

## ARTICLE III - GENERAL REQUIREMENTS

### A. General Requirements

The requirements listed below shall be applicable to all subdivisions submitted for approval, unless otherwise specifically provided. Prior to approval of any subdivision or land development project, (if Planning Board approval is required) the Board shall make positive findings on all of the applicable standards listed below, as part of the proposed project's record. If a negative finding for any of these standards is made, the Planning Board shall have grounds for denial of the project design.

1. Each subdivision shall be consistent with the requirements of the South Kingstown Comprehensive Community Plan and/or shall satisfactorily address the issues where there may be inconsistencies;
2. Each lot in the subdivision shall conform to the standards and provisions of the South Kingstown Zoning Ordinance. Provided, however, that lots not being created for the purpose of present or future development need not meet the area and other dimensional requirements of Section 401 of the Zoning Ordinance provided that:
  - a. A notation is shown on the recorded plat that the lot being created is not a buildable lot; and,
  - b. A conservation or preservation restriction pursuant to Title 34, Chapter 39 of the Rhode Island General Laws, as amended, is granted to the Town of South Kingstown prohibiting any such present or future development.
3. In subdivisions requiring individual sewage disposal systems, no building lot shall be designed and located in such a manner as to require relief from Article 5, Sections 504.1 and 504.2 of the Zoning Ordinance, as amended;
4. There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval;
5. Subdivision, as proposed, will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. See definition of "*buildable lot*". Lots with such physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans;
6. All proposed land developments and all subdivision lots shall have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered in compliance with this requirement;

7. Each subdivision shall provide for safe circulation of pedestrian and vehicular traffic, for adequate surface water run-off, for suitable building sites, and for preservation of natural, historical, or cultural features that contribute to the attractiveness of the community; and,
8. The design and location of streets, building lots, utilities, drainage improvements and other improvements in each subdivision shall minimize flooding and soil erosion.
9. The use of open space in a Flexible Design Residential Project or Residential Compound is an appropriate use and is consistent with the requirements of Article IV.A.4.c.

#### **B. Phasing of Major Land Developments and Major Subdivisions**

1. When a Major Land Development and Major Subdivisions is submitted for Conceptual Master Plan approval as provided in Section c.4.c. of Article V, the Planning Board shall review the adequacy of existing and projected future public improvements, services and facilities which may be impacted by the proposed development in its entirety. If the Planning Board determines that such improvements, services and facilities, including but not limited to water supply, sewerage, streets and associated drainage facilities, schools, recreational facilities, and fire and police protection will not be adequate to serve the residents of the subdivision or development at the time of recording of the plat, the Planning Board shall have the authority to establish a rate of development of the entire subdivision by requiring it to be built in phases. This shall also include the establishment of a timetable, rate or phasing requirements for the construction of inclusionary dwelling units for affordable housing production. The Planning Board may also establish a schedule governing the timing of construction for units to be constructed off-site, and/or the payment of a development exaction fee in lieu of such unit construction.

2. When an application is submitted for Conceptual Master Plan approval, the applicant shall submit to the applicable municipal, state or private agency as provided in the Conceptual Master Plan Checklist for Major Land Developments and Major Subdivisions, a copy of the Conceptual Master Plan narrative report for their review and comment. Each agency so notified by the applicant shall be requested to provide its comments on a form to be provided to the applicant by the Administrative Officer. Comments shall be received from each agency prior to the date of the informational meeting. If comments are not received by the Administrative Officer by that date, it shall be assumed that the agency does not wish to comment.

If the public informational meeting on the master plan and the public hearing on the preliminary plan are combined as provided in Article V, Section 4.f., all comments from reviewing agencies shall be received prior to the date of the public hearing.

3. Each department or agency to which such a request for comments is made shall deliver to the Administrative Officer a completed written form, and any supplementary material, which shall describe:
  - a. An estimate of the impact of the subdivision on the facilities and/or services provided by the department or agency;

- b. Whether existing facilities and/or services are adequate to serve the subdivision's residents;
- c. Whether plans for the necessary improvements to existing facilities and/or services are included in the town's Capital Improvement Program or are otherwise planned; and,
- d. An estimate of how long it would take to provide any necessary improvements to existing facilities and/or services.

All such written forms and supplementary material shall be delivered to the Administrative Officer by the reviewing agency within the time limits prescribed.

4. Based on the responses received from the various departments and agencies, the Planning Board shall establish, at the time of master plan approval, a rate of development of the entire subdivision or development that will permit residential construction only when improvements, services and facilities will be adequate to serve the residents of the subdivision or development. As part of such a growth rate plan, the Planning Board may require that improvements be installed, or lots sold, in two or more phases.

5. If phasing is required, the Planning Board shall approve the entire master plan first. Thereafter, the applicant shall be required to submit plans for preliminary and/or final review and/or approval indicating the development of the entire site in two or more phases as required by the Planning Board in Section B.4. of this Article, above. In such review and approval, the Board may, in its discretion, impose conditions for determining the physical limits of phases, for allowing progression to additional phases, for allowing two (2) or more phases to proceed in review or construction simultaneously, for interim public improvements or construction conditions, for changes to master or preliminary plans, and may include other provisions as necessitated by special conditions.

6. The master plan documents may contain information on the physical limits of the phases, the schedule and sequence of public improvement installation, improvement guarantees, and the work and completion schedules for approvals and construction of the phases.

### **C. Land Unsuitable for Development**

1. When calculating the number of residential building lots or units permitted on any parcel, land included in all of the following categories shall be considered unsuitable for development and shall be deducted from the minimum building acreage of the parcel:

- a. Fresh water wetlands, except that area of perimeter wetland within fifty (50) feet of the edge of any bog, marsh, swamp or pond; or any applicable 100-foot or 200-foot riverbank wetlands, as defined by Rhode Island General Laws Section 2-1-20 (1987), as amended.

b. Coastal wetlands, except any directly associated contiguous areas, as defined by Rhode Island General Laws Section 46-23-6(B) (3) (1990), as amended.

c. Areas within a High Flood Danger zone, as defined in Section 601 of the South Kingstown Zoning Ordinance, as amended.

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

2. Land described in Subsection 1(a), 1(b), 1(c), and 1(d), above, may be included as part of any lot in any subdivision or land development project; provided, however, that land unsuitable for development shall not be counted toward the minimum lot size required in Section 401 of the Zoning Ordinance.

#### **D. Dedication of Land for Public Purposes**

##### **1. Subdivider Must Provide Open Space**

The Planning Board shall require all land developments and subdivisions subject to the provisions of these Regulations to dedicate a portion of the land being subdivided for the purpose of providing open space, conservation, park and recreational land and/or facilities to serve present and future residents of the proposed land development or subdivision. The Planning Board may, in its discretion, require the payment of a fee in-lieu-of land dedication, or a combination of land dedication and payment of a fee, as an alternative to the dedication of land.

##### **2. Relationship to Comprehensive Plan**

No dedication of land to the public or payments-in-lieu of such dedications shall be required unless the need for such is documented in the adopted plans of the Town, i.e., the Comprehensive Community Plan, the Local Recreation, Conservation and Open Space Plan, or the Capital Improvement Program (CIP). The requirement for dedication of land for open space, conservation, park and recreation facilities shall be based upon the policies and standards set forth in the above plans and shall reflect the character defined by the Comprehensive Community Plan for the neighborhood or district in which the subdivision is located. The nature of the land dedication must reflect the character of the land being subdivided and must be suitable for the intended use. If payments in lieu of land dedication are required, they must be kept in a restricted account and shall only be spent for the intended purpose of providing open space, conservation, park and/or recreational facilities.

##### **3. Amount of Land to be Dedicated**

The minimum amount of land to be dedicated shall be based upon the following formula:

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

(2) Persons per Dwelling Unit. See subsection 8 below.

(3) Land Need. See subsection 7 below.

#### 4. Ownership of Land

Land dedications required by this Section may be made by transfer of fee simple ownership to any of the following:

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

#### 5. Fees-in-Lieu of Land Dedication

Where a fee is required by the Planning Board to be paid in lieu of land dedication, the amount of such fee shall be based on the fair market value of the amount of land which would otherwise be required to be dedicated under subsection D.3 hereof. The amount of such fee shall be determined by the following formula:

Fee in-lieu of dedication =	Fair Market Value of Land <sup>(1)</sup>	X	Land Need <sup>(2)</sup>	X	Max.No. of DU's <sup>(3)</sup>	X	Persons per DU <sup>(4)</sup>
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(1) Fair market value of land in the parcel being subdivided after subdivision approval has been granted, and which is suitable for use as open space, conservation, park and recreation facilities. See subsection 6 below.

(2) Land need shall mean the adopted Town standards for open space and outdoor recreation area as provided in the Comprehensive Plan. See subsection 7 below.

(3) The maximum number of dwelling units to be constructed in the subdivision.

(4) The average number of persons expected to be living in the dwelling units to be constructed. See subsection 8 below.

## 6. Fair Market Value

Fair market value of the land assuming subdivision approval has been granted shall be determined at the time of filing of the final plan in accordance with the following:

a. Annual review by the South Kingstown Tax Assessor of all sales of vacant lots of at least 10,000 sq. ft. in Town assuming all subdivision improvements have been made and infrastructure is in place. This figure is established by the Town Council in the Capital Improvement Program.

b. If the sub divider objects to such amount of evaluation, he may, at his own expense, obtain an appraisal of the property by a qualified real estate appraiser which appraisal may be accepted by the Planning Board if found to be reasonable; or

c. The Planning Board and sub divider may agree as to the fair market value.

## 7. Land Need

The actual need for open space, conservation and open space land as expressed in acres per 1,000 population in the Comprehensive Community Plan. The 1990 Town-wide need is 10.50 acres per 1,000.

## 8. Persons per Dwelling Unit

The applicant may provide an estimate of the projected number of persons per dwelling unit (D.U.) in the proposed land development project or subdivision and shall state the basis for such estimate. The Planning Board shall review and approve of such estimate. Otherwise, the figure of 2.81 persons per new residential unit in South Kingstown shall be utilized.<sup>1</sup>

## 9. Time of Dedication or Payment

All land dedications required by this Section shall be made at the time of recording of the plat.

If a fee-in-lieu of land dedication is to be made, and single-household dwellings are proposed, the total fee shall be prorated on a per-lot basis, and payment shall be made to the Town at the time of application for a building permit upon the lot. If two-household or duplex dwelling units, or multi-household dwelling units are proposed, the total fee shall be prorated on a per unit basis and payment shall be made to the Town at the time of application for a building permit for the total number of dwelling units applied for. In approving payments of fees-in-lieu of land dedication, the Planning Board shall, as a part of its approval, clearly indicate the total fee to be paid, and the fee on a per lot basis or per unit basis, and the required time of payment for each.

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<sup>1</sup> Capital Improvement Program, Town of South Kingstown, FY 1998-1999 to FY 2003-2004.

## 10. Relationship to Zoning

Where a fee-in-lieu of land dedication is to be paid, such payment shall be made under the provisions of Article 11 of the South Kingstown Zoning Ordinance. Unless requirements for open space and recreation are to be met exclusively through land dedication, the final plat shall contain notation that residential building is subject to such fees.

## E. Environmental Impact Statement

1. The Planning Board shall have the authority to require the applicant to prepare an Environmental Impact Statement (EIS) to assess the potential short and long term affects of the proposed subdivision or land development project under either of the following conditions:

a. If all or part of the property that is the subject of the application includes land identified on Map 5.3 of the Comprehensive Community Plan of 1992 as being within a Critical and Environmentally Sensitive Area; or,

b. The Planning Board finds that there is reasonable expectation that the proposed subdivision or land development project will have a significant negative environmental impact on natural systems located on the property that is the subject of the application, or upon nearby properties or natural systems.

2. The Board shall make findings of fact in writing and shall identify the environmental resources it finds to be potentially threatened. The Board's findings shall be made a part of the record of the application.

3. An EIS required under this Section shall include research and documentation describing and assessing short and long-term environmental impacts which may include but not be limited to impacts upon:

-freshwater wetlands	-traffic
-coastal features	-soils
-noise and air quality	-vegetation
-solid waste generation	-wildlife
-historic/archaeologic areas	-groundwater

4. If an EIS is required, the applicant shall be so informed at the preliminary meeting for a minor subdivision, or the Conceptual Master Plan stage for a major subdivision and shall be advised at that meeting as to the specific information that the EIS must contain.

5. For any subdivision or land development project for which an EIS is required, the Board shall have the authority to impose conditions on approval that, based on the findings and analysis of the EIS, are reasonably necessary to minimize adverse impacts that the development may have on the natural or manmade environment.

6. All Environmental Impact Statements shall be referred to the Conservation Commission for their review and comment.

7. If, in the opinion of the Board, impacts identified in the EIS cannot be adequately mitigated so as to achieve compliance with each of the General Requirements specified in Article III, Section A, the Board shall have the authority to deny approval of the proposed development design.

F. All major subdivisions and major land development projects shall be subject to the Inclusionary Zoning requirements detailed in Article 5, Section 502.6 of the South Kingstown Zoning Ordinance.