subdivision approval has been granted, shall be determined prior to the time of filing of the final plan in accordance with one of the following:

- a. As determined by the Burrillville Tax Assessor from recorded sales within the last 24 months;
- b. If the applicant objects to such amount of evaluation as determined in “a” above, he/she may, at his/her own expense, obtain an appraisal of the property by a qualified real estates appraiser, which appraisal may be accepted by the Planning Board if found to be reasonable; or
- c. The Planning Board and applicant may agree as to the fair market value.

**10-8.7 Land Need.** The actual need for open space land and conservation land is expressed in acres per 1,000 of population based on the Comprehensive Plan. The 1990 Town-wide need is 6.25 acres per 1,000 residents.

**10-8.8 Persons per Dwelling Unit.** The figure of 2.75 persons per household from the 2000 Census shall be used.

**10-8.9 Time of Conveyance of Land or Payment of Fee in Lieu of Conveyance of Land.** Unless otherwise directed by the Board, the deed for land to be conveyed (and/or the money to be paid in lieu thereof) in accordance with the foregoing provisions of this article shall be delivered to the Town prior to final approval of the applicable subdivision or section thereof.

The Planning Board fully realizes the financial hardship that may be placed on a developer of tracts of over 10 lots, and will allow prorated payments of 25 percent of the amount at the final approval and the remaining fee in two equal installments on the next two anniversary dates of the final approve with an interest payment of 8% (eight percent) annually. Said payments shall be secured by a promissory note and recorded as a mortgage on said lots.

## **10.9 SUBDIVISION & PUBLIC IMPROVEMENT DESIGN STANDARDS**

### **10-9.1 General Design Standards**

The design of all subdivisions and land development projects shall conform to the Town of Burrillville Zoning Ordinance and Subdivision & Land Development

Regulations as written herein. The Planning Board has established the elements contained in Section 10-9 of these Regulations as the minimum design standards. The Planning Board reserves the right to determine lot location and number of lots created by subdivision in accordance with all procedures contained herein. For Cluster subdivisions, site walks are required with the Planning Board as part of pre-application submission. The Planning Board may raise or lower these standards upon a site walk and or review of the proposed plan. To the greatest extent possible, each land development application shall be sensitive to:

- Focusing growth within existing developed areas in effort to preserve and protect natural resources and landscapes outside of village centers.
- Improving traffic conditions to minimize traffic accidents
- Environmental (natural) constraints (slopes >15%, rock outcrops, wetlands, jurisdictional buffers, unique forests and field areas).
- To promote safety from fire, flood and other dangers
- To secure a well articulated street and highway system
- To insure adequate provisions for pedestrian traffic
- To secure an adequate storm water run-off management and soil erosion plan –utilizing BMP’s at all times.
- To preserve significant natural and historic characteristics
- To provide adequate public water and sanitary sewage treatment
- To provide a recreation area suitable for future use
- To promote development in conformance with the Comprehensive Plan

The applicant, at his/her own expense, shall construct all improvements where required by the Planning Board as a condition of approval for any subdivision or land development project subject to these Regulations.

**10-9.2 Street Standards.** The following design standards shall be followed where applicable in the design and construction of any subdivision.

- A. Frontage on Improved Streets.** The area to be subdivided shall have frontage on an existing improved Town-accepted street. If such an existing street has not been improved to the standards and specifications as required in these Regulations, the Board shall require the subdivider to make certain improvements along the part of the street abutting the property or leading to the property being subdivided where necessary for drainage, safety, traffic or other reasons, as deemed proper by the Board.

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

- B. Street Classifications.** Street design within a proposed subdivision or land

development project shall conform to the street classification system as established herein. Requirements for right-of-way and pavement width, on-street parking, drainage, utilities, sidewalks, and other design standards shall be tailored to the location and function of the specific roadway. Five (4) categories of streets shall be utilized. They are non-village roadways, village roadways, industrial/ commercial roadways and private streets.

Village roadways are required in all Village Commercial (VC), General Commercial (GC) and Village Residential (R-12) zoning districts. Non-village roadways are required in the remaining residential districts.

Industrial/commercial roadways are required in new industrial or commercial developments.

Private streets are allowed in Residential Compounds, multi-unit land development projects and Cluster Subdivisions. Low impact development, such as swales, semi-permeable pavers, etc., are encouraged within Cluster subdivisions (see Appendix B LID Resources).

The following serves to define the function of these roadways:

***Non-Village Roadways***

These roadways are meant to serve all residential developments located outside of the village centers. They will function as residential access and collector roadways within subdivisions as well as providing connection to adjacent subdivisions.

***Village Roadways***

These roadways will serve the most densely populated areas within the Town, namely, the villages of Pascoag, Harrisville, Mapleville, Glendale, Nasonville, etc. These roadways will be somewhat wider in nature to provide the opportunity for on street parking in these more densely developed areas.

***Industrial/Commercial***

These roadways are meant to provide service to industrial and/or commercial parks and areas. These roadways will be wider in nature to address the specialized traffic needs, namely truck traffic and delivery vehicles.

***Private Roads***

These roads are meant to limit drainage impacts on the natural environment, preserve rural character by being of gravel composition, and serve a limited number of homes in a private setting. Private streets may be allowed as part of a Cluster Subdivision of 5 units or less, if constructed in accordance with the private road standards contained herein, to preserve rural character and

minimize drainage impacts to the existing natural environment.

- C. Design Standards.** Provided on the following page is Table 10-1 Roadway Design Standards, which outlines the design standards for the five roadway categories. You will note that there are no specific standards for arterial roadways. Should an applicant propose a new arterial within the Town of Burrillville associated with an industrial, commercial or residential development, at the Conceptual stage of review they will be asked to perform a specific set of studies to determine the most appropriate design for the ultimate function that roadway will provide. Such analysis shall include but not be limited to the following:

Traffic Impact Analysis – or -  
Other analyses as warranted by the Planning Board

Immediately following Table 10-1 is Figure 10-1, which presents a typical cross sections for a non-village roadway. Figure 10-2 provides a plan view with cul-de-sac design standards and Figure 10-3 provides a sectional view of a private road.

- D. Sidewalks and Bicycle Paths.**

**Sidewalks:**

Concrete sidewalks, Five (5) feet in width, shall be required as follows:

1. Arterial Roadways: As determined by the Planning Board
2. Industrial/Commercial Roadways: As determined by the Planning Board
3. Village Roadways: Both Sides of the Street
4. Non-Village Roadways: One Side of the Street as determined by the Planning Board
5. Private Streets: Not required in Residential Compounds, may be required in land development projects.

Sidewalks shall be located six (6) feet away from the curb and separated by a tree planter strip. When sidewalks are required on one side only, a graded sidewalk area will be required on the other side of the street. This area will be loamed and seeded for future use and serve to present a consistent roadway cross section. Public rights of way shall be owned by the Town and not by abutting landowners. Planter strip grass areas shall be maintained by abutting landowners. Street trees shall be maintained by the Town. The Planning Board may waive sidewalks if the following exists:

- (a) The development is located more than one mile from a public or private school;

- (b) The development is located more than one-half mile from major public or private facilities such as churches, shopping areas, post offices, playgrounds etc., where there is not a reasonable likelihood that pedestrian traffic to, from and within the proposed development would result;
- (c) The development is located in an area with low vehicular traffic volumes, where the likelihood of pedestrian conflicts are diminished; and
- (d) Sidewalks are not warranted, as deemed appropriate by the Planning Board.

**Table 10-1 Roadway Design Standards**

	Industrial/ Commercial	Village Roadways	Non-Village Roadways	Private Roadways
R.O.W. width	60'	60'	43'	N/A
Pavement Width	36'	34' (2x10' travel lanes) (2x7' parking lanes)	22' (2x11' travel lanes)	20' (2x10' travel lanes)
Maximum Grades centerline	8%	8%	8%	8%
within 150' of centerline intersection	2.5%	4.0%	4.0%	4.0%
Minimum Grades	1%	0.5%	0.5%	0.5%
Minimum Length of Vertical Curves	20 feet per 1% grade change or 100 foot whichever is greater	20 feet per 1% grade change or 100 foot whichever is greater	20 feet per 1% grade change or 100 foot whichever is greater	20 feet per 1% grade change or 100 foot whichever is greater
Minimum Radius of Centerline Curve	150' with minimum of 100' tangent between curves	150'	150'	100'
Minimum Site Distance	250'	175'	175'	N/A
Cul-de-sac				
Maximum length	1,000'	1,000'	1,000'	1,000'
R.O.W. bulb diameter	130'	110'	110'	110'
Pavement Diameter	120'	100'	100'	100'
Maximum Grade (final 300' leveling area)	3.5%	3.5%	3.5%	3.5%
Minimum Grade	1%	1%	1%	0.5%
Intersection Fillet Curve R.O.W Minimum Radius Pavement Minimum Radius	30' 40'	15' 25'	25' 35'	N/A
Pavement Crown	3/8" / LF	3/8" / LF	3/8" / LF	3/8" / LF

Right angle intersections: Streets shall be laid out so as to intersect, as nearly as possible, at right angles. No streets shall intersect any other street at less than 60 degrees.

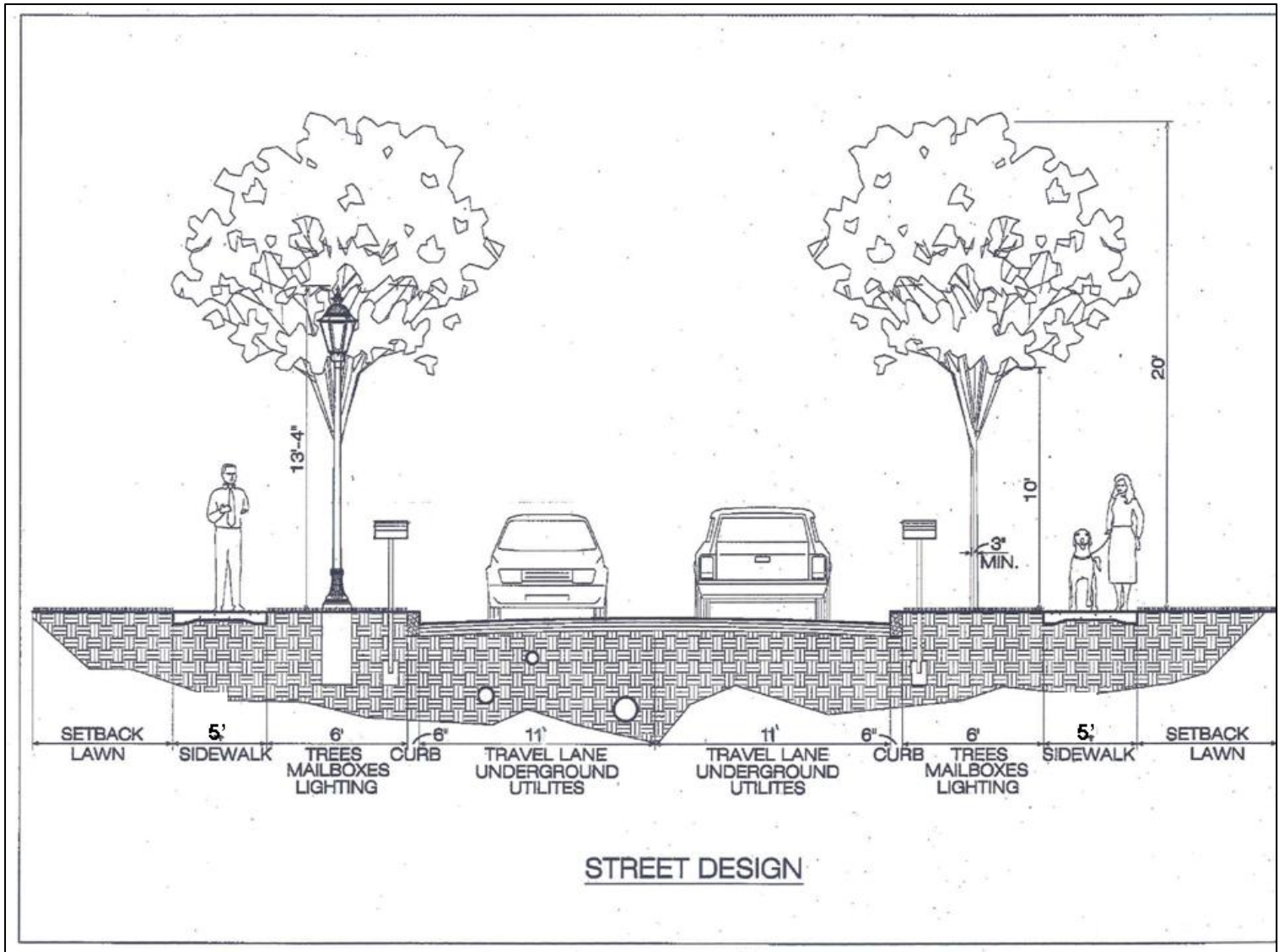
Street Jogs: Street jogs with centerline offsets of less than 125' should be avoided.

**Bicycle Paths:**

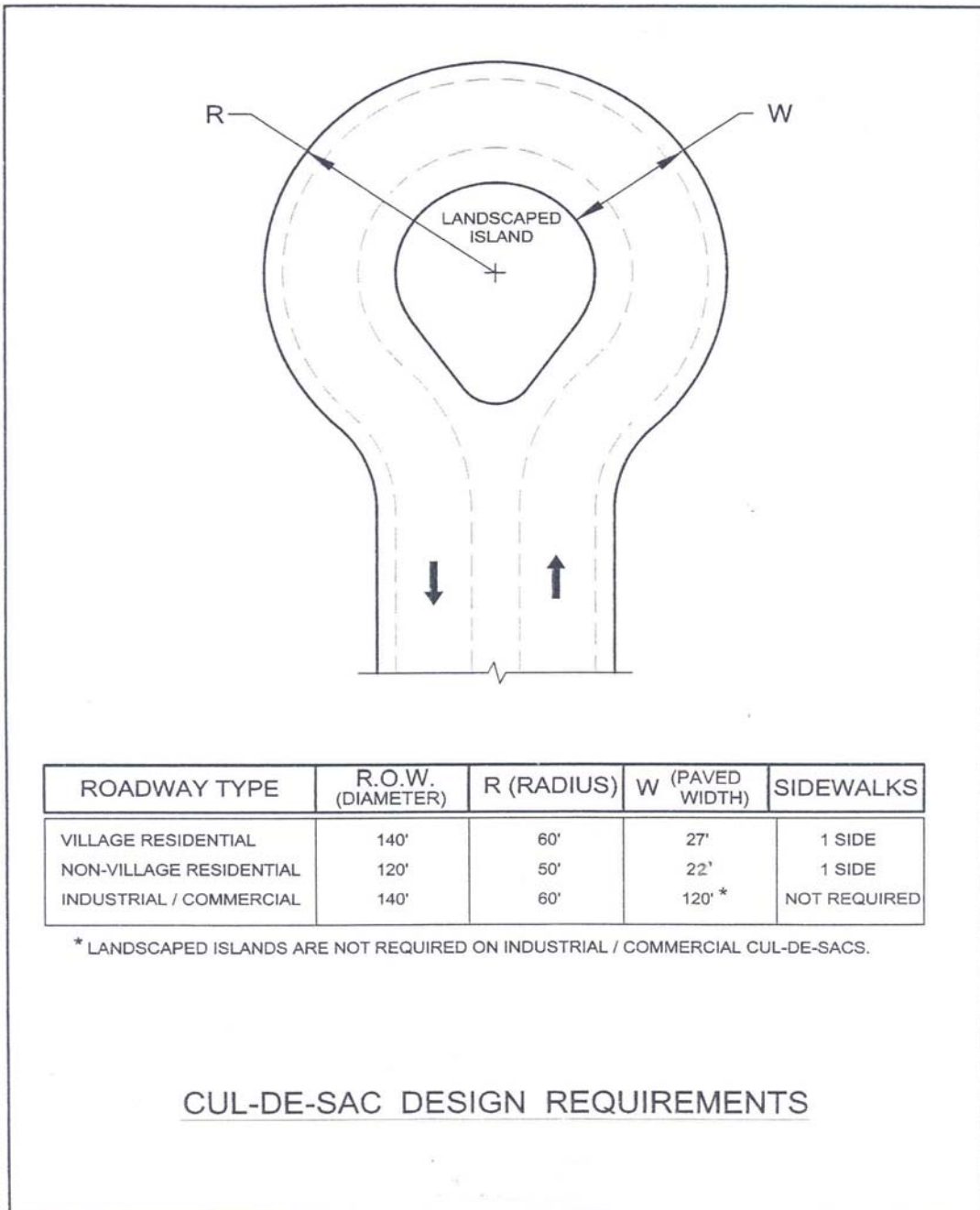
Bicycle paths shall be incorporated into the proposed subdivision where they are necessary to extend an existing bicycle path or bike walk; to intersect with proposed State and local bicycle facilities; to connect adjacent subdivision where vehicular connections would be impractical; or to further the goals of the Burrillville Comprehensive Plan; or where adjacent or nearby public or private schools, recreation areas, or other similar facilities would be likely to generate significant bicycle traffic.

Bicycle paths may be incorporated into sidewalk systems within subdivisions, at the discretion of the Planning Board. Bicycle path/sidewalks shall be no less than six feet in width, as to accommodate both pedestrian and bicyclist.

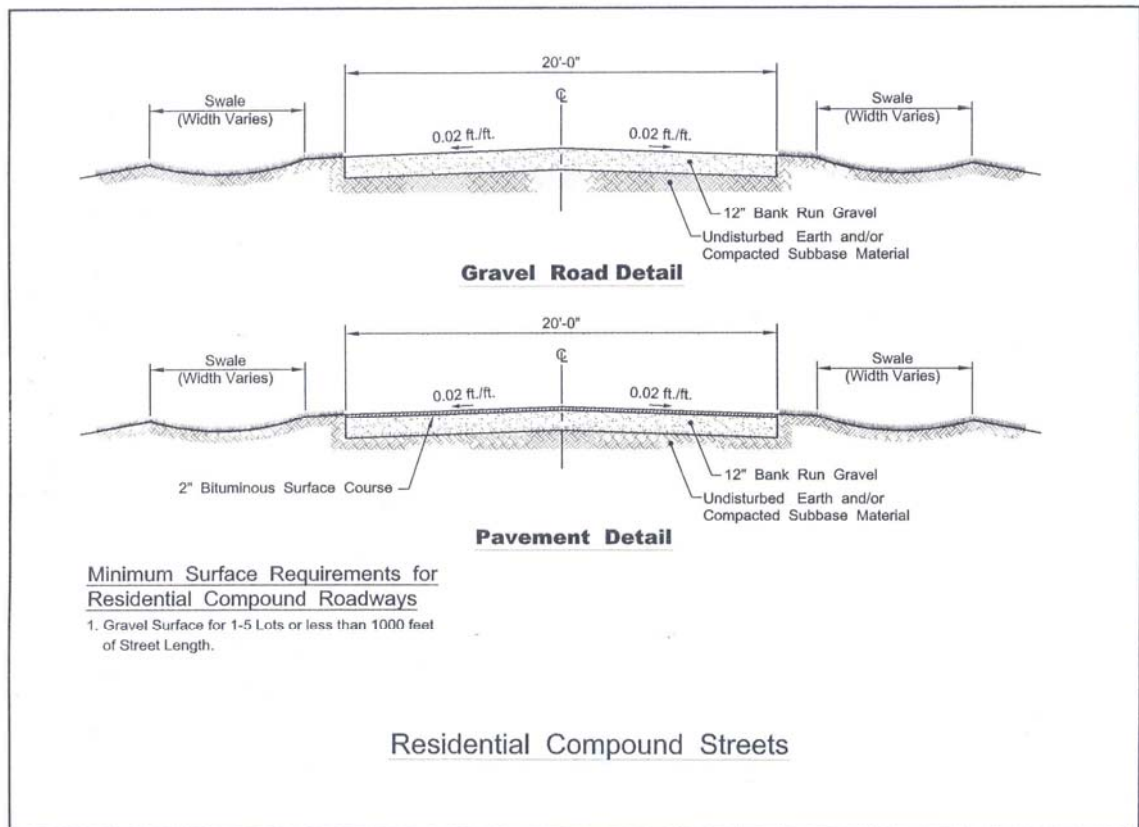
**Figure 1. Non-village Roadway Section**



**Figure 2 Cul-de-sac**



**Figure 3. Residential Compound Street**



- E. Street Layout and Arrangement.** The proposed arrangement of streets shall be considered in relation to the existing street system, and to existing topographic and natural conditions and to create an attractive streetscape.

Proposed streets within a major subdivision shall provide for their continuation or projection to intersect with principal streets on the perimeter of the subdivision or with adjacent vacant property in order that the streets may be extended at a future time.

- F. Street Intersection** Street intersections shall either coincide precisely with, or be offset by at least 150 feet from other intersections. Intersections shall be at 90-degree angles. The Planning Board may approve lesser angles between 75 degrees and 90 degrees.

- G. Dead End Streets (Cul-de-sacs)** All dead end streets shall end in a cul-de-sac turnaround and shall be clearly marked at their entrances. Dead end streets without a turnaround are not allowed. The lengths of dead end streets shall be a maximum of one thousand (1,000) feet. The Planning Board may

further limit the length of the dead end street (cul-de-sac) where necessary, to ensure the adequate and safe circulation of vehicular traffic. Every cul-de-sac, other than those less than 500 feet in length, shall have a raised and curbed interior island landscaped as outline under Landscape Standards of these Regulations. Landscaping will be done in such a way as to not inhibit sight distance across the cul-de-sac. Figure 2 provides detailed design requirements for cul-de-sacs.

- H. Street Names.** An extension of an existing street shall have the same name as the existing street. Names of other proposed streets shall be substantially different from any existing street name in the Town of Burrillville. The Administrative Officer must approve all street names.
- I. Access to Adjoining Property.** When the Planning Board requires the provision of access to adjoining property, proposed streets (also known as “stub roads” or “connectors”) should be continued and improved for a minimum length of ten (10) feet so that they are recognizable. The reservation of strips of land preventing such access shall not be permitted. Where a dead-end street is to provide future access to adjacent property, the Planning Board may require a temporary easement provision for a cul-de-sac until such time as the street is extended.

Access to adjoining property for pedestrian and/or bicycle circulation may be required if the Planning Board finds that the connection will either: increase accessibility between adjoining subdivisions; join existing or proposed sidewalks or bicycle paths; join subdivisions to major public or private schools, recreation areas or other facilities; or, significantly enhance the public safety by providing such pedestrian and/or bicycle connections.
- J. Street Signs.** Street and traffic signs, approved by the Public Works Director, shall be installed by the developer at the developer’s expense and prior to issuing any certificates of occupancy.
- K. Street Lighting.** In all new subdivisions, provisions shall be made for street lighting connections at the discretion of the Public Works Director, the Planning Board, Fire Districts and the appropriate utility company.
- L. Street Trees.** Approved street trees are required in all subdivisions and land development projects. All planting shall be done under the supervision of a licensed arborist. The applicant shall plant street trees appropriate for the terrain, soil and climatic conditions encountered in the development, and in accordance with the following standards:

  - 1. Location –** Street trees shall be planted along both sides of all streets to be located within the 6 foot wide landscaped area in between the curb

and sidewalk. Trees shall be planted at distances of not more than fifty- (50) feet apart. At street corners, trees shall not be planted within twenty-five (25) feet of the intersecting right-of-way lines.

2. **Materials** – Trees shall be grown under local climatic conditions and be of symmetrical growth, free of insect pests and disease, suitable for street use and durable under the maintenance contemplated. Trees should have a minimum caliper size of 3 inches diameter breast height (d.b.h.) when planted. The lowest branch shall be at least 80” above finished grade to meet ADA standards. Trees proposed for planting shall be approved by the Planning Board. Loam shall be clean, of good quality and of such fertility and composition that it will support plant growth.
3. **Type** - The species selected are to be suitable for Zone 5 hardiness as published by the U.S. Department of Agriculture.
4. **Planting** – Street trees shall be planted in holes at least 6 inches deeper and 1 1/2 times as wide as the root ball. Larger excavation may be required in gravel or sand areas. Trees shall be planted at their previous depth in good quality topsoil or soil conditioned to the quality sufficient organic matter such as peat moss and a balanced fertilizer.
5. **Maintenance** – Street trees shall be maintained by the applicant from the time of planting until the time of the release of the maintenance guarantee following acceptance of streets by the Town Council. Maintenance shall include, but not be limited to, watering of trees, as necessary. If there is no maintenance guarantee required, the Planning Board may require separate guarantee provisions for maintenance of required street trees by the applicant for a maximum period of two (2) years from the date of planting. Any trees, which are not healthy at the end of the guarantee period, shall be replaced at the applicant’s expense and guaranteed until satisfactorily established.

**M. Centerline Pavement Markings.** For industrial and commercial roadways, centerline striping shall be per RIDOT Standard, Code T.20.2000.

### **10-9.3 Lot Design Standards**

#### **A. General**

Site walks are required of the Planning Board and Developer prior to either Master Plan or Preliminary Plan review. Site walks are mandatory for all Cluster Subdivision applications as part of the pre-application process. The Planning Board reserves the right to determine lot location and total number

of lots in conformance with the Town Zoning Ordinance and environmental (natural) constraints described below.

1. All house lots shall abut an existing or proposed public street except in the case of Residential Compounds or certain land development projects.
2. All lot dimensions shall conform to the requirements of the Town of Burrillville Zoning Ordinance.
3. The proportion of average lot depth to average lot width shall not exceed 2½:1.
4. Lots shall not extend through a block to another existing or proposed residential street (through lots).
5. Side lot lines shall be at right angles to street lines or radial to curved street lines unless the Planning Board determines that a variation from this rule will provide a better street or lot plan.
6. All house lots and limit of disturbance areas in relation thereto shall avoid environmental constraint areas (slopes >15%, rock / ledge outcrops, wetland areas including RIDEM jurisdictional wetland areas).
7. All proposed subdivisions shall strive to uphold the general goals and objectives of the Burrillville Comprehensive Plan, which promotes redevelopment of existing, dense village centers while preserving undeveloped land outside of those centers.

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

1. Sanitary Sewers - Easements shall be provided for sanitary sewers. The Planning Board will require permanent easements of such width as recommended by the Sewer Commission. The nominal width for a sewer easement shall be thirty- (20) feet.
2. Drainage Easements - Where above ground drainage flows are directed over private property which does not contain natural watercourses or wetlands, or where publicly owned and maintained drainage systems outfall on private land, a drainage easement shall be dedicated to the

Town over the area and at a location adequate for the intended purpose. Easements into and upon above ground drainage facilities such as storm water detention or retention basins shall be granted to the Town wherever storm water from Town-owned streets or other improvements is intended to be directed to such basins. The nominal width for such a facilities drainage easement shall be thirty- (30) feet.

3. Sight Distance Easements - Where deemed necessary by the Planning Board to establish or maintain adequate sight distances for vehicular traffic, the dedication of an easement to the Town may be required which would prohibit the erection or maintenance of any visual obstruction such as a structure, tree, shrub, wall, earthen embankment, hill or any other obstruction.
4. Bicycle or Pedestrian Access Easements - Bicycle and pedestrian access shall be provided where required on a separate strip of land dedicated to the Town or on an easement having a minimum width of 15 feet.
5. Conservation Easement - All land dedicated for open space or recreational uses shall be covered by a Conservation Easement prohibiting its future development for residential use as well as ensuring its perpetual maintenance as conservation, recreation, or park land for the enjoyment of present and future residents.
6. Other Easements - All other required easements shall be of sufficient width and area for the intended purpose, as determined by the Planning Board.

#### **10-9.4 Blocks**

The Planning Board may require provision for pedestrian rights-of-way at the center of blocks to enhance pedestrian mobility. All such rights-of-way shall be ten (10) feet wide, shall be paved and landscaped, and shall be dedicated to the Town.

#### **10-9.5 Utilities**

When utilities exist in the general area of a new subdivision, the developer will be either required or encouraged to extend those utilities, depending on the utility's type. The installation of utilities will be done to the standards set forth by the individual utility company. The developer is required to work directly with the utility company in this regard. Cluster applications shall strive to utilize Onsite Waste Water Treatment Systems whenever possible in effort to restore groundwater aquifers.

- A. **Sanitary Sewers.** Where practical, sewers shall be designed and installed in accordance with the Rules and Regulations Governing the Public Sanitary

Sewer System for the Town of Burrillville, 1980 –as amended.

- B. Water Lines.** When a public water system is available, water lines shall be installed and water stops shall be provided for each lot in accordance with the Rules and Regulations of the appropriate Fire District. Water lines shall generally be located on the north or east side of the street. The developer should submit a wellhead protection plan for the Town’s review if a community well is proposed.
- C. Gas Lines.** Natural gas lines may be installed in any subdivision or land development project at the discretion of the subdivider. Gas lines shall be generally located on the south or west side of the street.
- D. Communication and Electrical Lines (Electric, Telephone, Cable TV, and Fire Alarm).** All communication and electrical lines shall be installed underground.
- E. Fire Hydrants.** Fire hydrants shall be installed in all subdivisions where public water supply systems are installed. Hydrant type, location, spacing and water pressure shall meet the minimum requirements of the National Fire Protection Association and local Fire Districts.
- F. Underground Water Storage/Fire Protection.** When it is determined by the local Fire District that on-site water storage facilities are required to provide adequate fire protection, such facilities as water holding tanks shall be of the appropriate size and design as designated by the Fire District and shall be installed by the subdivider under the direction of the Fire District. A paved access to the storage facilities shall be installed for maintenance and repairs. Such access shall be in the form of a dedicated twenty-foot easement, approved by the Planning Board and Fire District.

**10-9.6 Erosion and Sediment Control**

Erosion and Sediment Control shall be in accordance with Chapter XIV of the Revised General Ordinances of the Town of Burrillville in the County of Providence, State of Rhode Island, 1972; updated 1988, and as further revised by the Town of Burrillville.

**10-9.7 Landscaping Standards**

- A. Intent.** A Landscape plan (Certified by a Registered Landscape Architect) shall be provided as part of site plan and subdivision design. It shall be conceived in a total pattern throughout the site, integrating the various elements of site design, preserving and enhancing the particular identity of the site and creating a pleasing site character. Developers are required to demonstrate Low Impact Development practices. For design guidance regarding Low Impact Development, see Appendix B LID Resources).

- B. General Requirements.** Cluster applications are required to design and utilize landscaping techniques that compliment low impact development and minimize drainage impacts such as but not limited to: swales, permeable pavers and infiltrative islands. Landscaping shall address plant materials such as trees, shrubs, ground cover, grass, flowers, etc., but may also include other materials such as wetlands, stone walls, paving materials, planters, signage, and street furniture. Areas that may be required to provide landscaping shall include, but are not necessarily limited to the following:
1. Drainage facilities, such as retention/detention basins, or drainage swales
  2. Entrance features
  3. Open space areas
  4. Proposed recreation facilities
  5. Buffer areas
  6. Lot areas that are disturbed during the construction process or where extensive grading removes a significant amount of natural vegetation
  7. Areas subject to re-grading or stabilization for soil erosion and sediment control purposes
  8. Areas disturbed by utility installation
  9. Cul-de-sac islands
- C. Maintenance.** Plantings installed by the applicant shall be maintained until the time of the release of the maintenance agreement as required by the Planning Board.

## **10-9.8 Drainage Systems**

- A. Introduction.** The drainage system may be comprised of natural and manmade elements, including grassed swales, curbs, catch basins, culverts, and storm water pipes. The applicant is required design Low Impact Development (see Appendix B LID Resources) to minimize the use of retention and detention basins and incorporate natural elements into the drainage design whenever possible. In addition to LID, developers shall consult the Best Management Practices (BMP's) and standards of the State of Rhode Island Storm Water Design and Installation Standards Manual. The use of retention/detention ponds will only be allowed where the developer convinces the Planning Board that this is the only viable option for this development. BMP's such as grassed swales and vegetated filter strips, not only collect and transport storm water, but also mitigate pollution; reduce sedimentation; provide visual aesthetics, recreational opportunities, and potential wildlife habitat. Drainage structures shall be in conformance with the accepted State RIDOT Standards, or approved equals.

- B. Drainage Calculations and Plan.** Drainage plans and drainage calculations shall be prepared by a State of Rhode Island Registered Professional Engineer. All applicable environmental permits must be obtained from state and federal regulatory agencies. The storm water drainage calculations, runoff rates, and system design shall be based on the application of the appropriate method as follows:

***The Rational Method*** – This is the preferred method for pavement drainage and other small systems of three acres or less, where no wetlands, ponds, or other storage depressions are present, and where drainage is toward the point of analysis.

$$Q = C \times I \times A$$

where: Q = Peak Discharge  
C = Runoff Coefficient  
I = Rainfall Intensity  
A = Area of Watershed

***U.S. Soil Conservation Service (1986) revised Technical Release 55 (TR-55)*** – This method is preferred for calculating runoff volume, peak discharge rate, and flood storage requirements for site development on sites generally larger than three acres or when detention basins are proposed.

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

1. The proposed drainage system shall be designed to accommodate storm water such that post-construction conditions do not result in increased peak run-off from pre-construction conditions (zero net increase).
2. An estimate of the quantity of storm water surface run-off presently flowing from the land proposed to be subdivided, and that which would be generated by the proposed subdivision, calculated on the basis of the two (2), ten (10), twenty-five (25), and one-hundred (100) year frequency, 24 hour, Type III, rainfall events.
3. An estimate of the quantity of storm water run-off entering the subdivision naturally from upstream areas within the watershed under present conditions, calculated on the basis of the two (2), ten (10), twenty-five (25) and one-hundred (100) year frequency rainfall.
4. An analysis of the capability of existing watercourses, storm water culverts and other drainage facilities within the land proposed to be subdivided to handle the run-off as calculated under 1 and 2 above, and proposals to handle such surface run-off. Design criteria for drainage

improvements shall conform to the State Specifications cited above may be modified by the Town of Burrillville. Culvert and storm sewers shall be designed as follows: pipe sizing for the twenty-five (25) year frequency rainfall; cross culvert sizing for fifty (50) year frequency rainfall, one-hundred (100) year frequency in a special flood hazard zone.

5. Proposals for disposal of surface run-off, downstream from the subdivision without danger to land and improvements or to the receiving water body.
6. The drainage plan and narrative shall further indicate how the following specific requirements will be met: (i) that each lot will be adequately drained; (ii) that natural drainage patterns will be maintained whenever possible; (iii) that all existing watercourses will be left open, unless approval to enclose is granted by the Planning Board and the Rhode Island Department of Environmental Management (RIDEM); (iv) that all new open watercourses will be seeded, sodded or paved depending on grades and soil types; and, (v) that a continuous drainage system will be installed and connected to a natural or manmade water course or to an existing piped storm drainage system. The ultimate destination of such continuous drainage shall be a permanent natural body of water or wetland. Where the Planning Board Engineer determines that such ultimate destination is impractical, the Board shall require the construction of a retention or detention area capable of accommodating proposed storm water volumes based on the two (2) year, ten (10) year, twenty-five (25) year, and one-hundred (100) year frequency rainfall events.
  - a) Where any part of the drainage system is proposed for location outside the public street right-of-way, provisions for future maintenance approved by the Planning Board and Department of Public Works will be provided.
  - b) All necessary easements to off-street watercourses will be obtained by the applicant and approved by the Town Solicitor.
  - c) Where volume velocity of the surface run-off is high, the flow thereof shall be controlled by one of the following: rip-rap, sediment basins, flow spreaders, or other applicable devices and/or techniques recommended in the Rhode Island Soil Erosion and Sediment Control Handbook.

## **10-9.9 General Construction Standards**

**A. Construction Plans.** Three (3) complete sets of all construction plans, profiles, cross-sections and other working drawings of required construction improvements shall be submitted to the Administrative Officer and approved by the Planning Board Engineer prior to any construction. One set, with approval indicated thereon, shall be returned to the developer. In addition, a construction sequence schedule shall also be submitted to the Administrative Officer for approval by the Planning Board Engineer.

**B. Notification.**

1. A pre-construction meeting shall be held with the Administrative Officer at least seven days prior to the start of any subdivision or development improvements. The developer, or his/her representative, and the on-site project manager shall attend this meeting.
2. No step in the construction of required improvements shall commence until the Administrative Officer has been notified, in writing, at least 48 hours in advance of the beginning of that step.
3. Where construction intersects an existing road and a police detail is required, the developer shall pay for such detail and shall also pay for any public notification regarding temporary road closures or detours due to construction.

**C. Inspection of Improvements**

1. Each phase or step in the construction of required improvements shall be inspected on-site and approved, in writing (including date of inspection and signature of authorized inspector), by the Administrative Officer or their representative. Any stage of construction begun without written consent of the Administrative Officer shall be at the developer's risk. No subsequent phase or step shall commence until such inspection and approval has been completed. No performance guarantee shall be released unless all inspections have been made in accordance with this section. At a minimum, on-site inspections shall take place at the following stages in the construction of improvements:
  - a. During installation of all underground drainage, electrical, telephone, and cable television lines and following installation of utilities, prior to backfilling. In addition, the appropriate Fire Districts, Utility Companies, and the Burrillville Sewer Commission, as appropriate, shall conduct on-site inspections during installation of utilities.

- b. During preparation of the sub-base, backfilling and the installation of curbing or shoulders, prior to application of the base course.
- c. During spreading and compaction of the base course, prior to the application of the penetration coat.
- d. Immediately prior to and during the application and compaction of the surface course on the roadway and sidewalks.
- e. During completion of all improvements and installation of monuments.

Additional inspections may be required by Administrative Officer at such other intervals as deemed necessary to assure proper construction of improvements.

The Administrative Officer, upon proper notification, shall not impede the construction of improvements by delaying inspection and approval without just cause.

**D. Record (As-Built) Drawings.** Upon completion of construction of all required improvements, the developer shall furnish one (1) set of “as-built drawings” of such improvements to the Administrative Officer. As-built drawings shall contain all of the information on the final plan and set forth: the exact location of all sidewalks, streets, monuments, water, sewer and drainage pipes, other underground or aboveground utilities and all other public improvements, as installed. Such as-built drawings shall also be provided in digital format, AutoCAD Release 13 or better. Plans must include a Professional Land Surveyor certification that all systems will function as designed and constructed and that all horizontal and vertical locations are accurate based on the as-built drawings.

**E. Reference for Specifications.** Should any clarification be required on the construction specifications contained herein, reference is hereby made to the “Standard Specifications for Road and Bridge Construction,” published by the State Board of Rhode Island, Department of Public Works, Division of Roads and Bridges, as revised. In general, all construction shall be in conformance with the Rhode Island Department of Transportation (RIDOT), Division of Public Works, Standard Details, as revised and State of Rhode Island and Providence Plantations, Department of Transportation,

Division of Public Works, Standard Specifications for Road and Bridge Construction, as revised.

- F. **Testing.** The Administrative Officer may require any or all of the following tests to be conducted during the course of the project review, the cost of which shall be paid by the applicant: compaction, sieve analysis of materials, and/or wet season groundwater determination.

#### 10-9.10 Street Construction Standards

- A. **Dimensions.** All streets constructed within subdivisions and developments shall conform to the standards listed in Table 10-1 and to the cross sections shown in Figure 10-1, 10-2, 10-3, 10-4, and 10-5 unless the Planning Board modifies such requirements.
- B. **Clearing and Grubbing.** The entire roadway area and sidewalks, as shown on the approved plat, shall be cleared and grubbed. All root systems, trees, stumps, bushes and other objectionable material shall be removed and transported away from the subdivision. Healthy trees within the right-of-way should be left standing and protected from construction disturbance provided they are located outside the roadway and sidewalk areas.
- C. **Earth Excavation.** Earth excavation shall include, but not be limited to, the removal of clay, sand, gravel, loam, soft or disintegrated rock which can be removed without blasting, boulders of less than one cubic yard in volume (one-half cubic yard in all trenches) and other unacceptable materials within the limits of the roadway, drainage or other excavation. This item of work shall also include the backfilling of all stump holes and other surface irregularities with suitable fill materials. All excavations shall be to a depth and cross section as shown on the approved plans, profiles and cross-section drawings. All fill materials shall be approved by the Planning Board Engineer and be clean, non-hazardous material.
- D. **Sub-Surface Water.** Where free water is encountered within three feet of finished grade, adequate drainage shall be constructed at a depth of at least four feet below finished grade.
- E. **Utility Connections at Lot Boundaries.** All new streets shall have an undisturbed finished surface course for acceptance by the Town. All underground utilities shall be brought to the property line of each lot before the binder course is installed in order to provide for utility connections without disturbing the finished surface course. If, due to an emergency, road cuts are necessary in the surface course prior to acceptance by the Town,

the Administrative Officer shall be notified within 24 hours of the cut. Cuts shall be sealed using infrared seal in accordance with the RIDOT Standards.

**F. General Construction Materials & Methods.** The applicant shall, at all times during construction, maintain the subdivision roads in passable condition and shall take appropriate measures to eliminate the creation of a dust nuisance during construction.

**1. Materials:**

- a.** Base Course – Bank run processed gravel meeting the following gradation requirements for gravel borrow in the referenced standard: Section M.01.02 Gradation of Aggregates Table 1 Gravel Borrow sieve sizes.
- b.** Binder Course – Bituminous concrete (hot mix). Medium Texture Type I-1 must conform to RIDOT Standard Mix, Section M.16 for Modified Binder.
- c.** Bituminous Surface Course – Bituminous Concrete (hot mix). Medium Texture Type I-1 must conform to RIDOT Standard Mix.
- d.** All materials must be of a quality acceptable to the Administrative Officer.

**2. Construction Method:**

- a. Preparation of Sub-base** – Install underground sewer and water lines, utilities, laterals, service lines and related facilities prior to any street construction. Thoroughly compact sub-base with a ten-ton roller, or its equivalent, true to the lines, grades, and cross-sections shown on the approved construction drawings, at least thirty days after filling and compaction of utility trenches. Clean the sub-base before spreading binder course.
- b. Curbs** – Hold the edge of the wearing surface to line and grade by the installation of curbs.
- c. Binder Course** - After the sub-base has been properly prepared and the curbs or shoulders set, spread the binder course for the full road width and in such volume as to provide a two-inch cross section after compaction with a ten-ton roller or the equivalent.

**d. Surface Course** – Apply as follows:

1. Sweep the binder course clean of sand and debris. Remove protrusions, and bring holes, ripples or unevenness in the surface back to true line and cross-section by the spot application of surface course mix.
2. Apply surface course at a temperature of 295 to 350 degrees Fahrenheit by means of an approved paving spreader with a compactor. Place in sufficient quantity to provide a minimum compacted cross section of two inches.
3. Compact the surface course with a ten-ton roller equipped with a sprinkler system to wet the wheels. Rolling shall be continued until all roller marks are eliminated and the minimum densities have been obtained based upon 95 percent of laboratory Marshall Densities made in proportions of the job-mix formula, method AASHTO T-254. Upon completion of the application and compaction of the surface course, allow standing for a minimum of eight hours without traffic.
4. Limit traffic passing over constructed street to wheeled vehicles; no tracked equipment is permitted once the surface course has been applied.
5. Do not install bituminous material when the soil conditions are not suitable or during other unfavorable weather conditions as may be determined by the Administrative Officer. Weather limitations for bituminous plant mix shall not be placed on any wet surface, or when air temperature is below 35 degrees Fahrenheit, or when weather conditions otherwise prevent the proper handling or finishing of the bituminous mixtures.

**10-9.11 Curbs.**

Street curbs on the proposed subdivisions shall be Rhode Island Standard 7.1.0, Pre-cast Concrete, unless specifically waived by the Planning Board. At street intersections, provide curb returns or shoulders with a radius of at least 25 feet. Use appropriate Rhode Island Standard curb shapes for curb transition, inlet and apron installations. Install handicapped access transition drops in curbs as directed by the Planning Board.

**10-9.12 Sidewalks.** Construct sidewalks, when required, in accordance with Rhode Island Standard Detail 43.1.0 “Cement Concrete Sidewalk”. When conditions warrant the appropriate Rhode Island Standard Detail shall be utilized (i.e., driveway openings).

**10-9.13 Drainage Structures and Facilities**

**A. Earthwork and Drainage.** Construction of surface storm drainage structures and facilities are to conform to the following sections of the referenced standard, exclusive of any items therein covering methods of measurement and basis of payment:

Earthwork      Section 203, Structure Excavation and Backfill  
                         Section 204, Trimming and Fine Grading  
                         Section 205, Trench Excavation

Drainage        Section 701, Culverts and Storm Drains  
                         Section 702, Manholes, inlets, Catch Basins, and Headwalls  
                         Section 704, Paved Waterways

**B. Manholes.** Locate manholes on storm sewer trunk lines:

1. At maximum distances of 300 feet;
2. At angles in the storm drainage lines;
3. At street intersections and other points where catch basins, inlets or laterals are to be connected;
4. At points where pipe sizes change; and
5. At point where the grade of the storm drainage lines change.

**C. Minimum Cover.** Provide subsurface drainage structures and facilities within street rights-of-way, with a minimum cover of three feet. Where required minimum cover is physically impossible to achieve, the Planning Board will review for approval, an alternative proposal.

**D. Drainage Ponds.**

1. Natural elements, such as swales and vegetated filter strips, are encouraged and shall be incorporated into the drainage design in accordance with the standards of the State of Rhode Island Storm Water Design and Installation Standards Manual. However, where retention and detention ponds are deemed necessary, they shall be designed to conform to the requirements of the RIDEM. Where the requirements of the Town of Burrillville are more stringent, the design shall conform to the requirements of the Town.

- 2.** Ponds shall be designed in such a manner as to minimize their nuisance, visual, and social impacts and to allow their successful integration into the development. In addition to drainage and construction standards, ponds, swales and their related structures will be evaluated regarding safety, environmental, aesthetic, and social impacts. In order to achieve that goal, ponds shall meet the following criteria:
  - a.** Ponds shall be graded in a naturalistic and curvilinear manner and shall be integrated into the existing contours of the site. Pond side slopes shall not exceed 5 to 1 or a 20% slope. Pond bottoms shall be flat except for minimal grade required for complete drainage in dry ponds.
  - b.** The use of riprap shall be minimized. No dumped riprap will be allowed. All riprap shall be placed and shall conform strictly to RIDOT 917.03.3.
  - c.** The entire area of the pond shall be planted in such a manner as to integrate the new pond into the surrounding landscape. Plantings shall include a mixture of aquatic, emergent, and upland wetland plant species. Planting plans shall be provided which indicate: genus and species, size, quantity, and method of planting. Ponds that are designed to retain water shall be planted with appropriate wetland vegetation below the normal water line. The plantings shall not be planned to obstruct views of the pond in such a manner as to create a public hazard. Planting plans will be evaluated for their use of native materials, maintenance requirements visual quality, and appropriateness for wildlife.
  - d.** A detailed maintenance plan shall be provided for each pond. The plan shall address silt removal, vegetation maintenance, mowing requirements, and any other information required by the Planning Board.
  - e.** Drainage ponds shall be located on private property with appropriate easements to allow Town entry for maintenance, repair and the removal of inappropriate owner improvements, as may be required. Access shall be designed and constructed in such a manner so as to provide adequate access for equipment and vehicles in all weather. The access shall be marked and planted in an appropriate manner and approved by the Administrative Officer.

- f. When practical, several small basins would be preferred to a large, single basin.

**10-9.14 Installation of Utilities.** All proposed utilities shall be approved by the local regulatory agency and/or utility company. Written notice of plan acceptance must be provided.

**10-9.15 Permanent Monuments.** Permanent monuments shall be installed by the developer.

**A. Location.** Starting at every corner and angle point on the boundary line of the subdivision and at every angle point of curvature on the proposed street rights-of-way, in accordance with the approved plat. Open space and/or conservation areas that are a condition of approval must be marked with monuments as well.

**B. Materials.** Quarry split (peen hammered top) granite or pre-cast, reinforced concrete conforming in size and shape to the specifications below:

**1. Dimensions:**

- a. At least 30 inches in length and 6 inches square in cross section.
- b. Place and center on the top surface of the monument, a drill hole ½-inch in diameter and three-quarters of an inch deep.

**C. Setting Monuments.** Bounds are to be set six inches above finished grade, except in sidewalks and driveways where they shall be set flush with the finished grade. Where the monuments delineate open space areas, they should be of a length that allow them to be set 24 inches above finished grade.

**10-9.16 Special Grading Provisions.** Within 10 feet of adjoining properties, changes to existing grade are to be limited to slope of 2:1. Retaining structures must be provided to contain slopes that exceed the 2:1 ratio. Please refer to the Town's Erosion and Sedimentation Control Ordinance, Chapter XIII of the Revised General Ordinances of the Town of Burrillville in the County of Providence, State of Rhode Island, 1972, updated 1988, or as further amended by the Town.

**10-9.17 Project Phasing.** The Planning Board may allow for the construction of major land developments and subdivisions to be divided into reasonable phases. When considering a phased development, the Planning Board will require the following:

- A. **Master Plan Approval.** Approval of the entire site design first as a master plan. Thereafter the development plans may be submitted for preliminary and/or final review and/or approval by phases.
- B. **Master Plan Requirements.** The master plan documents must contain information on the physical limits of the phases, the schedule and sequence of public improvement installation, improvement guarantees, and the completion schedules for approvals and construction of the phases.
- C. **Construction.** All public improvements must be completed on each phase to final bond approvals for approval to begin a subsequent phase. Each phase must be designed and constructed to stand alone as subdivision should additional phases of the project be delayed for any reason.

**10-9.18. Flood Hazard Areas.** The following requirements shall apply to any plat which is located wholly or partly within Zone A and Zones A1-A30 as identified on the flood insurance rate map as part of the flood insurance study which also includes the flood boundary and floodway map. Said maps and any amendments thereto are hereby made part of this section of these Regulations.

- a. The preliminary plat and final plat shall show the location of any portion of the plat which lies within any Zone A or Zones A1-A30 and the floodway and shall show the base flood elevation as prescribed for these zones at the specific location. Where the plat location is entirely within these zones, it shall be noted on the plat drawing.
- b. In grading land and installing improvements, no watercourse shall be altered in such a manner as to reduce its carrying capacity. Prior to permitting any alteration or relocation of a watercourse, the Planning Board will send notification to the neighboring communities, the Rhode Island Statewide Planning Program and the Federal Insurance Administration.
- c. All plat proposals will be reviewed by the Planning Board or its agent to assure that:
  - 1. The design of the plat is consistent with the need to minimize flood damage.
  - 2. Public improvements, facilities, and utilities are constructed or installed in manner that will minimize flood damage.

3. Adequate drainage will be provided to minimize the accumulation of water.

## 10-10 CLUSTER SUBDIVISION

- 10-10.1. Purpose and Applicability.** This section, entitled Cluster subdivision, is adopted pursuant to and consistent with the purposes and standards provided in Section 30-203 of the Zoning Ordinance.
- 10-10.2 Procedures.** Applications for Cluster subdivision approval shall be made in accordance with the procedures for approval of a major or minor subdivision or land development project based on the number of lots or dwellings in the development as provided in Section 10-6 of these Regulations.
- 10-10.3 Design Process.** The design of a Cluster subdivision shall follow the design process specified in the following steps. As a guide in designing Cluster subdivisions, applicants are encouraged to review the provisions of the Rhode Island Conservation Development Manual, RIDEM, June 2003, in the preparation of plans. The maps illustrated in this manual will provide graphic examples of what is required of applicants. When the Master Plan is submitted for major land development projects or subdivisions, or preliminary plans for minor land development projects or subdivisions, applicants shall demonstrate to the Planning Board that this design process was considered in determining the layout of proposed streets, building locations, and open space.

### **Step 1 - Analyze the Site**

The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other and strategies for protection. This information shall be submitted in the form of an Existing Resources and Site Analysis Map, as specified in Section 10-10.10.

### **Step 2 - Evaluate Site Context**

The second step is to evaluate the site in its larger context of the neighborhood and Town by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., street and bicycle networks), and cultural (e.g., open spaces, recreational opportunities) connections to surrounding land uses and activities. This information shall be submitted in the form of a Site Context Map, as specified in Section 10-10.5.

### **Step 3 - Designate Potential Conservation Areas**

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

#### **Step 4 - Determine Maximum Number of Units**

At the master plan stage for major subdivisions and major land development projects, and at the preliminary stage for minor subdivisions and minor land development projects, the applicant and Planning Board shall agree upon an initial number of dwelling units that will be permitted in the Cluster subdivision or subdivision, using the Yield Plan approach as described in Section 10-10.6. The number of units may be changed by the Planning Board during subsequent stages of review, as more information is provided, until the final Basic Maximum Number of Dwelling Units is determined.

#### **Step 5 - Locate Development Areas and Explore Conceptual Alternatives**

As part of the Pre-Application submission, the applicant shall show a minimum of two alternative proposed development layouts in the form of a Sketch Plan(s), or Sketch Plan Overlay Sheet(s), as described in Section 10-10.4. These alternative plans shall be substantially different. The Planning Board shall review how each alternative impacts the viability of the development plan, versus the benefits to the Town of one or another approach. This sketch plan shall be further refined for re-submission and discussion between the Board and applicant during subsequent stages of review, as an overlay to the Existing Resources and Site Analysis Map (Section 10-10.10).

#### **Step 6 - Locate the House Sites**

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

#### **Step 7 - Lay Out Streets, Trails and Other Infrastructure**

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

#### **Step 8 – Design and Program Open Space**

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

### **Step 9 - Draw in the Lot Lines**

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

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

At the time of preliminary review for major land development projects or major subdivisions, or at the time of final review for minor land development projects or minor subdivisions, a more detailed open space use and management plan as described in Section 10-10.7.A shall be submitted.

**10-10.4 Sketch Plan Overlay Sheet.** The design process described above shall be documented by the applicant and presented to the Planning Board. To expedite this process, a conceptual sketch plan(s) for development shall be presented as overlay sheets to be superimposed on top of more detailed site surveys and environmental data (at the same scale).

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

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

**10-10.5. Site Context Map.** A map showing the location of the proposed development within its neighborhood context shall be submitted. The Site Context Map, which may be superimposed on an aerial photograph, shall be drawn to a scale of 1"= 400' or as necessary to show the area within one half mile of the subdivision parcel. It shall show the locations of major streets and zoning district boundaries. Major features that surround the site shall also be indicated on this Map. Topography at 10-foot contour intervals (from USGS maps) shall be shown.

A separate soils map of the site and surrounding area shall be prepared, along with a general analysis of soil types and suitability for the development proposed. If present, agricultural land as defined in Section 10-4, and any very poorly drained soils shall also be shown on this map.

**10-10.6 Basic Maximum Number of Dwelling Units.** The Basic Maximum Number of dwelling units allowed on a parcel of land proposed for development as a Cluster subdivision is defined as the maximum number of single family building lots or dwelling units that could reasonably be expected to be developed as a conventional subdivision upon that parcel under a conventional Yield Plan as defined herein. The applicant shall have the burden of proof with regard to the reasonableness and feasibility of the design and of the engineering specifications for such Yield Plan;

provided, however, that the Planning Board's determination of the Basic Maximum Number shall be conclusive.

Yield Plans shall be prepared as conceptual layout plans during the Pre-application process. Yield plans shall show proposed streets, lots, rights-of-way, land unsuitable for development and other pertinent features. The Yield Plan must be drawn to scale, and it must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of Environmental Constraints (as defined in Section 30-203 of the Zoning Ordinance), existing easements or encumbrances and the suitability of soils for subsurface sewage disposal.

The Yield Plan shall also reflect the dimensional standards for uses being proposed, as contained in the Table of Dimensional Regulations in Section 30-111 of the Zoning Ordinance, or other applicable dimensional requirement of the Zoning Ordinance. The Yield Plan must identify how conventional lots or uses could be developed having the required area, frontage and other dimensional requirements of the Zoning Ordinance. Although lots shown in the Yield Plan may contain land unsuitable for development, this area shall not be counted towards the minimum lot area as provided in the Zoning Ordinance.

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

Upon completion of their review, the Planning Board shall determine the initial Basic Maximum Number of lots/dwelling units permitted in a development. This initial determination shall be made at the master plan stage of review for major subdivisions and major land development projects, and at the preliminary stage of review for minor subdivisions and minor land development projects. The applicant shall use this initial determination as the basis for submission of more detailed information during subsequent stages of review. Upon further investigation and upon receipt of more detailed soils and environmental information as may be provided in subsequent stages of review, the Planning Board may increase or reduce the number of lots/dwelling units contained in the initial Basic Maximum Number.

In developments that require alterations to be made to freshwater wetlands, the Board may establish an initial Basic Maximum Number contingent upon confirmation by the RI Department of Environmental Management that such

alterations are permitted under the provisions of the Freshwater Wetlands Act.

**10-10.7 Open Space.** Every Cluster subdivision shall provide protected open space lot or lots in accordance with the standards set forth below, and in Section 30-203 of the Zoning Ordinance.

- A.** The Planning Board shall specifically authorize plans for the use, ownership, management and maintenance of all open space areas within any Cluster subdivision. Areas proposed to fulfill the minimum open space requirement within a Cluster subdivision shall not be excavated or regraded, except as permitted by the Planning Board. Disturbance to the natural contours of the land shall be minimized to the greatest extent possible. Existing natural vegetation and any significant natural or man-made features shall be preserved except as permitted by the Planning Board to create or enhance areas of landscaping, parks, recreation, conservation, forestry or wildlife habitat. These disturbances shall be specifically shown on the open space use plan.
- B.** At the time of Master Plan review by the Planning Board for major subdivisions or land development projects, or preliminary review for minor subdivisions or land development projects, the applicant shall submit a separate open space use plan containing:
  - 1. the general location and area of all proposed open space;
  - 2. the general proposed use(s) of the open space;
  - 3. existing topography and existing ground cover of open space areas;
  - 4. the location and nature of any existing buildings, structures, stone walls or other unique natural and/or historic features;
  - 5. areas of open space from which existing vegetation will be removed or altered and areas which are proposed to be disturbed or otherwise graded, excavated or altered from their existing natural state;
  - 6. generalized proposals for the regrading, revegetating and/or landscaping of proposed disturbed areas;
  - 7. the location and nature of any proposed buildings, structures, parking areas or roadways, impervious areas recreation areas and,
  - 8. areas proposed to be left in their existing natural states without any disturbance.
- C.** At the time of preliminary review by the Planning Board, a more detailed management plan that specifies the use of the open space shall be submitted for review and approval, which may be combined with any required grading

plans, landscaping plans, soil erosion plans or drainage plans required for preliminary approval.

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

- D.** Clearing and excavation of open space areas may be permitted only for the installation of stormwater retention or detention facilities, other drainage facilities, or for permitted utilities, park, open space, recreational, agricultural or forest management uses in accordance with a plan approved by the Planning Board.
- E.** In addition, no commercial earth removal, even if permitted by the Zoning Ordinance, in the zoning district in which the development is proposed, shall be permitted within any open space areas. In approving an open space use plan, the Board may permit grading that includes removal of earth materials. The Board shall, however, clearly indicate, as a condition of preliminary approval, the approximate quantities of material and the general areas from which earth removal is authorized, and shall only authorize the minimal amount of earth removal required to grade the land for the intended purpose.

#### **10-10.8 Open Space Design Review Standards**

- A. List of Resources to Be Conserved** - The design of open space lands in any Cluster subdivision shall reflect the standards set forth in this subsection 10-10 and, to the fullest extent possible, incorporate any of the resources listed below if they occur on the parcel (not listed in order of significance). The applicant should be consulting the Greenspace Maps for natural, cultural and recreational resources as identified in the Comprehensive Plan.
  - 1.** Stream channels, floodplains, hydric soils, swales, springs, and other freshwater wetland areas, including adjacent buffer areas that may be required to ensure their protection;
  - 2.** Wellhead protection areas;
  - 3.** Special aquatic sites, vernal pools and significant natural areas of species listed as endangered, threatened, or of special concern, such as those listed in the Statewide Natural Heritage Inventory;
  - 4.** Moderate to steep slopes, particularly those adjoining watercourses and ponds, where disturbance and resulting soil erosion and sedimentation could be detrimental to water quality;
  - 5.** Healthy woodlands, particularly those performing important ecological functions such as soil stabilization and protection of

streams, wetlands, and wildlife habitats;

6. Areas where precipitation is most likely to recharge local groundwater resources because of topographic and soil conditions affording high rates of infiltration and percolation;
7. Hedgerows, groups of trees, location and species of large individual trees of botanic significance, specimen vegetation and other vegetation features representing the site's rural past;
8. Active agricultural uses, pastures, croplands;
9. Prime farmland soils and farmland soils of statewide importance;
10. Historic structures and archaeological sites;
11. Visually prominent topographic features such as knolls, hilltops and ridges;
12. Geologic features such as eskers or kettle holes;
13. Scenic viewsheds as seen from public roads (particularly those with historic features);
14. Existing or potential trails connecting the parcel to other locations in the Town;
15. Any other natural, cultural or recreational resources determined by the Planning Board.

**B. Other Design Considerations** - The configuration of proposed open space lands set aside for common use in a Cluster subdivision shall comply with the following standards:

1. They shall be free of all structures except historic buildings or structures, stone walls, and structures related to open space uses. The Planning Board may grant approval of structures and improvements required for storm drainage and privately owned and maintained water supply within the open space provided that such facilities would not be detrimental to the purpose for which the open space is proposed. Placement of Onsite Waste Water Treatment Systems (OWWTSS) within the open space shall be permitted only by the granting of a waiver by the Board, as provided in Section 10-5.10.
2. They shall be directly accessible to the largest practicable number of lots or dwellings within the development. Non-adjoining lots shall be provided with safe and convenient pedestrian access to open

space land;

3. They shall be suitable for active or passive recreational uses to the extent deemed necessary by the Planning Board, without interfering with adjacent dwelling units, parking, driveways, and roads;
4. They shall be interconnected wherever possible to provide a continuous network of greenway lands within and adjoining the subdivision;
5. They shall provide buffers to adjoining parks, preserves or other protected lands;
6. They shall provide for pedestrian pathways for use by the residents of the development. Consideration shall be given to providing for public access on such trails if they are linked to other publicly accessible pathway systems within the Town or region. Provisions should be made for access to the open space lands, as required for land management and emergency purposes;
7. Whenever possible, they shall be undivided by public or private streets, except within urban settings or where necessary for proper traffic circulation;
8. They shall be suitably landscaped either by retaining existing natural cover and wooded areas and/or according to a landscaping plan to protect open space resources;
9. They shall be consistent with the Comprehensive Community Plan.

**10-10.9 Streets.** Streets within a Cluster subdivision may be publicly or privately owned and maintained and shall conform to the standards found in these regulations. Private streets shall be adequate for the intended use, vehicular traffic and shall be maintained by an association of unit owners or such other means or entity as may be approved by the Planning Board. Private streets shall be bonded to ensure proper construction and safety for residents.

**10-10.10 Existing Resources and Site Analysis Map.** All Cluster subdivisions shall be required to prepare an Existing Resources and Site Analysis Map. Provided, however that administrative subdivisions and subdivisions that create lots which are not for the purpose of present or future development shall not be required to provide such Map. The purpose of this Map is to provide the Planning Board with a comprehensive analysis of existing conditions, both on the proposed development site and within 500 feet of the site. Conditions beyond the parcel boundaries may be described on the basis of existing published data available from governmental agencies, and from aerial photographs.

The Planning Board shall review the Map to assess its accuracy, conformance with

municipal ordinances, and likely impact upon the natural and cultural resources on the property. Unless otherwise specified by the Planning Board, such plans shall generally be prepared at the scale of 1" = 100' or 1" = 200', whichever would fit best on a single standard size sheet (24" x 36"). Where necessary for clarity, the Map may be submitted as a series of more than one map. The following information shall be included in this Map(s).

**A. Topography and Slopes**

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

**10-10.11 Decision.** The Planning Board may approve, approve with conditions, or deny an application for a Cluster subdivision upon finding that the Cluster subdivision better promotes the objectives of the Planning Board's Subdivision and Land Development Regulations than would a conventional development, and after consideration of the general requirements set forth in Section 3.1 herein, and after consideration of the purposes of Cluster subdivisions set forth in Section 30-203 of the Zoning Ordinance.