

1 **TOWN OF SCITUATE**  
2 **PLAN COMMISSION**

3  
4 Public Hearing set for January 16, 2024 at 7:00 PM  
5 Town Hall Chambers  
6 195 Danielson Pike  
7 North Scituate, RI 02857  
8

9 **PROPOSED AMENDMENTS TO THE SCITUATE LAND DEVELOPMENT AND SUBDIVISION REGULATIONS**

10  
11 **Section 1.** The Plan Commission of the Town of Scituate hereby ordains that Sections 14-27, 14-28, 14-  
12 30, 14-31, & 14-32 of Article II, Sections 14-47, 14-49, 14-50, 14-51, 14-52, 14-53 & 14-64 of Article III  
13 of the Land Development and Subdivision Regulations of the Town of Scituate, are amended as follows:  
14

15 Note: Words set as ~~strikeover~~ are to be **deleted** from the ordinance; words set in underline are to  
16 be **added** to the ordinance.

17  
18 **ARTICLE II. PLAN COMMISSION AND GENERAL PLATTING, SUBDIVISION,**  
19 **DEVELOPMENT**

20  
21 . . .

22  
23 **Sec. 14-27. Definitions.**

24  
25 For the purpose of these regulations, certain terms and words are herein defined as follows:  
26

27 *Administrative Officer.* The town official designated by these regulations to administer the land  
28 development and subdivision regulations and to coordinate with local boards and commissions, town  
29 staff and state agencies. See §§ 45-23-32 & 45-23-55. The Plan Commission shall have the power to  
30 appoint the administrative officer within the budget appropriated for it by the financial town meeting.  
31

32 *Administrative subdivision.* ~~Resubdivision~~ Subdivision of existing lots which yields no additional lots for  
33 development, and involves no creation or extension of streets. ~~Such resubdivision~~ This subdivision shall  
34 only involve divisions, mergers, mergers and division or adjustments of boundaries of existing lots.  
35

36 *Authority Having Jurisdiction.* The Fire Chief or duly positioned person in  
37 charge of the local Fire Department covering the subject area of Town.  
38

39 *Board of appeal.* The local review authority for appeals of actions of the Administrative Officer, which  
40 shall be the local zoning board of review constituted as the board of appeals. See section 14-64.  
41

42 *Bond.* See improvement guarantee.  
43

44 *Buildable lot.* A lot where construction for the use(s) permitted on the site under the zoning ordinance is  
45 considered practicable by the Plan Commission, considering the physical constraints to development of  
46 the site as well as the requirements of the pertinent federal and state regulations.

47  
48 *Certificate of completeness.* A notice issued by the Administrative Officer informing an applicant that the  
49 application is complete and meets the requirements of the regulations, and that the applicant may proceed  
50 with the ~~approval~~ review process.

51  
52 *Concept plan.* A drawing with accompanying information showing the basic elements of a proposed land  
53 development plan or subdivision as used for preapplication meetings and early discussions, and  
54 classification of the project within the approval process.

55  
56 *Consistency with the comprehensive plan.* A requirement of these regulations which means that all actions  
57 shall be in accordance with the public policies arrived at through adoption of the comprehensive plan.  
58

59 *Development Plan Review.* Design or site plan review of a development of a permitted use. A municipality  
60 may utilize development plan review under limited circumstances to encourage development to comply  
61 with design and/or performance standards of the community under specific and objective guidelines, for  
62 developments including, but not limited to:

- 63 (i) A change in use at the property where no extensive construction of improvements is sought;
- 64 (ii) An adaptive reuse project located in a commercial zone where no extensive exterior  
65 construction of improvements is sought;
- 66 (iii) An adaptive reuse project located in a residential zone which results in less than nine (9)  
67 residential units;
- 68 (iv) Development in a designated urban or growth center;
- 69 (v) Institutional development design review for educational or hospital facilities; or
- 70 (vi) Development in a historic district.

71 *Dead-End Streets.* A public thoroughfare with only one means of access.

72  
73 *Dedication, fee-in-lieu-of.* Payments of cash which are authorized when requirements for mandatory  
74 dedication of land are not met because of physical conditions of the site or other reasons.

75  
76 *Development regulation.* Zoning, subdivision, land development plan, development plan review, historic  
77 district, official map, floodplain regulation, soil erosion control or any other governmental regulation of  
78 the use and development of land.

79  
80 *Division of land.* A subdivision.  
81

82 *Environmental constraints.* Natural features, resources *or* land characteristics that are sensitive to change  
83 and may require conservation measures or the application of special development techniques to prevent  
84 degradation of the site, or may require limited development, or in certain instances, may preclude  
85 development. See also "physical constraints to development."  
86

87 *Final plan.* The final stage of land development and subdivision review.  
88

89 *Final plat.* The final drawing(s) of all or a portion of a subdivision to be recorded after approval by the  
90 Plan Commission and any accompanying material as described in these regulations and/or required by the  
91 Plan Commission.  
92

93 *Floor area, gross.* See Rhode Island State Building Code.  
94

95 *Governing body.* Town council.  
96

97 *Improvement.* Any natural or built item which becomes part of, is placed upon, or is affixed to, real estate.  
98

99 *Improvement guarantee.* An irrevocable letter of credit, as approved by the Plan Commission or cash.  
100 (Generally in the form of a two-party bank account, one party being the town.)  
101

102 *Land Development Project.* A project in which one or more lots, tracts, or parcels of land or a portion  
103 thereof are developed or redeveloped as a coordinated site for one or more uses, units, or structures,  
104 including but not limited to, planned development or cluster development for residential, commercial,  
105 institutional, recreational, open space, or mixed uses.  
106

107 *Local regulations.* The Town of Scituate Ordinances.  
108

109 *Low Impact Development Manual.* Refers to the Rhode Island Low Impact Development Site Planning  
110 and Design Guidance Manual, March 2011, with latest revisions, prepared by the R.I. Department of  
111 Environmental Management and Coastal Resources Management Council.  
112

113 *Maintenance guarantee.* Any security instrument to ensure that completed improvements will function as  
114 required for one (1) year.  
115

116 *Major land development ~~plan~~ project.* Any land development ~~plan~~ project ~~not classified as which~~  
117 exceeds the thresholds for a minor land development ~~plan~~ project.  
118

119 *Major subdivision.* Any subdivision ~~not classified as either an administrative subdivision or a minor~~  
120 ~~subdivision~~ creating ten (10) or more buildable lots. ~~All non single family residential subdivisions shall~~  
121 ~~be considered as major subdivisions.~~  
122

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

127  
128 *Minor land development ~~plan~~ project.* A land development plan project for a residential project provided  
129 that such development does not require waivers or modifications. All nonresidential land development  
130 projects shall be considered as major land development plans involving any one of the following:

- 131
- 132 (i) Seven thousand five hundred (7,500) gross square feet of floor area of new commercial,  
133 manufacturing, or industrial development; or less, or
  - 134 (ii) An expansion of up to fifty (50%) of existing floor area or up to ten thousand (10,000) square feet  
135 for commercial, manufacturing, or industrial structures; or
  - 136 (iii) Mixed-use development consisting of up to six (6) dwelling units and two thousand five hundred  
137 (2,500) square feet of commercial space or less; or
  - 138 (iv) Change in use at the property where no extensive construction of improvements are sought; or
  - 139 (v) An adaptive reuse project of up to twenty-five thousand (25,000) square feet of gross floor area  
140 located in a commercial zone where no extensive exterior construction of improvements is  
141 sought; and
  - 142 (vi) An adaptive reuse project located in a residential zone which results in less than nine (9) or fewer  
143 buildable lots.
- 144

145 *Minor subdivision.* A plan for a residential subdivision of land consisting of  
146 ~~five (5)~~ nine (9) or fewer units or lots, provided that such subdivision does not require waivers or  
147 modifications.

148  
149 *Modification of requirements.* Variances from these regulations as requested or required by the Plan  
150 Commission.

151  
152 *Parcel.* A lot, or contiguous group of lots in single ownership or under single control, and usually  
153 considered a unit for purposes of development. Also referred to as a tract.

154  
155 *Parking area or lot.* All that portion of a development that is used by vehicles, the total area used for  
156 vehicular access, circulation, parking, loading and unloading.

157  
158 *Permitting authority.* ~~The town council and zoning board of review~~ The local agency of government,  
159 meaning any board, commission, or Administrative Officer specifically empowered by state enabling  
160 law and local regulation or ordinance to hear and decide on specific matters pertaining to local land use.

161  
162 *Phased development.* Development, usually for large-scale projects, where construction of public and/or  
163 private improvements proceeds by section(s) subsequent to approval of a master plan for the entire site.

164

165 *Physical constraints to development.* Characteristics of a site *or* area, either natural or man-made, which  
166 present significant difficulties to construction of the uses permitted on that site, or would require  
167 extraordinary construction methods. See also "environmental constraints."  
168

169 *Plan Commission.* The official planning agency of the town.

170 *Plat.* A drawing or drawings of a land development or subdivision plan showing the location, boundaries,  
171 and lot lines of individual properties, as well as other necessary information as specified herein.  
172

173 *Preapplication conference.* An initial meeting between developers and the Plan Commission which  
174 affords developers the opportunity to present their proposals informally and to receive comments and  
175 directions.  
176

177 *Preliminary plan.* The required stage of land development and subdivision review which shall require  
178 detailed engineered drawings and all required state and federal permits.  
179

180 *Public improvement.* Any street or other roadway, sidewalk, pedestrian way, tree, lawn, off-street parking  
181 area, drainage feature or other facility for which the town is presently responsible, or will ultimately  
182 assume the responsibility for maintenance and operation upon acceptance.  
183

184 ~~*Public informational meeting.* A meeting of the Plan Commission or governing body preceded by a notice,  
185 open to the public and at which the public shall be heard.~~

186

187 ~~*Resubdivision.* Any change of an approved or recorded subdivision plat or in a lot recorded in the land  
188 evidence records, or that affects the lot lines of any areas reserved for public use, or that affects any map  
189 or plan legally recorded prior to the adoption of subdivision regulations.~~

190

191 *Stormwater detention.* A provision for storage of stormwater runoff and the controlled release of such  
192 runoff during and after a flood or storm.  
193

194 *Stormwater retention.* A provision for storage of stormwater runoff.  
195

196 *Street.* A public or private thoroughfare used, or intended to be used, for passage or travel by motor  
197 vehicles. Streets are further classified by the functions they perform. See "street classification."  
198

199 *Street, access to.* An adequate and permanent way of entering a lot. All proposed lots of record shall have  
200 access to a public street for all vehicles normally associated with the uses permitted for that lot.  
201

202 *Street, alley.* A public or private thoroughfare primarily designed to serve as secondary access to the side  
203 or rear of those properties whose principal frontage is on some other street.  
204

205 *Street, cul-de-sac.* A local street with only one outlet and having an appropriate vehicular turnaround,  
206 either temporary or permanent, at the closed end.

207

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

212 *Street private.* A thoroughfare established as a separate tract for the benefit of multiple, adjacent properties  
213 and meeting specific, municipal improvement standards. This definition shall not apply to driveways.

214

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

216

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

219

220 *Street classification.* A method of roadway organization which identifies a street hierarchy according to  
221 function within a road system, that is, types of vehicles served and anticipated volumes, for the purposes  
222 of promoting safety, efficient land use and the design character of neighborhoods and districts. Major  
223 categories are:

224

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

227

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

230

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

232

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

238

239 *Subdivision.* The division ~~or re-division~~, of a lot, tract or parcel of land into two (2) or more lots, tracts or  
240 parcels. Any adjustment to existing lot lines of a recorded lot by any means shall be considered a  
241 subdivision. ~~All re-subdivision activity shall be considered a subdivision. The division of property for~~  
242 ~~purposes of financing constitutes a subdivision.~~

243

244 *Technical review' committee.* A committee appointed by the Plan Commission for the purpose of  
245 reviewing, commenting and making recommendations to the Plan Commission with respect to approval  
246 of land development and subdivision applications.

247

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

250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295

*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.* See section 14-55.

**Sec. 14-28. General—Platting, land development or other subdivision of land.**

~~(b)~~ *Plan Commission meetings.* Regularly scheduled meetings of the Plan Commission shall be held on the third Tuesday of each month commencing at 7:00 p.m. in the town council chambers or an alternate location in Scituate as may be designated by the Chairman from time to time.

~~(e)~~ *General Requirements.* . . .

~~(d)~~ ~~(c)~~ *Phasing of major land developments and major subdivisions.*

~~(7)~~ The master plan shall remain vested as long as it can be proved, to the satisfaction of the Plan Commission, that work is proceeding on either the approval stages or on the construction of the development as shown in the approved master plan documents. Vesting shall extend to all information shown on the approved master plan documents.

“See Sec. 1451.(g) page 4 of 14) Vesting for 1 year.

~~(e)~~ — *Land unsuitable for development.*

(1) — Fresh water wetlands, as defined by Section 2-1-20 of the General Laws (1987), as amended.

(2) — Areas within a flood hazard area, as defined by the Scituate Zoning Ordinance, as amended.

(3) — Land within any publicly or privately held easement on which above ground utilities, including, but not limited to, electrical transmission lines, are constructed.

(4) — Land on which development would clearly and directly degrade, impair or otherwise cause a negative impact on the Scituate Reservoir water quality or tributaries thereto.

~~(f)~~ ~~(d)~~ *Dedication of land for public purposes.*

~~(g)~~ ~~(e)~~ *Fees-in-lieu of public improvements or mitigation of negative impacts.* The town and land developer may agree on payment in-lieu-of specified improvements or construction to mitigate significant negative impact. Such negative impact of the proposed project on existing conditions shall be clearly documented and payment in-lieu-of shall only be spent on the mitigation of the identified impact for which it is required.

~~(h)~~ ~~(f)~~ *Impact assessment.*

296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
340  
341

~~Secs. 14-30—14-45. Reserved.~~

**Sec. 14-30. Technical Review Committee.**

- (a) There is hereby established a technical review committee (“TRC”) in accordance with R.I.G.L. § 45-23-56. The TRC is responsible for conducting technical reviews of all applications subject to the jurisdiction delegated under these Regulations.
- (b) The TRC shall consist of no less than a quorum of three (3) members, including no fewer than one member of the Plan Commission, appointed by a majority vote of the Plan Commission. The remaining members shall be appointed in accordance with the Zoning Ordinance.
- (c) The Plan Commission shall adopt written rules and procedures for the organization and conduct of the TRC. These rules and procedures shall contain information specific to membership, terms, quorums, meeting schedules, submission deadlines, and other administrative functions necessary to organize and facilitate the operation and duties of the TRC.
- (d) The Administrative Officer shall serve as chair of the TRC.
- (e) The TRC shall review development applications and provide guidance to an applicant at a meeting of the TRC with regard to procedure, technical requirements, public safety, and overall project design.
- (f) Recommendations of the TRC to the permitting authority shall be in writing and kept as part of the permanent record of the development application. The recommendation of the TRC shall be made available to the applicant prior to a decision by the permitting authority.
- (g) Review of applications in an advisory capacity
  - (1) The TRC shall review the following types of applications in an advisory capacity:
    - a. Minor and major land development projects and subdivisions; advisory to the permitting authority as determined in these Regulations.
    - b. Administrative subdivisions at the request of the Administrative Officer; advisory to the Administrative Officer.
    - c. Comprehensive permit applications; advisory to the Plan Commission.
    - d. Minor modifications or changes, as defined in these Regulations, to land development and subdivision applications.
    - e. Administrative development plan review applications; advisory to the Administrative Officer
    - f. Formal development plan review applications; advisory to the Plan Commission
    - g. Other matters referred to the TRC by the Plan Commission, Zoning Board, Administrative Officer, or Town Council.
- (h) Review of applications for decision



342  
343  
344  
345  
346  
347  
348  
349  
350  
351  
352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
380  
381  
382  
383

- (1) The TRC shall review the following types of applications for determination by a majority vote of the membership present. The decision of the TRC for these applications shall be binding on the applicant.
  - a. Final plan applications for minor land development and subdivisions referred to it by the Plan Commission
  - b. Preliminary plan applications for formal development plan review as defined in these Regulations as referred by the Administrative Officer.

**Sec. 14-31. Unified Development Review.**

- (a) Review of projects submitted under this section shall adhere to the procedures, timeframes and standards of the underlying category of the project as listed in these Regulations, but shall also include the following procedures:
  - 1. Minor subdivisions and land-development projects. Except for dimensional relief granted by modification, requests for variances and/or for the issuance of special-use permits related to minor subdivisions and land-development projects shall be submitted as part of the application materials for the preliminary plan stage of review or if combined, for the first stage of reviews. A public hearing on the application, including any variance and special-use permit requests that meets the requirements of subsection (5) of this section shall be held prior to consideration of the preliminary plan by the Plan Commission. The Plan Commission shall conditionally approve or deny the request(s) for the variance(s) and/or special-use permit(s) before considering the preliminary plan application for the minor subdivision or land-development project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned on approval of the final plan of the minor subdivision or land-development project.
  - 2. Development plan review. Except for dimensional relief granted by modification, requests for relief from the literal requirements of the zoning ordinance and/or for the issuance of special-use permits related to development plan review projects shall be submitted as part of the application materials for first stage of review. A public hearing on the application, including any variance and special-use permit requests that meets the requirements of subsection (5) of this section shall be held prior to consideration of the preliminary plan by the Plan Commission; see R.I.G.L. § 45-23-50(d)(1)(ii). The Plan Commission shall conditionally approve or deny the request(s) for the variance(s) and/or special-use permit(s) before considering the preliminary plan application for the development plan review project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned on approval of the final stage of review of the development plan review project.
  - 3. Major subdivisions and land-development projects.
    - a. Master plan. Except for dimensional relief granted by modification, requests for variances for relief from the literal requirements of the zoning ordinance and/or for the issuance of a special-use permit related to major subdivisions and land-

384 development projects shall be submitted as part of the application materials for the  
385 master plan stage of review, or if combined, the first stage of review. A public hearing  
386 on the application, including any variance and special-use permit requests that meets  
387 the requirements of subsection (e) of this section, shall be held prior to consideration  
388 of the master plan by the Plan Commission. The Plan Commission shall conditionally  
389 approve or deny the requests for the variance(s) and/or special-use permit(s) before  
390 considering the master plan application for the major subdivision or land-  
391 development project. Approval of the variance(s) and/or special-use permit(s) shall  
392 be conditioned on approval of the final plan of the major subdivision or land-  
393 development project.

394 b. Preliminary plan. During the preliminary plan stage of review, applicants shall have  
395 the ability to request alteration of any variance(s) and/or special-use permit(s) granted  
396 by the Plan Commission during the master plan stage of review, and/or to request  
397 new variance(s) and/or special-use permit(s), based on the outcomes of the more  
398 detailed planning and design necessary for the preliminary plan. If necessary, the  
399 applicant shall submit such requests and all supporting documentation along with the  
400 preliminary plan application materials. If the applicant requests new or additional  
401 zoning relief at this stage a public hearing on the application, that meets the  
402 requirements of subsection (5) of this section, shall be held prior to consideration of  
403 the preliminary plan by the Plan Commission. The Plan Commission shall  
404 conditionally approve, amend, or deny the requests for alteration(s), new variance(s)  
405 and/or new special-use permit(s), before considering the preliminary plan application  
406 for the major subdivision or land-development project. Approval of the alteration(s),  
407 new variance(s), and/or new special-use permit(s) shall be conditioned on approval  
408 of the final plan of the major subdivision or land-development project. If the Plan  
409 Commission denies the request for alteration(s), new variance(s), and/or new special-  
410 use permit(s), the Plan Commission shall have the option of remanding the  
411 application back to the master plan stage of review. Alternatively, if the Plan  
412 Commission denies the request for alteration(s), new variance(s), and/or new special-  
413 use permit(s), the applicant may consent to an extension of the decision period  
414 mandated by these Regulations so that additional information can be provided and  
415 reviewed by the Plan Commission.

416 4. Decision. The time periods by which the Plan Commission must approve or deny  
417 applications for variances and special-use permits under the unified development review  
418 provisions of the local regulations shall be the same as the time periods by which the Plan  
419 Commission must make a decision on the applicable review stage of the category of project  
420 under review.

421 5. Unless otherwise provided in this chapter all under this section shall require a single public  
422 hearing, held pursuant to subsection (a)(1) of this section. The public hearing must meet  
423 the following requirements:

- 424 a. Public hearing notice shall adhere to the requirements found in R.I.G.L. § 45-23-  
425 42(b).
- 426 b. The notice area for notice of the public hearing shall be 200 and notice of the public  
427 hearing shall be sent by the Administrative Officer to the Administrative Officer of  
428 an adjacent municipality if: (1) the notice area extends into the adjacent municipality;  
429 or (2) the development site extends into the adjacent municipality; or (3) there is a  
430 potential for significant negative impact on the adjacent municipality. Additional  
431 notice within watersheds shall also be sent as required in R.I.G.L. § 45-23-53(b) &  
432 (c).
- 433 c. Public notice shall indicate that dimensional variance(s), use variance(s) and/or  
434 special-use permit(s) are to be considered for the subdivision and/or land-  
435 development project.
- 436 d. The cost of all public notice is to be borne by the applicant.
- 437 6. The time periods by which the permitting authority must approve, approve with conditions  
438 or deny requests for variances and special-use permits under the unified development  
439 review provisions of a zoning ordinance shall be the same as the time periods by which the  
440 Plan Commission must make a decision on the applicable review stage of the underlying  
441 type of project under review.
- 442 7. The expirations period of an approval of a variance or special use permit granted under this  
443 section shall be the same as those set forth in the statute for the underlying type of project  
444 under review.
- 445 8. Decisions under this section, including requests for the variance(s) and/or special-use  
446 permits that are denied by the Plan Commission may be appealed pursuant to R.I.G.L. §  
447 45-23-71.

448  
449 **Sec. 14-32. Development Plan Review (formerly known as Commercial Site Plan Review).**  
450

- 451 (a) *Applicability.* The following categories of projects shall be subject to the provisions of this  
452 chapter.
- 453
- 454 (1) A change in use at the property  
455
- 456 (b) *Permitting authority.* The Administrative Officer shall approve administrative projects  
457 submitted, and the Plan Commission shall approve formal projects as described herein.  
458
- 459 (c) Development plan review consists of two processes, administrative and formal.  
460
- 461 (1) Administrative development plan review consists of one stage of review and the  
462 authorized permitting authority is the Administrative Officer. The following  
463 activities are subject to administrative development plan review:

464  
465 a. A change in use at the property where no extensive construction of  
466 improvements is sought, and no new parking spaces are required.  
467

468 (2) Formal development plan review consists of the preliminary stage and final stage of  
469 review. The authorized permitting authority is the Plan Commission. The following  
470 activities are subject to formal development plan review:  
471

472 a. A change in use at the property where extensive construction of improvements  
473 is sought, and new parking spaces are required.  
474

475 (3) The Administrative Officer may combine stages of review for formal development  
476 plan review, providing that the submission requirements for both stages of review  
477 are met by the applicant to the satisfaction of the Administrative Officer.  
478

479 (d) Requirements for development plan approval may be waived where there is a change in  
480 use or occupancy and no extensive construction of improvements is sought. The waiver  
481 may be granted only by a decision of the permitting authority identified in this section,  
482 finding that the use will not affect existing drainage, circulation, relationship of buildings  
483 to each other, landscaping, buffering, lighting, and other considerations of development  
484 plan approval, and that the existing facilities do not require upgraded or additional site  
485 improvements.  
486

487 (1) The application for a waiver of development plan approval shall include  
488 documentation on prior use of the site, the proposed use, and its impact.  
489

490 (e) Applications requesting relief from the zoning ordinance.  
491

492 (1) Applications under this article which require relief which qualifies only as a modification  
493 shall proceed by filing an application and a request for a modification to the zoning  
494 enforcement officer. If such modification is granted the application shall then proceed to  
495 be reviewed by the designated permitting authority as determined in this section. If the  
496 modification is denied or an objection is received as set forth in Section 21 of the zoning  
497 ordinance such application shall proceed under unified development review and be  
498 reviewed by the Plan Commission.  
499

500 (2) Applications under this section which require relief from the literal provisions of the zoning  
501 ordinance in the form of a variance or special use permit, shall be reviewed by the Plan  
502 Commission under unified development review, and a request for relief shall accompany  
503 the preliminary plan application.  
504

505  
506  
507  
508  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550

(f) Submission requirements.

- (1) Any applicant requesting approval of a proposed development under this chapter, shall submit to the Administrative Officer the items required by the appropriate checklist.
- (2) Requests for relief from the literal requirements of the zoning ordinance and/or for the issuance of a special use permits related to projects qualifying for development plan review shall be submitted and reviewed under unified development review.

(g) Certification

- (1) The application shall be certified, in writing, complete or incomplete by the Administrative Officer within twenty-five (25) days. If no street creation or extension is required, and/or unified development review is not required, the application shall be certified complete or incomplete by the Administrative Officer within fifteen (15) days.
- (2) The running of the time period set forth in this section will be deemed stopped upon the issuance of a written certificate of incompleteness of the application by the Administrative Officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the Administrative Officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission.
- (3) If the Administrative Officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.

(h) Application review and decision.

- (1) Administrative development plan review. An application shall be approved, denied, or approved with conditions within twenty-five (25) days of the certificate of completeness or within any further time that is agreed to in writing by the applicant and Administrative Officer.
- (2) Formal development plan review.
  - a. Preliminary plan. Unless the application is reviewed under unified development review, the Plan Commission will approve, deny, or approve with conditions, the preliminary plan within sixty-five (65) days of certification of completeness, or within any further time that is agreed to by the applicant and the permitting authority.
  - b. Final Plan. For formal development plan approval, the permitting authority shall delegate final plan review and approval to the Administrative Officer. The officer will report its actions in writing to the Plan Commission at its next regular meeting, to be made part of the record. Final plan shall be approved or denied within forty-five (45) days after the certification of completeness, or within a further amount of time that may be consented to by the applicant, in writing.

551 (1) Failure to act. Failure of the permitting authority to act within the period prescribed  
552 constitutes approval of the preliminary plan and a certificate of the Administrative Officer  
553 as to the failure to act within the required time and the resulting approval shall be issued  
554 on request of the application.

555  
556 (2) Vested rights. Approval of development plan review shall expire two (2) years from  
557 the date of approval unless, within that period, a plat or plan, in conformity with  
558 approval, and as defined in this act, is submitted for signature and recording. Validity  
559 may be extended for an additional period upon application to the Administrative Officer  
560 or permitting authority, whichever entity approved the application, upon a showing of  
561 good cause.

562  
563 (i) Modifications and changes to plans.

564  
565 (1) Minor changes to the plans approved at any stage may be approved administratively, by  
566 the Administrative Officer, whereupon final plan approval may be issued. The changes  
567 may be authorized without an additional planning board meeting, at the discretion of the  
568 Administrative Officer. All changes shall be made part of the permanent record of the  
569 project application. This provision does not prohibit the Administrative Officer from  
570 requesting recommendation from either the technical review committee or the permitting  
571 authority. Minor changes shall include:

572 a. A change to a plan, which in the opinion of the Administrative Officer, does  
573 not substantially impact the project and is consistent with the intent of the  
574 original approval.

575 b. Denial of the proposed change(s) shall be referred to the permitting authority for  
576 review as a major change.

577  
578 (2) Major changes to the plans approved at any stage may be approved only by the permitting  
579 authority and must follow the same review and hearing process required for approval of  
580 preliminary plans, which shall include a public hearing. Major changes are those that in  
581 the opinion of the Administrative Officer substantially impact the project and/or is  
582 inconsistent with the intent of the original approval. Major changes include but are not  
583 limited to:

584 a. Changes that have the effect of creating additional lots or units.

585 b. Changes to any dimension contained in the plan exceeding 20%.

586 c. Changes that would require a waiver from these Regulations or a variance or special  
587 use permit.

588 d. Significant realignment of streets or entrance changes.

589 e. Exceeding the limits of disturbance as specified in the Final Plan.

590

591 (3) The Administrative Officer shall notify the applicant in writing within fourteen (14) days  
592 of submission of the final plan application if the Administrative Officer determines that  
593 there has been a major change to the approved plans.

595 (j) Appeal. A decision under this section shall be considered an appealable decision.

597 (k) Design standards. Standards for design of development plan review applications subject to  
598 development plan review are provided in Section 13 of Article IV of the Scituate Zoning  
599 Ordinance.

600

### 601 **Sec 14-33. Unified Development Review**

602

603 (a) Review of projects submitted under this section shall adhere to the procedures, timeframes and  
604 standards of the underlying category of the project as listed in these Regulations, but shall also  
605 include the following procedures:

606 (1) Minor subdivisions and land-development projects. Except for dimensional relief granted  
607 by modification, requests for variances and/or for the issuance of special-use permits  
608 related to minor subdivisions and land-development projects shall be submitted as part of  
609 the application materials for the preliminary plan stage of review or if combined, for the  
610 first stage of reviews. A public hearing on the application, including any variance and  
611 special-use permit requests that meets the requirements of subsection (5) of this section  
612 shall be held prior to consideration of the preliminary plan by the Plan Commission. The  
613 Plan Commission shall conditionally approve or deny the request(s) for the variance(s)  
614 and/or special-use permit(s) before considering the preliminary plan application for the  
615 minor subdivision or land-development project. Approval of the variance(s) and/or special-  
616 use permit(s) shall be conditioned on approval of the final plan of the minor subdivision or  
617 land-development project.

618 (2) Development plan review. Except for dimensional relief granted by modification, requests  
619 for relief from the literal requirements of the zoning ordinance and/or for the issuance of  
620 special-use permits related to development plan review projects shall be submitted as part  
621 of the application materials for first stage of review. A public hearing on the application,  
622 including any variance and special-use permit requests that meets the requirements of  
623 subsection (5) of this section shall be held prior to consideration of the preliminary plan by  
624 the Plan Commission, see RIGL §45-23-50(d)(1)(ii). The Plan Commission shall  
625 conditionally approve or deny the request(s) for the variance(s) and/or special-use permit(s)  
626 before considering the preliminary plan application for the development plan review  
627 project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned on  
628 approval of the final stage of review of the development plan review project.

629 (3) Major subdivisions and land-development projects.

630 a. Master plan. Except for dimensional relief granted by modification, requests for  
631 variances for relief from the literal requirements of the zoning ordinance and/or for  
632 the issuance of a special-use permit related to major subdivisions and land-

633 development projects shall be submitted as part of the application materials for the  
634 master plan stage of review, or if combined, the first stage of review. A public hearing  
635 on the application, including any variance and special-use permit requests that meets  
636 the requirements of subsection (e) of this section, shall be held prior to consideration  
637 of the master plan by the Plan Commission. The Plan Commission shall conditionally  
638 approve or deny the requests for the variance(s) and/or special-use permit(s) before  
639 considering the master plan application for the major subdivision or land-  
640 development project. Approval of the variance(s) and/or special-use permit(s) shall  
641 be conditioned on approval of the final plan of the major subdivision or land-  
642 development project.

643 b. Preliminary plan. During the preliminary plan stage of review, applicants shall have  
644 the ability to request alteration of any variance(s) and/or special-use permit(s) granted  
645 by the Plan Commission during the master plan stage of review, and/or to request  
646 new variance(s) and/or special-use permit(s), based on the outcomes of the more  
647 detailed planning and design necessary for the preliminary plan. If necessary, the  
648 applicant shall submit such requests and all supporting documentation along with the  
649 preliminary plan application materials. If the applicant requests new or additional  
650 zoning relief at this stage a public hearing on the application, that meets the  
651 requirements of subsection (5) of this section, shall be held prior to consideration of  
652 the preliminary plan by the Plan Commission. The Plan Commission shall  
653 conditionally approve, amend, or deny the requests for alteration(s), new variance(s)  
654 and/or new special-use permit(s), before considering the preliminary plan application  
655 for the major subdivision or land-development project. Approval of the alteration(s),  
656 new variance(s), and/or new special-use permit(s) shall be conditioned on approval  
657 of the final plan of the major subdivision or land-development project. If the Plan  
658 Commission denies the request for alteration(s), new variance(s), and/or new special-  
659 use permit(s), the Plan Commission shall have the option of remanding the  
660 application back to the master plan stage of review. Alternatively, if the Plan  
661 Commission denies the request for alteration(s), new variance(s), and/or new special-  
662 use permit(s), the applicant may consent to an extension of the decision period  
663 mandated Section 14-52(6) of these Regulations so that additional information can  
664 be provided and reviewed by the Plan Commission.

665 (4) Decision. The time periods by which the Plan Commission must approve or deny  
666 applications for variances and special-use permits under the unified development review  
667 provisions of the local regulations shall be the same as the time periods by which the Plan  
668 Commission must make a decision on the applicable review stage of the category of project  
669 under review.

670 (5) Unless otherwise provided in this chapter all applications under this section shall require a  
671 single public hearing, held pursuant to this section. The public hearing must meet the  
672 following requirements:

673 a. Public hearing notice shall adhere to the requirements found in RIGL §45-23-42(b).



- 674           b.    The notice area for notice of the public hearing shall be 200 feet and notice of the  
675           public hearing shall be sent by the administrative officer to the administrative officer  
676           of an adjacent municipality if: (1) the notice area extends into the adjacent  
677           municipality; or (2) the development site extends into the adjacent municipality; or  
678           (3) there is a potential for significant negative impact on the adjacent municipality.  
679           Additional notice within watersheds shall also be sent as required in RIGL §45-23-  
680           53(b) and (c).
- 681           c.    Public notice shall indicate that dimensional variance(s), use variance(s) and/or  
682           special-use permit(s) are to be considered for the subdivision and/or land-  
683           development project.
- 684           d.    The cost of all public notice is to be borne by the applicant.
- 685           (6) The time periods by which the permitting authority must approve, approve with conditions  
686           or deny requests for variances and special-use permits under the unified development  
687           review provisions of a zoning ordinance shall be the same as the time periods by which the  
688           Plan Commission must make a decision on the applicable review stage of the underlying  
689           type of project under review.
- 690           (7) The expirations period of an approval of a variance or special use permit granted under this  
691           section shall be the same as those set forth in the statute for the underlying type of project  
692           under review.
- 693           (8) Decisions under this section, including requests for the variance(s) and/or special-use  
694           permits that are denied by the Plan Commission may be appealed pursuant to RIGL §45-  
695           23-71.

696  
697 **Sec. 14-34—14-45. Reserved.**  
698

699                                   **ARTICLE III. SUBDIVISION REVIEW**  
700

701   . . .  
702  
703 **Sec. 14-47. Application for development and certification of completeness.**  
704

- 705           (a) Classification. The Administrative Officer shall advise the applicant as to which approvals are  
706           required and the appropriate board for hearing an application for a land development or subdivision  
707           project. The following types of applications may be filed:
- 708
- 709           (1) Subdivisions. Administrative subdivisions, minor subdivisions, or major subdivisions.
- 710
- 711           (2) ~~Minor subdivision or minor land development plan.~~ Land development projects. Minor  
712           land development or major land development; and
- 713
- 714           (3) ~~Major subdivision or major land development plan.~~ Development plan review.

715  
716  
717  
718  
719  
720  
721  
722  
723  
724  
725  
726  
727  
728  
729  
730  
731  
732  
733  
734  
735  
736  
737  
738  
739  
740  
741  
742  
743  
744  
745  
746  
747  
748  
749  
750  
751  
752  
753  
754  
755  
756  
757

(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 and approved by the Plan Commission chairman for placement on the Plan Commission agenda. Every certification of completeness required by this section shall be in writing. In the event such certification of the application is not made within the time specified in this chapter 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 these regulations and the Administrative Officer has notified the applicant, in writing, of the deficiencies in the application.

...

**Sec. 14-49. Minor land development and minor subdivision review.**

~~(a) *Review stages.* Minor plan review shall consist of two (2) stages, preliminary and final, provided, that if a street creation or extension is involved, a public hearing is required. The Plan Commission may combine the approval stages, providing requirements for both stages have been met by the applicant to the satisfaction of the commission.~~

~~(b) *Submission requirements.* Any applicant requesting approval of a proposed minor subdivision or minor land development, as defined in this chapter, shall submit to the Administrative Officer the items required herein.~~

~~(c) *Certification.* The application shall be certified complete or incomplete by the Administrative Officer within twenty five (25) days.~~

~~(d) *Technical review committee.* The technical review committee, if established, shall review the application and shall comment and make recommendations to the Plan Commission. The application shall be referred to the Plan Commission as a whole if there is no technical review committee. When reviewed by a technical review committee:~~

~~(1) If the land development or subdivision plan is approved by a majority of the committee members, the application shall be forwarded to the Plan Commission with a recommendation for preliminary plan approval without further review.~~

~~(2) If the plan is not approved by a majority vote of the committee members, the minor land development and subdivision application shall be referred to the Plan Commission.~~

~~(e) *Reassignment to major review.* The Plan Commission may reassign a proposed minor project to major review only when the Plan Commission is unable to make the positive findings required in Section 45-23-60 of the State Enabling Law.~~

758 ~~(f) *Decision.* If no street creation or extension is required, the Plan Commission shall approve, deny or~~  
759 ~~approve with conditions, the preliminary plan within sixty five (65) days of certification of~~  
760 ~~completeness, or within such further time as is agreed to by the applicant and the board, according~~  
761 ~~to the requirements of Section 45-23-63 of the General Laws. If a street extension or creation is~~  
762 ~~required, the Plan Commission shall hold a public hearing prior to approval and shall approve, deny or~~  
763 ~~approve with conditions, the preliminary plan within ninety five (95) days of certification of~~  
764 ~~completeness, or within such further time as is agreed to by the applicant and the commission.~~

765  
766 ~~(g) *Failure to act.* Failure of the Plan Commission to act within the period prescribed shall constitute~~  
767 ~~approval of the preliminary plan and a certificate of the Administrative Officer as to the failure of the Plan~~  
768 ~~Commission to act within the required time and the resulting approval shall be issued on request of~~  
769 ~~the applicant.~~

770  
771 ~~(h) *Final plan.* The Plan Commission may delegate final plan review and approval to either the~~  
772 ~~Administrative Officer or a technical review committee. The officer or committee shall report its actions~~  
773 ~~to the Plan Commission at its next regular meeting, to be made part of the record.~~

774  
775 ~~(i) *Vesting.* Approval of a minor land development or subdivision plan shall expire ninety (90) days from~~  
776 ~~the date of approval unless within such period a plat or plan, in conformity with such approval, and as~~  
777 ~~defined in this act, is submitted for signature and recording. Validity may be extended for a longer~~  
778 ~~period, for cause shown, if requested by the applicant in writing, and approved by the Plan~~  
779 ~~Commission.~~

780  
781 Minor plan review consists of two (2) stages, preliminary and final; provided, that unless otherwise set  
782 forth in this section, if a street creation or extension is involved, or a request for variances and/or special-  
783 use permits are submitted pursuant to a unified development application, a public hearing is required by  
784 the Plan Commission.

785 (a) Application types.

786 (1) Applications requesting relief from the zoning ordinance.

787 a. Applications under this section which require relief which qualifies only as a  
788 modification shall proceed by filing an application under this chapter and a request  
789 for a modification to the zoning enforcement officer. If such modification is granted  
790 the application shall then proceed to be reviewed by the Administrative Officer  
791 pursuant to the applicable requirements of this section. If the modification is denied  
792 or an objection is received, such application shall proceed under unified  
793 development plan review.

794 b. Applications under this section which require relief from the literal provisions of  
795 the zoning ordinance in the form of a variance or special use permit, shall be  
796 reviewed by the Plan Commission under unified development plan review, and a  
797 request for review shall accompany the preliminary plan application.

798 c. Any application involving a street creation or extension shall be reviewed by the  
799 Plan Commission and require a public hearing.

800 (2) Other applications. The Administrative Officer shall review and grant, grant with  
801 conditions or deny all other applications under this section and may grant waivers of design  
802 standards as set forth in the local regulations and zoning ordinance. The Administrative  
803 Officer may utilize the Technical Review Committee for initial review and  
804 recommendation.

805 (3) Submission requirements. Any applicant requesting approval of a proposed minor  
806 subdivision or minor land development, as defined in this chapter, shall submit to the  
807 Administrative Officer the items required by the appropriate checklist.

808 (b) Certification. For each applicable stage of review, the application shall be certified, in writing,  
809 complete or incomplete by the Administrative Officer within twenty-five (25) days of the  
810 submission so long as a completed checklist of the requirements for submission are provided as  
811 part of the submission. If no street creation or extension is required, and/or unified development  
812 review is not requested, and a completed checklist of the requirements for submission are provided  
813 as part of the submission, such application shall be certified, in writing, complete or incomplete  
814 by the Administrative Officer within fifteen (15) days. The running of the time period set forth in  
815 this section will be deemed stopped upon the issuance of a certificate of incompleteness of the  
816 application by the Administrative Officer and will recommence upon the resubmission of a  
817 corrected application by the applicant. However, in no event will the Administrative Officer be  
818 required to certify a corrected submission as complete or incomplete less than ten (10) days after  
819 its resubmission.

820 (c) Decision on preliminary plan. If no street creation or extension or unified development review is  
821 required, the Administrative Officer will approve, deny, or approve with conditions, the  
822 preliminary plan within sixty-five (65) days of certification of completeness, or within any further  
823 time that is agreed to by the applicant and the board. If a street extension or creation is required,  
824 and/or the application is reviewed under the unified development plan review, the Plan  
825 Commission will hold a public hearing prior to approval according to the requirements in Section  
826 14-53 of these Regulations and R.I.G.L. § 45-23-42(b) and will approve, deny, or approve with  
827 conditions, the preliminary plan within ninety-five (95) days of certification of completeness, or  
828 within any specified time that is agreed to by the applicant and the board, according to the  
829 requirements of Section 14-28(c) of these Regulations.

830 (1) Failure to act. Failure of the Plan Commission or Administrative Officer to act within the  
831 period prescribed constitutes approval of the preliminary plan and a certificate of the  
832 Administrative Officer as to the failure to act within the required time and the resulting  
833 approval will be issued on request of the applicant.

834 (2) Re-assignment to major review. The Plan Commission may re-assign a proposed minor  
835 project to major review only when the Plan Commission is unable to make the positive  
836 findings required in Section 14-28(c) of these Regulations.

- 837 (3) Final plan. Final plans shall be reviewed and approved by the Administrative Officer. The  
838 Administrative Officer will report his/her actions, in writing to the Plan Commission at its  
839 next regular meeting, to be made part of the record. The Administrative Officer shall  
840 approve, deny, approve with conditions, or refer the application to the Plan Commission  
841 based upon a finding that there is a major change within twenty-five (25) days of the  
842 certificate of completeness.
- 843 (4) Modifications and changes to plans.
- 844 a. Minor changes to the plans approved at any stage may be approved  
845 administratively, by the Administrative Officer. The changes may be authorized  
846 without additional public hearings, at the discretion of the Administrative  
847 Officer. All changes shall be made part of the permanent record of the project  
848 application. This provision does not prohibit the Administrative Officer from  
849 requesting recommendation from either the Technical Review Committee or the  
850 permitting authority. Denial of the proposed change(s) shall be referred to the  
851 applicable permitting authority for review as a major change. Minor changes  
852 include the following:
- 853 1. A change to a plan, which in the opinion of the Administrative  
854 Officer, does not substantially impact the project and is consistent  
855 with the intent of the original approval.
- 856 2. Denial of the proposed change(s) shall be referred to the permitting  
857 authority for review as a major change.
- 858
- 859 b. Major changes to the plans approved at any stage may be approved only by the  
860 applicable permitting authority and must follow the same review and hearing  
861 process required for approval of preliminary plans, which shall include a public  
862 hearing if originally required as part of the application. Major changes include  
863 the following:
- 864 1. Changes that have the effect of creating additional lots or units.
- 865 2. Changes to any dimension contained in the plan exceeding 20%.
- 866 3. Changes that would require a waiver from these Regulations or a  
867 variance or special use permit.
- 868 4. Significant realignment of streets or entrance changes.
- 869 5. Exceeding the limits of disturbance as specified in the Final Plan.
- 870
- 871 c. The Administrative Officer shall notify the applicant in writing within fourteen  
872 (14) days of submission of the final plan application if the Administrative Officer  
873 determines the change to be a major change.

874 (5) Appeal. Decisions under this section shall be considered an appealable decision pursuant  
875 to Sections 45-23-67 and 45-23-71 of the General Law.

876 (6) Expiration of approvals. Approvals of a minor land-development or subdivision plan  
877 expires one year from the date of approval unless, within that period, a plat or plan, in  
878 conformity with approval, and as defined in this act, is submitted for signature and  
879 recording. Validity may be extended for a longer period, for cause shown, if requested by  
880 the application in writing, and approved by the Plan Commission.

881

882 **Sec. 14-50. Major land development and major subdivision review stages.**

883

884 (a) Major plan review shall be required of all applications for land development and subdivision  
885 approval subject to this chapter, unless classified as an administrative subdivision, ~~or as a minor land~~  
886 ~~development, or a minor subdivision, or development plan review.~~

887

888 (b) Major plan review shall consist of three (3) stages of review, master plan, preliminary plan and final  
889 plan, following the preapplication meeting(s) specified in Section 45-23-35 of the General Law.  
890 Also required is a ~~public informational meeting and a public hearing~~ at the master plan stage.

891

892 ~~(c) The Plan Commission may vote to combine review stages and to modify and/or waive~~  
893 ~~requirements. Review stages may be combined only after the Plan Commission determines that all~~  
894 ~~necessary requirements have been met by the applicant. The Administrative Officer may combine~~  
895 review stages and to modify, but only the Plan Commission may waive submission requirements.  
896 Review stages may be combined only after the Administrative Officer determines that all  
897 necessary requirements have been met by the applicant or that the Plan Commission has waived  
898 any submission requirements not included by the applicant.

899

900 **Sec. 14-51. Major land development and major subdivision—Master plan.**

901

~~(a) Submission requirements.~~

902

~~(1) The applicant shall first submit to the Administrative Officer the items required for master~~  
903 ~~plans.~~

904

~~(2) Requirements for the master plan and supporting material for this phase review shall~~  
905 ~~include, but not be limited to: information on the natural and built features of the~~  
906 ~~surrounding neighborhood, existing natural and man-made conditions of the development~~  
907 ~~site, including topographic features, the freshwater wetland and watershed boundaries, issues~~  
908 ~~and elements concerning Low Impact Development, the floodplains, as well as the proposed~~  
909 ~~design concept, proposed public improvements and dedications, tentative construction~~  
910 ~~phasing, and potential neighborhood impacts.~~

911

~~(3) Initial comments shall be solicited from the department of public works, fire and police~~  
912 ~~departments, the conservation and recreation commissions; adjacent communities if~~  
913 ~~required; state agencies, as appropriate, including the departments of environmental~~  
914 ~~management and transportation. The Administrative Officer shall coordinate these reviews.~~

- 915 ~~(b) Certification. The application shall be certified complete or incomplete by the Administrative~~  
916 ~~Officer within ninety (90) twenty five (25) days.~~
- 917 ~~(c) Technical review committee. The technical review committee, if established, shall review the~~  
918 ~~application and shall comment and make recommendations to the Plan Commission.~~
- 919 ~~(d) Informational meeting. A public informational meeting shall be held prior to the Plan Commission~~  
920 ~~decision on the master plan, unless the master plan and preliminary plan approvals are being~~  
921 ~~combined, in which case the public informational meeting shall be optional, based upon Plan~~  
922 ~~Commission determination.~~
- 923 ~~(1) Public notice for the informational meeting is required and shall be given at least seven (7)~~  
924 ~~days prior to the date of the meeting in a newspaper of general circulation within the town.~~  
925 ~~Postcard notice shall be mailed to the applicant and to all property owners within the notice~~  
926 ~~area.~~
- 927 ~~(2) At the public informational meeting the applicant shall present the proposed development~~  
928 ~~project. The Plan Commission shall allow oral and written comments from the general~~  
929 ~~public. All public comments shall be made part of the public record of the project application.~~
- 930 ~~(e) Decision. The Plan Commission shall, within one hundred and twenty (120) days of certification of~~  
931 ~~completeness, or within such further time as may be consented to by the applicant, approve of the~~  
932 ~~master plan as submitted, approve with changes and/or conditions or deny the application.~~
- 933 ~~(f) Failure to act. Failure of the Plan Commission to act within the period prescribed shall constitute~~  
934 ~~approval of the master plan and a certificate of the Administrative Officer as to the failure of the~~  
935 ~~Plan Commission to act within the required time and the resulting approval shall be issued on~~  
936 ~~request of the applicant.~~
- 937 ~~(g) Vesting.~~
- 938 ~~(1) The master plan shall remain vested as long as it can be proved, to the satisfaction of the~~  
939 ~~Plan Commission, that work is proceeding on either the approval stages or on the~~  
940 ~~construction of the development as shown in the approved master plan documents. Vesting~~  
941 ~~shall extend to all information shown on the approved master plan documents.~~
- 942 ~~(2) The initial two-year vesting for the approved master plan shall constitute the vested rights for~~  
943 ~~the development.~~
- 944 (a) Master plan review.
- 945 (1) Submission requirements.
- 946 a. The applicant shall first submit to the Administrative Officer the items required  
947 by the checklist for master plans.
- 948 b. Requirements for the master plan and supporting material for this phase of review  
949 include, but are not limited to: information on the natural and built features of the  
950 surrounding neighborhood, existing natural and man-made conditions of the  
951 development site, including topographic features, the freshwater wetland and  
952 coastal zone boundaries, the floodplains, as well as the proposed design concept,  
953 proposed public improvements and dedications, tentative construction phasing;  
954 and potential neighborhood impacts, as required by the checklist.

- 955 c. Initial comments will be solicited from:
- 956 1. Local agencies including, but not limited to, the planning department, the  
957 department of public works, fire and police departments, the conservation  
958 and recreation commissions;
- 959 2. Adjacent communities;
- 960 3. State agencies, as appropriate, including the departments of environmental  
961 management and transportation and the coastal resources management  
962 council; and
- 963 4. Federal agencies, as appropriate. The Administrative Officer shall  
964 coordinate review and comments by local officials, adjacent communities,  
965 and state and federal agencies.
- 966 (2) Applications requesting relief from the zoning ordinance.
- 967 a. Applications under this chapter which require relief which qualifies only as a  
968 modification under Section 21 of the zoning ordinance shall proceed by filing a  
969 master plan application under this section and a request for a modification to the  
970 zoning enforcement officer. If such modification is granted, the application shall  
971 then proceed to be reviewed by the planning board pursuant to the applicable  
972 requirements of this section. If the modification is denied or an objection is  
973 received as set forth in Section 21 of the zoning ordinance such application shall  
974 proceed under unified development plan review pursuant to Section 14-31 of  
975 these regulations.
- 976 b. Applications under this section which require relief from the literal provisions of  
977 the zoning ordinance in the form of a variance or special use permit, shall be  
978 reviewed by the Plan Commission under unified development plan review  
979 pursuant to Section 14-31 of these regulations.
- 980 (3) Certification. The application must be certified, in writing, complete or incomplete by the  
981 Administrative Officer within twenty-five (25) days of the submission, so long as a  
982 completed checklist of requirements are provided with the submission. The running of the  
983 time period set forth herein will be deemed stopped upon the issuance of a certificate of  
984 incompleteness of the application by the Administrative Officer and will recommence upon  
985 the resubmission of a corrected application by the applicant. However, in no event will the  
986 Administrative Officer be required to certify a corrected submission as complete or  
987 incomplete less than ten (10) days after its resubmission.
- 988 (4) Technical review committee. The technical review committee shall review the application  
989 prior to the first Plan Commission meeting and shall comment and make recommendations  
990 to the Plan Commission.
- 991 (5) Public hearing.
- 992 a. A public hearing shall be held prior to the Plan Commission decision on the  
993 master plan. If the master plan and preliminary plan review stages are being  
994 combined, a public hearing shall be held during the combined stage of review.
- 995 b. Notice for the public hearing is required with notice in accordance with Section



996 14-53 of these Regulations.

997 c. At the public hearing, the applicant will present the proposed development  
998 project. The Plan Commission must allow oral and written comments from the  
999 general public. All public comments are to be made part of the public record of  
1000 the project application.

1001 (6) Decision. The Plan Commission shall, within ninety (90) days of certification of  
1002 completeness, or within a further amount of time that may be consented to by the applicant  
1003 through the submission of a written waiver, approve of the master plan as submitted,  
1004 approve with changes and/or conditions, or deny the application, according to the  
1005 requirements of Section 14-28(c) of these regulations.

1006 (7) Failure to act. Failure of the Plan Commission to act within the prescribed period  
1007 constitutes approval of the master plan, and a certificate of the Administrative Officer as  
1008 to the failure of the planning board to act within the required time and the resulting approval  
1009 will be issued on request of the applicant.

1010 (8) Vesting.

1011 a. The approved master plan is vested for a period of two (2) years, with the right  
1012 to extend for two (2), one-year extensions upon written request by the applicant,  
1013 who must appear before the Plan Commission for the annual review. Thereafter,  
1014 vesting may be extended for a longer period, for good cause shown, if requested  
1015 by the applicant, in writing, and approved by the Plan Commission. Master plan  
1016 vesting includes the zoning requirements, conceptual layout, and all conditions  
1017 shown on the approved master plan drawings and supporting materials.

1018 b. The initial four (4) year vesting for the approved master plan constitutes the  
1019 vested rights for the development as required in RIGL § 45-24-44.

1020  
1021 **Sec. 14-52. Same—Preliminary Plan.**  
1022

1023 ~~(a) Submission requirements.~~

1024 ~~(1) The applicant shall first submit to the Administrative Officer the items required for preliminary~~  
1025 ~~plans.~~

1026 ~~(2) Requirements for the preliminary plan and supporting materials for this phase of the review shall~~  
1027 ~~include, but not be limited to: Engineering plans depicting the existing site conditions, engineering plans~~  
1028 ~~depicting the proposed development project, a perimeter survey, certified jurisdictional limits of state or~~  
1029 ~~federal agencies including those related to freshwater wetlands, floodplains, preliminary suitability for~~  
1030 ~~individual septic disposal systems, public water systems, and connections to state roads.~~

1031 ~~(3) Written comments and/or approvals of the department of public works, local Fire Chief/Authority~~  
1032 ~~Having Jurisdiction and the town engineer.~~

1033 ~~(4) Prior to approval of the preliminary plan, copies of all legal documents~~  
1034 ~~describing the property, proposed easements and rights of way.~~

1035 ~~(a) Certification. The application shall be certified as complete or incomplete by~~  
1036 ~~the Administrative Officer within sixty (00) days.~~

1037 ~~(e) Technical review committee. The technical review committee, if established, shall review the~~  
1038 ~~application and shall comment and make recommendations to the Plan Commission.~~

1039 ~~(d) Public hearing. Prior to Plan Commission decision on the preliminary plan, a public hearing, which~~

1040 adheres to the requirements for notice described herein, must be held.

1041 ~~(e) *Public improvement guarantees.* Proposed arrangements for completion of the required public~~  
1042 ~~improvements, including construction schedule and/or financial guarantees shall be reviewed and~~  
1043 ~~approved by the Plan Commission at preliminary plan approval.~~

1044 ~~(f) *Decision.* A complete application for a major subdivision or development~~  
1045 ~~plan shall be approved, approved with conditions or denied within one hundred and twenty (120) days of~~  
1046 ~~the date when it is certified complete, or within such further time as may be consented to by the developer.~~

1047 ~~(g) *Failure to act.* Failure of the Plan Commission to act within the period prescribed shall constitute~~  
1048 ~~approval of the preliminary plan and a certificate of the Administrative Officer as to the failure of the Plan~~  
1049 ~~Commission to act within the required time and the resulting approval shall be issued on request of the~~  
1050 ~~applicant.~~

1051 ~~(h) *Vesting.* The approved preliminary plan shall be vested for a period of one~~  
1052 ~~(1) year and vesting may be extended for a longer period, for good cause shown, if requested in writing by~~  
1053 ~~the applicant, and approved by the Plan Commission. The vesting for the preliminary plan approval shall~~  
1054 ~~include all general and specific conditions as shown on the approved preliminary plan drawings and~~  
1055 ~~supporting material.~~

1056 (a) Preliminary plan review.

1057 (1) *Submission requirements.*

1058 a. The applicant shall first submit to the Administrative Officer the items required  
1059 by the checklist for preliminary plans.

1060 b. Requirements for the preliminary plan and supporting materials for this phase of  
1061 the review include, but are not limited to: engineering plans depicting the existing  
1062 site conditions, engineering plans depicting the proposed development project,  
1063 and a perimeter survey, as included on the checklist.

1064 c. At the preliminary plan review phase, the Administrative Officer shall solicit  
1065 final, written comments and/or approvals of the department of public works, the  
1066 town engineer, the town solicitor, other local government departments,  
1067 commissions, or authorities as appropriate.

1068 d. Prior to approval of the preliminary plan, copies of all legal documents describing  
1069 the property, proposed easements, and rights-of-way.

1070 e. Prior to approval of the preliminary plan, an applicant must submit all permits  
1071 required by state or federal agencies, including permits related to freshwater  
1072 wetlands, the coastal zone, floodplains, preliminary suitability for individual  
1073 septic disposal systems, public water systems, and connections to state roads. For  
1074 a state permit from the Rhode Island department of transportation, a letter  
1075 evidencing the issuance of such a permit upon the submission of a bond and  
1076 insurance is sufficient, but such actual permit shall be required prior to the  
1077 issuance of a building permit.

1078 f. If the applicant is requesting alteration of any variances and/or special-use  
1079 permits granted by the Plan Commission at the master plan stage of review  
1080 pursuant to adopted unified development review provisions, and/or any new  
1081 variances and/or special-use permits, such requests and all supporting  
1082 documentation shall be included as part of the preliminary plan application  
1083 materials.

- 1084 (2) Certification. The application will be certified as complete or incomplete by the  
1085 Administrative Officer within twenty-five (25) days so long as a completed checklist of  
1086 requirements are provided with the submission. The running of the time period set forth  
1087 herein will be deemed stopped upon the issuance of a certificate of incompleteness of the  
1088 application by the Administrative Officer and will recommence upon the resubmission of  
1089 a corrected application by the applicant. However, in no event shall the Administrative  
1090 Officer be required to certify a corrected submission as complete or incomplete less than  
1091 ten (10) days after its resubmission.
- 1092 (3) Technical review committee. The technical review committee shall review the application  
1093 prior to the first planning board meeting and shall comment and make recommendations to  
1094 the Plan Commission.
- 1095 (4) Public notice. Prior to the first Plan Commission meeting on the preliminary plan, public  
1096 notice shall be sent to abutters only at least fourteen (14) days before the hearing.
- 1097 (5) Public improvement guarantees. Proposed arrangements for completion of the required  
1098 public improvements, including construction schedule and/or financial guarantees, shall be  
1099 reviewed and approved by the Plan Commission at preliminary plan approval.
- 1100 (6) Decision. A complete application for a major subdivision or development plan shall be  
1101 approved, approved with conditions, or denied, in accordance with the requirements of  
1102 Section 14-28(c) of these Regulations, within ninety (90) days of the date when it is  
1103 certified complete, or within a further amount of time that may be consented to by the  
1104 developer through the submission of a written waiver. Provided that, the timeframe for  
1105 decision is automatically extended if evidence of state permits has not been provided, or  
1106 otherwise waived in accordance with this section.
- 1107 (7) Failure to act. Failure of the Plan Commission to act within the prescribed period  
1108 constitutes approval of the preliminary plan and a certificate of the Administrative Officer  
1109 as to the failure of the Plan Commission to act within the required time and the resulting  
1110 approval shall be issued on request of the applicant.
- 1111 (8) Vesting. The approved preliminary plan is vested for a period of two (2) years with the  
1112 right to extend for two (2), one-year extensions upon written request by the applicant, who  
1113 must appear before the Plan Commission for each annual review and provide proof of valid  
1114 state or federal permits as applicable. Thereafter, vesting may be extended for a longer  
1115 period, for good cause shown, if requested, in writing by the applicant, and approved by  
1116 the Plan Commission. The vesting for the preliminary plan approval includes all general  
1117 and specific conditions shown on the approved preliminary plan drawings and supporting  
1118 material.

1119 **Sec. 14-53. Same—Public hearing and notice.**  
1120

- 1121 (a) ~~{Public hearing required.}~~ A public hearing shall be required for a major land development project  
1122 or a major subdivision or where a street extension or creation requires a public hearing for a minor  
1123 land development project or minor subdivision. Where a public hearing is required pursuant to  
1124 these Regulations, the requirements as set forth in this Section shall apply.  
1125

1126 (b) *Notice requirements.* Public notice of the hearing shall be given at least fourteen (14) days prior to  
1127 the date of the hearing in a newspaper of ~~general~~ local circulation within the town following the  
1128 town's usual and customary practices for this kind of advertising. The same notice shall be posted  
1129 in the Town Clerk's Office and one other municipal building in the town and the town must make  
1130 notice accessible on the town's homepage of its website at least fourteen (14) days prior to the  
1131 hearing. Notice shall be sent to the applicant and to each owner within the notice area, by ~~certified~~  
1132 first-class mail, ~~return receipt requested,~~ of the time and place of the hearing not less than ten (10)  
1133 days prior to the date of the hearing. Notice shall also be sent to any individual or entity holding  
1134 a recorded conservation or preservation restriction on the property that is the subject of the  
1135 application at least fourteen (14) days prior to the hearing. Such notice shall also include the street  
1136 address of the subject property, or if no street address is available, the distance from the nearest  
1137 existing intersection in tenths (1/10's) of a mile.

1138  
1139 (c) *Notice area.*

- 1140  
1141 (1) ~~Abutting property.~~ All abutting property owners to the proposed development's property  
1142 boundary shall receive notice, including those on an opposite side of the street from the  
1143 subject land. The distance for notice of the public hearing shall be 200 from project site.  
1144 (2) Watersheds. Notice shall be sent to the Providence Water Supply Board for any  
1145 development within the Scituate Reservoir Watershed area and also sent as required in  
1146 R.I.G.L. § 45-23-53(b) & (c).  
1147 (3) Adjacent municipalities. Notice of the public hearing shall be sent by the Administrative  
1148 Officer to the Administrative Officer of an adjacent municipality if:  
1149 a. The notice area extends into the adjacent municipality; or  
1150 b. The development site extends into the adjacent municipality; or  
1151 c. There is a potential for significant negative impact on the adjacent municipality.

1152  
1153 (d) Notice cost. The cost of all such newspaper and mailing notice shall be borne by the applicant.

1154  
1155 **Sec. 14-54. Same-Final Plan.**

1156  
1157 ~~Sec. 14-54. Same-Final plan.~~

1158 ~~(a) Submission requirements.~~

1159 ~~(1) The applicant shall submit to the Administrative Officer all the items required for final, including the~~  
1160 ~~mylar original record plat drawing, as well as all material required by the Plan Commission when the~~  
1161 ~~application was given preliminary approval; any state or federal permits required for construction.~~

1162 ~~(2) Arrangements for completion of the required public improvements, including construction~~  
1163 ~~schedule and/or financial guarantees.~~

1164 ~~(3) Certification by the tax collector that all property taxes are current.~~

1165 ~~(4) For phased projects, the final plan for phases following the first phase, shall be accompanied by copies~~  
1166 ~~of as-built drawings not previously submitted of all existing improvements for prior phases.~~

1167 ~~(b) Certification. The application for final plan approval shall be certified complete or incomplete by~~  
1168 ~~the Administrative Officer within forty-five (45) days. If the Administrative Officer certifies the~~  
1169 ~~application as complete and does not require submission to the Plan Commission as per subsection (c)~~  
1170 ~~below, the final plan shall be considered approved.~~

1171 ~~(c) Referral to the Plan Commission. If the Administrative Officer determines that an application for~~  
1172 ~~final approval does not meet the requirements set by these regulations or by the Plan Commission at~~

1173 preliminary approval, the Administrative Officer shall refer the final plans to the Plan Commission for  
1174 review. The Plan Commission shall, within forty five (45) days after the certification of completeness,  
1175 or within such further time as may be consented to by the applicant, approve or deny the final plan as  
1176 submitted.

1177 ~~(d) *Failure to act.* Failure of the Plan Commission to act within the period prescribed shall constitute~~  
1178 ~~approval of the final plan and a certificate of the Administrative Officer as to the failure of the Plan~~  
1179 ~~Commission to act within the required time and the resulting approval shall be issued on request of the~~  
1180 ~~applicant.~~

1181 ~~(e) *Recording.* The final approval of a major subdivision or land development project shall expire one~~  
1182 ~~(1) year from the date of approval unless, within that period, the plat or plan shall have been submitted~~  
1183 ~~for signature and recording. The Plan Commission may, for good cause shown, extend the period for~~  
1184 ~~recording for an additional period.~~

1185 ~~(f) *Validity of recorded plans.* The approved final plan, once recorded, shall remain valid as the~~  
1186 ~~approved plan for the site unless and until an amendment to the plan or a new plan is approved by the Plan~~  
1187 ~~Commission.~~

1189 (a) Final plan.

1190 (1) Submission requirements.

1191 a. The applicant shall submit to the Administrative Officer the items required by  
1192 the checklist for the final plan, as well as all material required by the planning  
1193 board when the application was given preliminary approval.

1194 b. Arrangements for completion of the required public improvements, including  
1195 construction schedule and/or financial guarantees.

1196 c. Certification by the tax collector that all property taxes are current.

1197 d. For phased projects, the final plan for phases following the first phase, shall be  
1198 accompanied by copies of as-built drawings not previously submitted of all  
1199 existing public improvements for prior phases.

1200 (2) Certification. The application for final plan approval shall be certified complete or  
1201 incomplete by the Administrative Officer in writing, within fifteen (15) days, so long as a  
1202 completed checklist of requirements are provided with the submission. This time period  
1203 may be extended to twenty-five (25) days by written notice from the Administrative Officer  
1204 to the applicant where the final plans contain changes to or elements not included in the  
1205 preliminary plan approval. The running of the time period set forth herein shall be deemed  
1206 stopped upon the issuance of a certificate of incompleteness of the application by the  
1207 Administrative Officer and shall recommence upon the resubmission of a corrected  
1208 application by the applicant. However, in no event shall the Administrative Officer be  
1209 required to certify a corrected submission as complete or incomplete less than ten (10) days  
1210 after its resubmission. If the Administrative Officer certifies the application as complete  
1211 and does not require submission to the Plan Commission the final plan shall be considered  
1212 approved.

1213 (3) Decision. The Administrative Officer, or, if referred to it, the Plan Commission, shall  
1214 review, grant, grant with conditions or deny final plan approval. A decision shall be issued  
1215 within forty-five (45) days after the certification of completeness, or within a further  
1216 amount of time that may be consented to by the applicant, approve or deny the final plan

- 1217 as submitted.
- 1218 (4) Failure to act. Failure of the Administrative Officer or, if referred to it, the Plan  
1219 Commission to act within the prescribed period constitutes approval of the final plan and  
1220 a certificate of the Administrative Officer as to the failure of the to act within the required  
1221 time and the resulting approval shall be issued on request of the applicant.
- 1222 (5) Expiration of approval. The final approval of a major subdivision or land development  
1223 project expires one year from the date of approval with the right to extend for one year  
1224 upon written request by the applicant, who must appear before the Plan Commission for  
1225 the annual review, unless, within that period, the plat or plan has been submitted for  
1226 signature and recording. Thereafter, the Plan Commission may, for good cause shown,  
1227 extend the period for recording.
- 1228 (6) Acceptance of public improvements. Signature and recording constitute the acceptance by  
1229 the municipality of any street or other public improvement or other land intended for  
1230 dedication. Final plan approval shall not impose any duty upon the municipality to maintain  
1231 or improve those dedicated areas until the Town Council accepts the completed public  
1232 improvements as constructed in compliance with the final plans.
- 1233 (7) Validity of recorded plans. The approved final plan, once recorded, remains valid as the  
1234 approved plan for the site unless and until an amendment to the plan is approved, or a new  
1235 plan is approved by the Plan Commission.

1236 (b) Modifications and changes to plans.

- 1237 (1) Minor changes to the plans approved at any stage may be approved administratively, by  
1238 the Administrative Officer. The changes may be authorized without an additional Plan  
1239 Commission meeting, to the extent applicable, at the discretion of the Administrative  
1240 Officer. All changes shall be made part of the permanent record of the project application.  
1241 This provision does not prohibit the Administrative Officer from requesting  
1242 recommendation from either the technical review committee or the Plan Commission.  
1243 Denial of the proposed change(s) shall be referred to the Plan Commission for review as a  
1244 major change. Minor changes include the following:
- 1245 a. A change to a plan, which in the opinion of the Administrative Officer does not  
1246 substantially impact the project and is consistent with the intent of the original  
1247 approval.
- 1248 b. Denial of the proposed change(s) shall be referred to the permitting authority for  
1249 review as a major change.
- 1250 (2) Major changes to the plans approved at any stage may be approved only by the Plan  
1251 Commission and must include a public hearing. Major changes are those that in the opinion  
1252 of the Administrative Officer substantially impact the project and/or is consistent with the  
1253 intent of the original approval. Major changes include but are not limited to the following:
- 1254 a. Changes that have the effect of creating additional lots or units.
- 1255 b. Changes to any dimension contained in the plan exceeding 20%.
- 1256 c. Changes that would require a waiver from these Regulations or a variance or special  
1257 use permit.

- 1258                   d.   Significant realignment of streets or entrance changes.
- 1259                   e.   Exceeding the limits of disturbance as specified in the Final Plan.
- 1260
- 1261                   (3)   The Administrative Officer shall notify the applicant in writing within fourteen (14) days
- 1262                   of submission of the final plan application if the Administrative Officer determines the
- 1263                   change to be a major change of the approved plans.

1264  
1265 ...

1266  
1267 **Sec. 14-64. Appellate Body. Appeals**

1268  
1269                   Pursuant to ~~Section 45-23-14 of the General Laws, the zoning board of review of the town is~~

1270 hereby designated as the board of review for appeals from actions of the Plan Commission as provided

1271 in ~~Section 45-23-14 through 45-23-20 of the General Laws.~~

1272  
1273                   (a) Appeals from decision of administrative officer

1274  
1275                   (1) Decisions by the administrative officer approving or denying projects under Sections 14-32

1276                   & 14-49 (R.I.G.L. §§ 45-23-38 or 45-23-50) shall not be subject to this section and shall

1277                   proceed directly to Superior Court as set forth in R.I.G.L. § 45-23-71.

1278  
1279                   a. An appeal to the board of appeal from a decision or action of the administrative officer

1280                   may be taken by an aggrieved party to the extent provided in R.I.G.L. § 45-23-66. The

1281                   appeal must be taken within twenty (20) days after the decision has been recorded in the

1282                   Town of Scituate’s land evidence records and posted in the office of the Town Clerk.

1283                   b. The appeal shall be in writing and state clearly and unambiguously the issue or decision

1284                   that is being appealed, the reason for the appeal, and the relief sought. The appeal shall

1285                   either be sent by certified mail, with a return receipt requested, or be hand-delivered to the

1286                   board of appeal. The Town Clerk shall accept delivery of an appeal on behalf of the board

1287                   of appeal, if the local regulations governing land development and subdivision review so

1288                   provide.

1289                   c. Upon receipt of an appeal, the board of appeal shall require the administrative officer to

1290                   immediately transmit to the board of appeal, all papers, documents and plans, or a certified

1291                   copy thereof, constituting the record of the action which is being appealed.

1292  
1293                   (2) Stay. An appeal stays all proceedings in furtherance of the action being appealed.

1294  
1295                   (3) Hearing

1296  
1297                   a. The board of appeal shall hold a hearing on the appeal within forty-five (45) days of the

1298                   receipt of the appeal, give public notice of the hearing, as well as due notice to the parties

1299                   of interest. At the hearing the parties may appear in person, or be represented by an agent

1300                   or attorney. The board shall render a decision within ten (10) days of the close of the

- 1301 public hearing. The cost of any notice required for the hearing shall be borne by the  
1302 applicant.
- 1303 b. The board of appeal shall only hear appeals of the actions of an administrative officer at  
1304 a meeting called especially for the purpose of hearing the appeals and which has been so  
1305 advertised.
- 1306 c. The hearing, which may be held on the same date and at the same place as a meeting of  
1307 the zoning board of review, must be held as a separate meeting from any zoning board of  
1308 review meeting. Separate minutes and records of votes as required by R.I.G.L. § 45-23-  
1309 70(d) shall be maintained by the board of appeal.

1310  
1311 (4) Standards of Review.

- 1312
- 1313 a. As established by this chapter, in instances of a board of appeal's review of an  
1314 administrative officer's decision on matters subject to this chapter, the board of appeal shall  
1315 not substitute its own judgment for that of the administrative officer but must consider the  
1316 issue upon the findings and record of the administrative officer. The board of appeal shall  
1317 not reverse a decision of the administrative officer except on a finding of prejudicial  
1318 procedural error, clear error, or lack of support by the weight of the evidence in the record.
- 1319 b. The concurring vote of three (3) of the five (5) members of the board of appeal sitting at a  
1320 hearing, is necessary to reverse any decision of the administrative officer.
- 1321 c. In the instance where the board of appeal overturns a decision of the administrative officer,  
1322 the proposed project application is remanded to the administrative officer, at the stage of  
1323 processing from which the appeal was taken, for further proceedings before the  
1324 administrative officer and/or for the final disposition, which shall be consistent with the  
1325 board of appeal's decision.
- 1326 d. The board of appeal shall keep complete records of all proceedings including a record of  
1327 all votes taken, and shall put all decisions on appeals in writing. The board of appeal shall  
1328 include in the written record the reasons for each decision
- 1329

1330 (b) Appeals to the Superior Court

- 1331
- 1332 (1) An aggrieved party may appeal a decision of the board of appeal, a decision of an  
1333 administrative officer made pursuant to under Sections 14-32 & 14-49 (R.I.G.L. §§ 45-23-38  
1334 or § 45-23-50) where authorized to approve or deny an application, a decision of the technical  
1335 review committee, where authorized to approve or deny an application, or a decision of the  
1336 Plan Commission, to the Superior Court for Providence County by filing a complaint stating  
1337 the reasons of for the appeal within twenty (20) days after the decision has been recorded and  
1338 posted in the office of the Town Clerk. Recommendations by any public body or officer under  
1339 this chapter are not appealable under this section. The authorized permitting authority shall file  
1340 the original documents acted upon by it and constituting the record of the case appealed from,  
1341 or certified copies of the original documents, together with any other facts that may be  
1342 pertinent, with the clerk of the court within thirty (30) days after being served with a copy of  
1343 the complaint. When the complaint is filed by someone other than the original applicant or  
1344 appellant, the original applicant or appellant and the [planning board] shall be made parties to  
1345 the proceedings. No responsive pleading is required for an appeal filed pursuant to this section.  
1346 The appeal does not stay proceedings upon the decision appealed from, but the court may, in



1347 its discretion, grant a stay on appropriate terms and make any other orders that it deems  
1348 necessary for an equitable disposition of the appeal.

1349  
1350 (2) Appeals from a decision granting or denying approval of a final plan shall be limited to  
1351 elements of the approval or disapproval not contained in the decision reached by the Plan  
1352 Commission at the preliminary stage; providing that, a public hearing has been held on the  
1353 plan, if required pursuant to this chapter.

1354  
1355 (3) The review shall be conducted by the superior court without a jury. The court shall consider  
1356 the record of the hearing before the Plan Commission and, if it appears to the court that  
1357 additional evidence is necessary for the proper disposition of the matter, it may allow any party  
1358 to the appeal to present evidence in open court, which evidence, along with the report, shall  
1359 constitute the record upon which the determination of the court shall be made.

1360  
1361 (4) The court shall not substitute its judgment for that of the Plan Commission as to the weight of  
1362 the evidence on questions of fact. The court may affirm the decision of the board of appeal or  
1363 remand the case for further proceedings, or may reverse or modify the decision if substantial  
1364 rights of the appellant have been prejudiced because of findings, inferences, conclusions or  
1365 decisions which are:

- 1366  
1367 a. In violation of constitutional, statutory, ordinance or Plan Commission regulations  
1368 provisions;  
1369 b. In excess of the authority granted to the Plan Commission by statute or ordinance;  
1370 c. Made upon unlawful procedure;  
1371 d. Affected by other error of law;  
1372 e. Clearly erroneous in view of the reliable, probative, and substantial evidence of the whole  
1373 record; or  
1374 f. Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted  
1375 exercise of discretion

1376  
1377 **Section 2.** The Administrative Officer and Town Clerk is hereby authorized to cause said changes  
1378 to be made to the Town of Scituate's Land Development and Subdivision Regulations.

1379  
1380 **Section 3.** These amendments shall take effect upon passage.

1381  
1382 Attested To By:

1382 Passed By Plan Commission On:

1383  
1384  
1385 \_\_\_\_\_  
1386 Calista A. McDermott, Administrative Officer