

## **Subdivision Regulations**

### **Article 2 - DEFINITIONS**

As used in these Rules and Regulations, the following definitions shall apply where words or phrases used in this chapter are defined in the definitions section of either the “Rhode Island Comprehensive Planning and Land Use Regulation Act,” section 45-22.2-4, or the “Zoning Enabling Act of 1991,” section 45-24-31, they shall have the meanings stated therein. In addition, the following words or phrases shall have the following meanings.

Abutter. One whose property abuts, that is, adjoins at a border, boundary, or point with no intervening land, or being separated from such a common border by a right-of-way, alley, or easement.

Administrative Officer. The municipal official(s) designated by the local regulations to administer the land development and subdivision regulations and to review and approve qualified applications and/or coordinate with local boards and commissions, municipal staff and state agencies as set forth herein. For purposes of these Rules and Regulations, the Town Planner is designated as the Administrative Officer.

Applicant. The applicant for subdivision approval by the Planning Board, which also includes his/her authorized agents or representatives. For purposes of these Rules and Regulations, the terms applicant, subdivider and developer shall be synonymous.

Base Flood Elevation. The water surface elevation of the base flood.

Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year; i.e., flood resulting from a 100-year frequency storm.

Board of appeal. The local review authority for appeals of actions of the Administrative Officer, which shall be the local zoning board of review constituted as the board of appeal. See R.I.G.L. 45-23-57.

Bond. See improvement guarantee.

Buildable lot. A lot where construction for the use(s) permitted on the site under the local 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. See R.I.G.L. 45-23-60 (4).

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 review process.

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.

Conservation Development (CSD). A site planning technique which bases the layout of building lots and structures on the natural characteristics of the land and reduces lot sizes so that the remaining land can be used for recreation, common open space, and/or preservation of environmentally, historically and culturally sensitive features and/or structures. The number of developable lots created and the overall development density is no greater than what is permitted under conventional development.

Conservation Development Design Process. The process used to determine the layout of building lots, development, open space, and other improvements in a Conservation Subdivision/Land Development Project. Consists of five steps: 1) Understanding the site, 2) Evaluating Site Context, 3) Designating the Required Open Space, 4) Locating Development Areas, and 5) Drawing in Lot Lines.

Consistency with the comprehensive plan. A requirement of all local land use regulations which means that all these regulations and subsequent actions are in accordance with the public policies arrived at through detailed study and analysis and adopted by the municipality as the comprehensive community plan as specified in R.I.G.L. 45-22.2-3.

Conventional Development. A subdivision or land development project in which an entire parcel of land is typically converted into privately owned building lots and public street rights-of-way. Generally, lots are of equal size and spread evenly throughout the parcel with little or no consideration of the natural setting or environmental and cultural features of the land.

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 the payments will be allowed and all formulas for calculating the amount shall be specified in advance in the local regulations. See R.I.G.L. 45-23-47.

Development. Any made-made change to improved or unimproved real estate; including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operation.

Development plan review. Design or site plan review of a development of a permitted use. A municipality may utilize development plan review under limited circumstances to encourage development to comply with design and/or performance standards of the

community under specific and objective guidelines, for developments including, but not limited to:

- (i) Developments specified in Section [306](#) of the Zoning Ordinance, [Chapter 152](#), or where otherwise called for in the Zoning Ordinance;
- (ii) A change in use at the property where no extensive construction of improvements is sought;
- (iii) An adaptive reuse project located in a commercial zone where no extensive exterior construction of improvements is sought;
- (iv) An adaptive reuse project located in a residential zone which results in less than nine (9) residential units;
- (v) Development in a designated urban or growth center;
- (vi) Institutional development design review for educational or hospital facilities; or
- (vii) Development in a historic district.

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.

Endorsement. The approval of a final subdivision plat by means of signature on final plat drawings by the Chairman of the Planning Board or, in his absence, the Secretary, allowing the recording of the plat in the land evidence records of the Town.

Environmental constraints. Natural features, resources, or land characteristics that are sensitive to change and may require conservation measures or the application of special development techniques to prevent degradation of the site, or may require limited development, or in certain instances, may preclude development. See also physical constraints to development.

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 these regulations and/or required by the Planning Board.

Flood area, gross. See R.I. State Building Code.

Flood Plain. The term “flood plain” means that the land area adjacent to a river, stream, Narragansett Bay or other body of flowing or standing water, which is susceptible to being inundated by water from the base flood (100-year flood).

Floodway. The term “floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge a 25-year frequency storm without cumulatively increasing the water surface elevation more than a designated height.

Governing body. The Town Council.

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

Improvement guarantee. A security instrument accepted by the Town to ensure that all improvements, facilities, or work required by the land development and subdivision regulations, or required by the Town 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 or more lots, tracts, or parcels of land or a portion thereof are developed or redeveloped as a coordinated site for one or more uses, units, or structures, including but not limited to, planned development or cluster development for residential commercial, institutional, recreational, open space, or mixed uses.

- Minor land development project. A land development project involving any one of the following:
  - a. Seven thousand five hundred (7,500) gross square feet of floor area of new commercial, manufacturing or industrial development or less; or
  - b. An expansion of up to fifty percent (50%) of existing floor area or up to ten thousand (10,000) square feet for commercial, manufacturing, or industrial structures; or
  - c. Mixed-use development consisting of up to six (6) dwelling units and two thousand five hundred (2,500) gross square feet of commercial space or less.
  - d. Multi-family residential or residential condominium development of nine (9) units or less.
  - e. Change in use at the property where no extensive construction of improvements are sought.

f. An adaptive reuse project of up to twenty-five thousand (25,000) square feet of gross floor area located in a commercial zone where no extensive exterior construction of improvements is sought.

g. An adaptive reuse project located in a residential zone which results in less than nine (9) residential units.

- Major land development project. A land development project, which exceeds the thresholds for a minor land development project as set forth in this section.

Local regulations. The land development and subdivision review regulations adopted under the provisions of R.I.G.L. 45-23. For purposes of clarification, here reference is made to local regulations, it is to be understood as these Rules and Regulations for the Subdivision of Land in the Town Of Middletown, Rhode Island and all related ordinances and rules properly adopted pursuant to R.I.G.L. 45-23.

Maintenance guarantee. Any security instrument which may be required and accepted by the Town to ensure that necessary improvements will function as required for a specific period of time. See improvement guarantee.

~~Major land development project. A land development project, which exceeds the thresholds for a minor land development project as set forth in this section.~~

~~Major subdivision. A subdivision creating ten (10) or more buildable lots.~~

Master plan. An overall plan for a proposed project site outlining general, rather than detailed, development intentions. It describes the basic parameters of a major development proposal, rather than giving full engineering details. Required in major land development or major subdivision review only. It is the first formal review step of the major land development or major subdivision process and the step in the process in which the public hearing is held.

~~Minor land development project. A land development project involving any one of the following:~~

~~—a. Seven thousand five hundred (7,500) gross square feet of floor area of new commercial, manufacturing or industrial development or less; or~~

~~—b. An expansion of up to fifty percent (50%) of existing floor area or up to ten thousand (10,000) square feet for commercial, manufacturing, or industrial structures; or~~

~~c. Mixed use development consisting of up to six (6) dwelling units and two thousand five hundred (2,500) gross square feet of commercial space or less.~~

~~d. Multi-family residential or residential condominium development of nine (9) units or less.~~

~~e. Change in use at the property where no extensive construction of improvements are sought.~~

~~f. An adaptive reuse project of up to twenty five thousand (25,000) square feet of gross floor area located in a commercial zone where no extensive exterior construction of improvements is sought.~~

~~g. An adaptive reuse project located in a residential zone which results in less than nine (9) residential units.~~

~~Minor subdivision. A subdivision of land creating nine (9) or fewer buildable lots.~~

Modification of requirements. See Section 908.

Open Space. Any parcel or area of land or water set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring

the 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.

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 or unloading.

Permitting authority. The local agency of government, meaning any board, commission or Administrative Officer specifically empowered by state enabling law and local regulation or 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 sections subsequent to approval of a master plan for the entire site. See Section 509 and Section 518.

Physical constraints to development. Characteristics of a site or area, either natural or man-made, which present significant difficulties to construction of the uses permitted on

that site, or would require extraordinary construction methods. See also environmental constraints.

Planning Board. The Planning Board of the Town Of Middletown, Rhode Island. Also referred to as the “Board” in these Rules and Regulations.

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

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. See Section 402.

Preliminary plan. A required stage of land development and subdivision which generally requires engineered drawings.

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

Riverine. The word “riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Significant environmental impacts. Any activity which is likely to permanently or repeatedly degrade or destroy the quality of the air, water, soil, wetlands, or wildlife habitat; or which presents unacceptable risks to the public health.

Site Analysis Map. A map depicting natural, cultural, and recreational resources, as well as topography and infrastructure of the lot or lots being subdivided or developed.

Site Context Map. An aerial photograph showing the area within a one-mile radius of the property and delineating natural, cultural, and recreational resources.

Storm water detention. A provision for storage of storm water runoff and the controlled release of the 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. See street classification.

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

Street, 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 or lands and other persons have no legal right to access, except at the points and in the 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 does 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 served 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 following as major categories:

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

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

Local. Streets whose primary function is to provide access to abutting properties.

Subdivider. Any persons 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 of a lot, tract or parcel of land into two or more lots, tracts, or parcels or any adjustment to existing lot lines is considered a subdivision.

- Administrative subdivision. Subdivision of existing lots which yields no additional lots for development and involves no creation or extension of streets. This subdivision only involves division, mergers, mergers and division, or adjustments of boundaries of existing lots.
- Minor subdivision. A subdivision of land creating nine (9) or fewer buildable lots and a subdivision creating ten (10) or more buildable lots on an existing improved public street. Minor subdivisions shall include oversized lot subdivisions. Oversized lot subdivision. Subdivision of an existing lot:

A) Which results in the creation of a vacant lot or lots for residential use; and

B) Which resulting vacant residential lots are equal to or greater in lot area than the lot area of at least fifty percent (50%) of the developed residential lots within two hundred feet (200') of the lot proposed for subdivision, as confirmed by a professional land surveyor based on a compilation plan, as such term is defined by the rules and regulations for professional land surveying; and

(C) Which resulting residential lots have access to available sewer and water, or have demonstrated the ability to drill a private well meeting state standards if no public water is available and/or the suitability and setbacks required for an on-site wastewater treatment system, where no public sewer is available; and

(D) The resulting lots are not less than three thousand square feet (3,000 square feet) in lot size for each.

A lot, qualifying for this type of subdivision shall be reviewed under the requirements and procedures set forth in § 45-23-38, but shall not require zoning relief solely based on the resulting reduced lot area of the newly created lots. The resulting subdivided lots shall have the benefit of reduced requirements as set forth in § 45-24-38, and/or are eligible for the processes set forth in § 45-24-46, as applicable.

- Major subdivision. A subdivision creating ten (10) or more buildable lots where a street extension or creation is required.

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Technical Review Committee. A committee appointed by the Planning Board for the purpose of reviewing, commenting, and making recommendations to the Planning Board with respect to approval of land development and subdivision applications.

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. The word “Town” shall mean the Town of Middletown, Rhode Island.

Vested rights. The right to initiate or continue to 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.

Yield Plan. Plan of a conventional subdivision or land development used to demonstrate development potential, including the basic number of lots to be allowed in a conservation subdivision plan, based on the zoning and development requirements of the underlying zoning district.