

ARTICLE XI - ADMINISTRATION OF THE REGULATIONS AND AMENDMENTS

A. The Administrative Officer

1. Administration

Administration of these Subdivision and Land Development Regulations shall be under the direction of the Administrative Officer, who shall report to the Planning Board. The Director of Planning of the Town of South Kingstown is hereby designated as the Administrative Officer.

2. Appointment

Appointment of the Director of Planning shall be the responsibility of the Town Manager as designated in the Town Charter.

3. Duties and Responsibilities

The duties and responsibilities of the Administrative Officer shall include, but shall not be limited to:

- a. Coordination of the review, approval, recording, and enforcement provisions of these Regulations;
- b. Coordination of the review and approval procedures for subdivisions and land development projects with adjacent municipalities as is necessary to be consistent with applicable federal, state, and local laws and as directed by the Planning Board;
- c. Enforcement of these Regulations as provided in Article IX of these regulations; and,
- d. Serve as the chair of the Technical Review Committee.

4. Qualifications

The qualifications of the Administrative Officer shall be determined by the Town Manager as provided in the official job description for the Director of Planning.

B. The Technical Review Committee

1. Establishment

There is hereby established a committee appointed by the Planning Board, to be known as the Technical Review Committee (TRC), which is established to conduct technical reviews of applications for subdivisions and land development projects subject to Planning Board jurisdiction. All

such reviews shall be advisory in nature, and in no case shall the recommendations of the TRC be binding on the Planning Board in its activities or decisions.

2. Membership

Membership of the Technical Review Committee shall consist of (1) the Director of Planning (or designee); (2) the Director of Public Services (or designee); and (3) the Town Engineer (or designee); (4) the Zoning Enforcement Officer (or designee) and (5) a Duty Member of the Planning Board of the Town of South Kingstown. The Chairman of the Planning Board shall assign one Duty Member of the Board either (1) to each subdivision or development project or (2) monthly, for all projects being heard on the agenda, depending on the current workload of the Board. The Chairman shall have the authority to assign or reassign the Duty Member for good cause. Written procedures shall be adopted by the Planning Board establishing the Committee's responsibilities and procedures as part of the Planning Board's by-laws.

3. TRC Advisory Review

The following type of applications shall be subject to full Planning Board review as specified in these Regulations. The TRC shall review such applications only if referred to the TRC by the Planning Board or the Director of Planning. The TRC shall make an advisory recommendation to the Planning Board, but in no case shall the recommendations of the TRC be binding on the Planning Board in its activities or decisions:

- Any application or action requiring a public hearing before the Planning Board;
- Major Subdivision or Land Development Project;
- Minor Subdivisions involving Street Creation;
- Zone Change recommendations to the Town Council;
- Pre-application review of Major Subdivisions

4. TRC Minor Review

The application types listed below shall be considered Minor in nature and shall be reviewed by the TRC subject to confirmation by the Planning Board. For all such minor applications listed below, the TRC shall conduct the full review for vote by Consent Agenda of the Planning Board. The TRC shall forward its recommendation, along with all other essential project information to the Planning Board prior to the Planning Board meeting at which the application is scheduled.

- Minor Subdivision involving no street creation or extension;
- Development Plan Review under Section 505.1 of the Zoning Ordinance
- Review of EIS under Section 601.8 of the Zoning Ordinance
- Pre-application review of Minor Subdivisions (if requested)
- Settling, reducing or releasing performance bonds
- Requests for reinstatement or extension of applications
- Recommendations to the Town Council on matters other than zoning amendments

5. Consent Agenda

Consent Agenda items are considered to be routine by the Planning Board and will be enacted by one motion. There will be no separate discussion of these items unless any member of the Planning Board or public, or the subdivider, at the time of consideration of Consent Agenda items, requests an item be removed from the Consent Agenda. In this event the item shall be discussed and voted on by the Planning Board in the normal course of the agenda.

6. Records

Reports of the Technical Review Committee to the Planning Board shall be in writing and shall be kept as part of the permanent documentation of the development application.

C. The Planning Board of Appeal

Appeals of decisions of the Planning Board or the Administrative Officer on matters of review and approval of land development and subdivision projects shall be made to the Planning Board of Appeal in accordance with the provisions of Title 45, Chapter 23 of the General Laws of RI, and with the Subdivision and Land Development Ordinance passed by the South Kingstown Town Council on September 28, 1992.

D. Administrative Fees

SECTION 1. IN GENERAL

1.1 Procedural History. On (date) , 2002 the Planning Board held a public hearing, pursuant to Article X of the Subdivision and Land Development Regulations, to consider proposed regulations governing fees. At the close of the public hearing, the Planning Board voted to adopt regulations governing fees and a new schedule of fees for review conducted by the Planning Board and its consultants on the various types of applications which come before it. This document, subject to revision from time to time in a manner spelled out herein, constitutes the Planning Board's rules governing the imposition of fees and its current fee schedules.

1.2 Purpose. These regulations and fee schedules have been adopted to produce a more equitable schedule of fees which more accurately reflects the costs of technical, design and legal review of applications to the Planning Board; to establish a review procedure in the selection of consultants; to encourage better design of residential development; and to promote more informed decision-making by the Planning Board.

SECTION 2. FEE STRUCTURES AND REGULATIONS.

- 2.1 General. The Planning Board shall impose reasonable fees for the review of applications which come before it. The Planning Board may impose Administrative Fees and Project Review Fees as may be applicable to the types of applications set forth below.
- 2.2 Approval by Town Council Required. No fee imposed by the Planning Board shall become effective until the Town Council shall have approved such fee by resolution.
- 2.3 Method of Payment. The payment of administrative fees and technical review fees shall be by certified or bank check only or by such other method as approved by the Finance Director.

SECTION 3. ADMINISTRATIVE FEES.

3.1 Applicability. An Administrative Fee shall be assessed to offset the expense of review by the Planning Board and Town Departments with regard to all applications set forth in Section 3.3, below.

3.2 Submittal. Administrative Fees shall be submitted at the time of the submittal of the application. Any application filed without this fee shall be deemed incomplete and no review work by the Town shall commence until the fee has been paid in full.

3.3 Schedule of Administrative Fees. The following schedule applies to the types of applications to the Planning Board set forth below. This schedule supersedes all previous schedules as they may have appeared in the South Kingstown Zoning Ordinance, the Subdivision and Land Development Regulations, and any checklists which may have been compiled from time to time for the benefit of applicants.

A. Administrative Subdivisions - \$100.00

No filing fee shall be required for recording of property surveys where no adjustment to boundaries of existing lots is proposed.

B. Minor Land Development and Minor Subdivision

1. Pre-application Meeting and Concept Review - \$100.00
2. Preliminary - \$200.00 + \$20.00 per unit
3. Final - \$100.00 + \$20.00 per unit

C. Major Land Development and Major Subdivision

1. Pre-application Meeting and Concept Review - \$100.00

2. Conceptual Master Plan - \$200.00 + \$20.00 per unit
3. Preliminary - \$200.00 + \$20.00 per unit
4. Final - \$100.00 + \$20.00 per unit

D. Route 1 Special Management District: Filing fees for development in the Route 1 Special Management District shall be as follows:

1. Pre-application Meeting and Concept Review: \$500
2. Conceptual Master Plan:

Residential Uses - \$100 + \$10 per lot or dwelling unit, whichever is greater

Non-Residential or Mixed Uses -

- New land development projects with a total GLFA less than 5,000 sq. ft.---\$500
- New land development projects with a total GLFA of 5,000 sq. ft. or more---\$1,000
- Developments not involving new building construction or significant enlargement of an existing building---\$500

3. Preliminary:

Residential Uses - \$100 + \$10 per lot or dwelling unit, whichever is greater

Non-Residential or Mixed Uses -

- New land development projects with a total GLFA less than 5,000 sq. ft.---\$500
- New land development projects with a total GLFA of 5,000 sq. ft. or more---\$1,000
- Developments not involving new building construction or significant enlargement of an existing building---\$500

4. Final:

Residential Uses - \$100 + \$10 per lot or dwelling unit, whichever is greater

Non-Residential or Mixed Uses -

- New land development projects with a total GLFA less than 5,000 sq. ft.---\$250
- New land development projects with a total GLFA of 5,000 sq. ft. or more---\$500
- Developments not involving new building construction or significant enlargement of an existing building---\$250

E. Changes in use of land or buildings or combination thereof to an approved Land Development Project for review by the Administrative Officer:

- Where no significant expansion or physical alteration of building exterior or land is involved: No fee
- Where such significant alterations are involved, the same fee for new construction for preliminary review by the Planning Board shall be required

3.4 Fees for Revised Applications. Where an Administrative Fee has been calculated by the number of lots or units proposed, and the application is revised after payment of said fee, the following rules shall apply:

- A. If the number of proposed lots or units increases after the initial submittal, the applicant shall pay a fee equivalent to the difference between the fee originally paid and the fee that would have been paid had the original submission included these additional lots or units. No review of these additional lots or units shall take place until this additional fee is paid to the Planning Board office, and failure to make this payment after requesting additional lots shall be grounds for denial of the application.

- B. If the number of proposed lots or units decreases, a refund of that portion of the application fee predicated on those lots or units shall be granted only if, in the judgment of the Planning Board, no cost associated with the review of those lots or units has been yet incurred.

3.5. Fee Waivers. The Planning Board may, upon approval of the Town Council, waive or reduce any Administrative Fee, if, in the opinion of the Board, unusual circumstances exist regarding the subject property or the applicant.

3.6 Refund. Once the review process has been commenced, the Planning Board shall not refund Administrative Fees, including the case of withdrawal of the application by the applicant, except as provided in Section 3.4.B, above.

SECTION 4. PROJECT REVIEW FEES.

4.1 Applicability. In addition to an Administrative Fee, for all subdivisions and land development projects, except those specified in Section IV.A.2.c, including FDRPs, the Planning Board shall impose a Project Review Fee on those applications which require, in the judgment of the Planning Board, review by outside consultants due to the size, scale or complexity of a proposed project, the project's potential impacts, or because the Town lacks the necessary expertise to perform the review work related to the permit or approval. The fee shall ultimately equal the actual cost to the Town for such consultant. In hiring outside consultants, the Town may engage engineers, planners, lawyers, landscape architects, architects, or other appropriate professionals able to assist the Board and to ensure compliance with all relevant laws, ordinances, and regulations. Such assistance may include, but shall not be limited to, analyzing an application, design review of applications to determine consistency with the "South Kingstown Residential Design Manual, Town of South Kingstown, Rhode Island," prepared by Dodson Associates, dated January 1999 and as subsequently amended, incorporated by reference in the Community Comprehensive Plan, Town of South Kingstown (hereinafter, the "Design Manual"); assessing the archaeological, traffic or environmental impact of a development proposal, review of unique site features including trees; monitoring

or inspecting a project or site for compliance with the Board's decisions or regulations, or inspecting a project during construction or implementation.

4.2 Submittal. Initial project Review Fees shall be submitted at the time of the submittal of the application for deposit in an account established by the Finance Director (Escrow Account). Any application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.

4.3 Schedule of Initial Project Review Fees. The following schedule applies to the types of applications to the Planning Board set forth below. This schedule supersedes all previous schedules as they may have appeared in the South Kingstown Zoning Ordinance, the Subdivision and Land Development Regulations, and any checklists which may have been compiled from time to time for the benefit of applicants. Where more than one type of application has been submitted for Planning Board action, only the largest of the applicable Initial Project Review Fees shall be collected for deposit into the Escrow Account, and not the sum of those fees.

\$500/lot or dwelling unit for the first five lots or dwelling units, (whichever is greater) including existing dwellings, if present;
plus \$150/lot or dwelling unit for every lot or dwelling unit thereafter

4.4 Replenishment. When the balance in an applicant's Escrow Account falls below twenty-five percent (25%) of the initial Project Review Fee, as imposed above, the Planning Board may consider whether to require a supplemental Project Review Fee to cover the cost of the remaining project review.

4.5 Inspection Phase. As a condition of Final Plan approval, the Planning Board may require a Supplemental Project Review Fee for the purpose of ensuring the availability of funds during the inspection phase of the review process.

4.6 Handling of Project Review Fees. The Project Review Fee is to be deposited into a special account as established by the Finance Director.

- A. Outside consultants retained by the Town to assist in the review of an application shall be paid from this account.
- B. Project Review Fees shall be turned over to the Finance Director by the Administrative Officer for deposit into an Escrow Account.
- C. The Finance Director shall prepare a report on activity in the Escrow Account on an annual basis.

- D. An accounting of an applicant's funds held in the Escrow Account may be requested by the applicant at any time.
1. The Finance Director shall respond to the request in a timely fashion.
 2. This accounting shall include the following information:
 - a. The latest statement from the banking institution handling the account, which should include an accurate accumulated interest portion to the closing date of the statement if such statements are subdivided into individual applicants' accounts. Otherwise, a statement of principal and interest, prepared by the Finance Director, based on the latest statement from the banking institution.
 - b. A report of all checks authorized for issuance since that last banking statement.
- E. An applicant may request an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced.
- F. Excess fees in the Escrow Account, including accumulated interest, shall be returned to the applicant or the applicant's successor in interest. For the purpose of this section, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest. Excess fees shall be returned at the conclusion of the review process which is defined as either:

With the disapproval of a Subdivision or Land Development Plan; or,

With the release of the performance bond or other financial guarantees at the end of construction of an approved Final Plan; or,

3. With the final inspection after approval or disapproval on all other types of applications under the Zoning Ordinance or Subdivision and Land Development Regulations.

4.7. Appeal. The choice of a consultant hired by the Town for the review of an application may be appealed as provided in Article XII.

- A. Two circumstances may disqualify the selected consultant. These conditions constitute the only grounds for an appeal.
1. Conflict of interest: A consultant shall not have a financial interest in the project under review, or be in a position to financially benefit in some way from the outcome of the pending review process.
 2. Lack of appropriate qualifications: A consultant shall possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field.
- B. The required time limits for action upon an application by the Planning Board shall be extended by duration of the appeal.

SECTION 5. EXTENSIONS

Applications for extension of approvals or deadlines established by these Regulations under Article VIII, Section C (amended August 13, 1996)

- a. Re-instatement of expired approval: (\$300)
- b. Extension of deadline or approval: (\$100)

SECTION 6. INSPECTION FEES:

Two percent (2%) of the total amount of the original performance bond including all required improvements. In the absence of a performance bond, inspection fees in the amount of two percent (2%) of the total estimated cost of all required improvements as estimated in accordance with the procedure established in Article VII. Inspection fees shall be paid in full before construction begins of any improvements requiring inspection.

E. Meetings, Votes, Decisions, and Records

1. All records of the Planning Board proceedings and decisions shall be written and kept permanently available for public review. Completed applications for proposed land development and subdivision projects under review by the Planning Board shall also be available for public review.
2. Participation in a Planning Board meeting or other proceedings by any party shall not be a cause for civil action or liability except for acts not in good faith, intentional misconduct, knowing violation of law, transactions where there is an improper personal benefit, or malicious, wanton, or willful misconduct.

3. All final written comments to the Planning Board from the Administrative Officer, municipal departments, the Technical Review Committee, state and federal agencies, and local boards of commissions shall be part of the permanent record of the development application.

4. All votes of the Planning Board shall be made part of the permanent record and shall show the members present and their votes. A decision by the Planning Board to approve any land development or subdivision application shall require a vote for approval by a majority of the current Planning Board membership.