



Model Land Use Ordinances

South County Watersheds Technical Planning Assistance Project

Model Zoning Ordinances

Prepared by Mark Bobrowski and Andrew Teitz

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South County Watersheds Technical Planning Assistance Project

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Rhode Island
Department of
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Management



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South County Watersheds Partnership
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RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

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Dear Rhode Islander:

Rhode Island has many special places and the watersheds of Washington (South) County are no exception. Washington County provides habitat for 75% of all species found in Rhode Island, including the majority of the State's rare species. The EPA has designated all of Washington County as a sole source aquifer because it serves as the only source of drinking water for the residents. While 65% of the area is undeveloped, the county is the third fastest growing region in New England with a population increase of 20% in the last decade.

A University of Rhode Island survey determined that the top three priorities for South County local officials were 1. to protect public drinking water; 2. to more effectively plan for growth; and 3. to protect farmland and open space. To respond to these priority community goals, DEM, in partnership with the Rural Lands Coalition, the South County Planners, the Washington County Regional Planning Council and the South County Watershed Partnership, obtained a \$100,000 EPA Grant to assist the Washington County communities in exploring more creative land use techniques to accommodate growth while minimizing impacts to the environment and community character. This project was a community-based effort where the scope of work and the hiring of consultants were done in consultation with local officials.

The land use techniques studied addressed issues such as: creating new growth centers to avoid sprawl, encouraging village revitalization and infill development, transferring development rights, preserving meaningful open space, and preventing strip commercial development. Other topics studied included strategies to encourage the continuation of agriculture and forestry and how to more effectively evaluate the environmental impacts of development. The purpose of the project was not to stop or impede growth but to develop better growth planning options. Since there are always many more special natural, cultural, and recreational resources that communities wish to protect than they have the funds to purchase, a major emphasis of this project was to demonstrate how proactive planning, with more flexible land use techniques and careful site design can preserve the environment and the quality of life for all Rhode Islanders. Dodson Associates, the consultants for the project used planning scenarios to illustrate how parcels will look under conventional versus creative land use techniques to make it easier for local officials to determine which land use techniques are best for their community. Model ordinances were also developed that correspond to each planning scenario to allow communities to implement the techniques that they may choose to adopt.

With these techniques, local officials and developers can work together to guide growth where it is most suitable from the context of the individual site, community and watershed. This project is another significant tool, along with land acquisitions, brownfields cleanups and public education to assist Rhode Islanders to protect our natural resources and quality of life while growing efficiently in the future. The impressive results of this project are a tribute to working in partnerships where a broad based stakeholder group, comprised of community officials, planners, builders, realtors, farmers, landowners, watershed organizations, environmental groups and interested citizens collaborated to find solutions to concerns that were identified by the community. I commend the hard work and extra effort of the consultant team, EPA New England for their support, and the stakeholders of the project advisory committee who unselfishly volunteered their time to insure this project would be a success. I am pleased that DEM was able to assist and participate in this exciting effort that can be used by all Rhode Island communities to plan for growth to protect the environment and our quality of life.

Sincerely,

A handwritten signature in black ink, appearing to read "Jan H. Reitsma".

Jan H. Reitsma
Director

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Introduction - A Unique Place and Time

The landscape of South County is unlike any other in the Northeast, if not the whole country. Thousands of years of glaciation, erosion, and gradual development of plant and animal communities, followed by centuries of human use and modification, have created a unique landscape, where geology, history, nature and culture enrich and enliven each other. Each of these elements creates a kind of order in the landscape that ties the whole together, and they interact in a hundred ways. The result is a landscape that is rich in both natural resources and physical beauty, with constant variation within the unifying structure of a few continuous themes. One of these themes, for example, concerns the movement of water across the landscape. Draining the long narrow upland valleys in the Northwestern towns of the county, the tributaries of the Pawcatuck River descend gradually to the sea. Backed up behind the hills left by the glacier's terminal moraine at the end of the last ice age, these streams are forced west, through a series of ponds and wetland systems, all the way to Westerly and the Little Narragansett Bay. This diverse landscape and the many native plant and animal species that depend on it would be special enough; adding immeasurably to the complexity and vitality of the scene is a different theme, one flowing from human use of the rivers, forests, and rich agricultural soils of the region over centuries of intensive settlement. Mill villages sprang up wherever water could be harnessed to turn a wheel; agricultural settlements and outlying farmsteads dot the uplands; harbor towns grew up to store and ship the crops and goods produced in the interior, and gather in the harvest of the sea. These two patterns, the one natural and the other human, or cultural – overlay each other and interact in a way that is both a visual historical record and an ongoing source of livelihood for South County's residents. The result is an extraordinarily beautiful landscape, a wonderful place to live, work, and recreate.

Of course, all this is threatened directly by the trends and forces that drive development in the modern age. In contrast to the historic development process, where homes and businesses, villages and towns grew up organically in balance with development of natural resources, agriculture and manufacturing, modern development is a market-driven process where land is bought wholesale, subdivided and sold at retail, often with little relationship to the underlying land. Planning and zoning are supposed to provide this connection, locating development where it is best suited and at appropriate densities. However, most communities have very rigid land use regulations that actually encourage or require developers to destroy the unique character defining features of the land without preserving any meaningful open space. These same inflexible zoning regulations also promote environmental impacts from development. The market, meanwhile, no longer finds as much value in the natural resources that are on the land – our lumber, food, fiber, and recreation are shipped in from elsewhere – so landowners can receive a greater economic return from selling their property for development.

Density and location aside, the pattern of development itself increasingly follows a simplified national model that seems alien to local traditions. Zoning based in the laudable goal of making development safe and predictable has the unintended consequence of reducing every landscape to the lowest common denominator, and favors developers who bring in simple cookie cutter subdivisions with wide, flat roads. In commercial development these same trends towards simplicity and homogenization are driven by engineering standards, as well as trademarked corporate architecture designed to be recognizable from coast to coast. At the same time the economies of scale favored by the market have led to ever larger buildings, culminating in the category-killing, big-box super stores now popping up on the edge of every town in the country.

Perhaps the largest factor in all of this is our dependence on the automobile. Driven by an understandable and almost universal individual goal of owning one's own car and home, corporate America and government at all levels have spent the last 50 years building highways and suburbs, and more suburbs and highways – draining the vitality from city centers and forcing a dependence on the automobile. Today many people can't get to work, shopping, schools, or recreation without cars. An investment of trillions in the interstate highways, together with inexpensive cars and the fuel to power them, supports an increasingly decentralized pattern of development. All of which is fine with most people, as long as there's enough money to repave the highways and buy the gas. Yet in metropolitan regions like Washington, DC, Atlanta, Los Angeles and San Francisco traffic congestion has doubled and tripled commuting times, turning a personal inconvenience into a drag on the economy. And it's not easy to put the genie back in the bottle after development has spread out across the countryside – which is why corporations, and their employees, are starting to take a second look at dense traditional cities like Providence, or regions like New York City, where millions of people have access to dependable mass transit systems. The economic advantage of regions that control their dependence on cars and trucks for transport of people and goods will be increasingly evident as energy prices continue to rise and subsidies for road construction and repair dwindle.

Despite these powerful national trends, and sprawl-inducing local zoning, South County remains mostly open and rural, with thousands of acres of undeveloped land and a high quality of life. A few key facts and figures from the Pawcatuck Watershed Partnership's Watershed Report help to set the scene:

- A population of about 60,000 people on 300 square miles, an increase of 20% in the last decade.
- Approximately 65% of the land is still undeveloped, of which 31% is already permanently protected natural habitat.
- 20% open farmland, most of it managed by 70 large-scale farmers.
- 80% covered by forest, including most of the 14% of the watershed that is wetlands.
- A mix of northern and southern plant and animal communities on a rich habitat, with 63% of Rhode Island's rare plants and animals.

- Underlying everything, an EPA-designated Sole-Source Aquifer – South County’s only existing or potential future water supply.

South County thus represents a unique place at a unique time, a time when residents of the region still enjoy the benefits of its natural and cultural history, which are threatened as never before by development patterns that ignore that history and treat everything as a blank slate. A unique time because South County will never again have the chance to shape growth as much as it can now. And there isn’t much time to talk about it: long before every house site and commercial zone is developed the unifying natural and cultural landscapes will be fractured and fragmented by a hundred small projects. What will be left is a region without the rural character that draws people here in the first place and makes for a high quality of life. It will feel much more suburban, with roads lined by commercial strips and subdivisions, and nature restricted to parks and preserves surrounded by houses -- not a bad place to live, but dramatically different from what exists today.

The South County Watersheds Technical Planning Assistance Project.

The problems of suburban sprawl are not unique to Rhode Island, of course, and planners at the state and local level have been working steadily to apply the lessons learned elsewhere to the local situation. In 1999 this effort crystallized around a project developed by a coalition of groups including the Rhode Island Department of Environmental Management, the Rhode Island Rural Lands Coalition, and the South County Planners. The idea was to prepare a comprehensive review of the best possible solutions from around the country and show how they could be applied locally. Under a grant from the US Environmental Protection Agency, this became the South County Watersheds Technical Planning Assistance Project. Under the management of the Sustainable Watersheds Office of Rhode Island DEM, a multi-disciplinary consultant team led by Dodson Associates was hired to do the project. Working with an Advisory Committee of more than sixty town planners, elected officials, and citizens that were selected by the nine South County towns, the consultants developed a suite of “Smart Growth” tools – including this study of Transfer of Development Rights, strategies to promote Farming and Forestry, the South County Design Manual, a set of Model Zoning Ordinances, and a Development Site Assessment Guide. Each of these products was designed to take the best examples from around the country and shape them into tools that would be most effective in South County but could also serve as a model for other rural and suburban communities. Some, like the Design Manual, are primarily educational in nature; others offer specific tools and regulatory language for shaping development – it is hoped that together, these will help towns on many levels as they work to plan for growth in this unique corner of New England.

The Design Manual Approach

The Design Manual is a record of a process the Advisory Committee went through in order to identify the key issues and potential solutions to problems faced by South County Towns. From a list of about 25 possible sites, eight were chosen to represent a cross section of possible development types, transportation issues, environmental challenges and social contexts. Some of the sites, for instance, are directly off I-95, while others have potential rail access or are constrained by poor road connections. Some of the sites are within or on the edge of existing towns and villages, while others are out in the countryside. Ranging from tens of acres to several thousand, the sites also explore issues at a range of scales, from detailed issues of infill within a streetscape, to large-scale development patterns across a rural district.

Base maps and resource overlays were prepared for each site based on information from Rhode Island Geographic Information System. Aerial photographs of each area were taken to serve as the basis for illustrations. Grouping the sites by theme – residential, commercial, mixed-use, etc. – Dodson Associates led a series of workshops with the Advisory Committee to explore how each site could be developed. First, the group examined how each site would most likely be developed under current zoning regulations and market trends. For residential zones in South County, this usually means subdivision roads and one or two acre house lots. For commercial zones, the conventional development plan most often leads to development of frontage lots along existing highways – the commercial strip. The second scenario explored how it might be possible to fit the same amount of development on a site as allowed under the conventional plan, but in more creative and sustainable way. This often means allowing more of a mix of uses on sites, promoting pedestrian access, and encouraging flexible development standards within an overall master plan. Each of the design scenarios, then, is completely imaginary – but they are based on careful study of the physical and regulatory constraints that affect actual sites. As a result, many of the issues and problems inherent in developing in South County were identified early on, so that the consultants could look for potential solutions, whether through zoning changes, flexible development standards, planning concepts or detailed design approaches.

To illustrate these complex planning issues, and potential design solutions for each site, birds-eye view drawings were prepared that show both large-scale planning ideas and detailed design of streets, buildings, parking lots, etc. In each case, the first drawing illustrates existing conditions on the site. The second image shows what is likely to happen under current zoning and development trends. A third image illustrates a more creative approach, in many cases based on pedestrian-friendly, mixed-use development. The design manual is built around this set of three images of each site, surrounded by descriptive text and photographs illustrating existing conditions and examples of conventional and creative approaches to development. It is designed primarily as an educational resource, but could also be used as a reference in regulatory review of site planning and design.

The Creative Vision of the Design Manual

MODEL LAND USE ORDINANCES

As each of the planning and design scenarios were being developed and discussed by the steering committee, the consultant team worked to identify the planning, policy and regulatory changes that are needed to implement the creative plan. In most towns, zoning and other regulations make it impossible to build anything other than the conventional plan, at least by right. A set of alternative Model Zoning Ordinances, prepared by Attorneys Mark Bobrowski and Andy Teitz, was prepared to promote the creative development recommended in the design scenarios: they include elements to help towns more effectively plan for growth, particularly through better design review procedures, fees for design review, and growth rate controls; they also include alternatives to the usual forms of residential clustering and planned commercial districts that have failed towns in the past. The suggested models keep the basic idea of these older approaches, but go a step further, by promoting the idea of several different kinds of flexible and planned district development to be applied depending on the specific context of a project site. For example, the project team noted that the one-size-fits-all cluster zoning common to a number of towns treats all areas of a town alike. While it allows smaller lots and requires preservation of open space, it is a very blunt instrument in promoting better design. So the model ordinances suggest several alternatives customized to specific situations. In rural districts where preservation of large contiguous tracts of farmland, forest, or river corridors is paramount, a Conservation Subdivision Ordinance emphasizes site plans that reflect an understanding of town-wide open space systems. In village locations a different approach, termed Flexible Development, emphasizes the design of streets, houses, and neighborhood structure over open space protection, per se. Similarly, the models provide two different options for mixed-use commercial development in planned development districts, depending on whether the site is in the countryside or close to an existing village or town.

WORKING LANDSCAPE PRESERVATION

The second implementation element was this report that outlines strategies to promote Farming and Forestry in South County. This study was prepared by Rick Taintor of Taintor & Associates, and combined regulatory approaches such as a Rural Village Development district, and an ordinance governing farm-based retail sales, with incremental approaches to promoting farm-based service businesses, lowering tax burdens on farmers, and generating local funding support.

TRANSFER OF DEVELOPMENT RIGHTS

Another element prepared by Taintor & Associates was a study of the possible application of Transfer of Development Rights (TDR) to South County. TDR, as he describes it, “is a land use regulatory tool under which development rights can be severed from a tract of land and sold in a

market transaction. The parcel from which the rights are transferred is then permanently restricted as to future development, and the purchaser of the rights may assign them to a different parcel to gain additional density...Usually, TDR programs designate sending areas from which rights may be transferred, and receiving areas to which the rights may be sent.” This creative management tool takes the kind of flexibility that towns often allow to shift house lots around on one parcel, and makes it possible to transfer houses from one parcel to another elsewhere in the town. In theory this makes it possible to preserve sensitive farmland or open space entirely, without having to spend any public funds to buy it.

SITE ASSESSMENT GUIDE

The last element prepared by the consultant team was prepared by Lorraine Joubert and Jim Lucht of URI Cooperative Extension. As part of a general study of best management practices for minimizing the effect of development on the environment, the URI-CE team developed a Rapid Site Assessment Guide that towns evaluate the suitability of sites for development. Utilizing the extensive data available from on the Rhode Island Geographic Information System, the Rapid Site Assessment system allows planners, developers and town boards to evaluate possible environmental impacts very early on in the development review process – heading off poor planning decisions before land owners and developers have spent a lot of money on site surveys and engineering.

Planning approaches

As these different creative approaches to design, growth management and regulation were presented by the consultant team, it became clear that little is going to change without the support of town officials and private citizens. Better design or creative regulation won't be adopted as official policy without a shared consensus about what needs to be preserved and what needs to be developed. The only way to achieve that consensus is through comprehensive planning activities on both the town and regional scale. Planners in most towns, for example, realize that subdivisions often get built in the wrong places -- far from services, near sensitive wetlands, on poor soils, etc. Zoning usually requires larger lots in such places, but otherwise developers build the same subdivision roads out in the countryside as in the town center. The answer is to pursue planning at a more detailed scale within neighborhoods and districts within the town, figuring out ahead of time the areas should be protected, and the areas that are more suitable for development. This has been done in most towns at the scale of the whole town – the problem is the level of detail is rarely enough to show which parcels should be protected, much less delineating areas within parcels.

With the advent of Geographic Information Systems, and particular the data that is available from Rhode Island GIS, it is possible to do this kind of detailed planning for many times less than you could even ten years ago. A companion, called the South County Greenspace Protection Project, is designed to demonstrate how RIGIS data, and the knowledge of local volunteers, can be used to identify the areas and corridors of open space that should be protected within and between towns. A parallel project, known as the South County Economic Development Planning Project, is designed to complement the identification of desirable open space resources with an investigation of appropriate locations and types of economic development across the region. Both these projects represent regional planning at a scale and level of detail that can be truly effective in informing local planning and management decisions.

Improvements in the speed and efficiency of GIS will increasingly allow towns to pursue this kind of detailed physical planning as part of their comprehensive planning efforts. Now, most towns have a land use plan and zoning map, which shows the location, allowable uses, and density of development in each neighborhood. Few towns, however, talk about the appearance of the development, size and scale of structures, etc. This creates a lot of uncertainty. Zoning changes meet resistance because people don't know what to expect, there's no agreement ahead of time on anything but goals that are so broad to sometimes be meaningless. But, if you can establish specific, physical planning goals up front, zoning changes become much easier -- simply a tool to implement an accepted plan. In theory, zoning is meant to implement the land use element of the comprehensive plan, and in most towns there is an explicit connection; the problem is the landuse plan itself is rarely detailed or specific enough.

The suite of model land use ordinances contained in this document is meant to provide towns with several options to better plan for growth. A broad-based stakeholder committee provided feedback on the model ordinances and Attorneys Andy Teitz and Mark Bobrowski gave their professional legal review of them. However, each town should consult with their town solicitor prior to adopting any model land use ordinance in order to customize it to a town's needs and to ensure consistency with community comprehensive plans.

RATE OF DEVELOPMENT

I. DEVELOPMENT PACING AND PHASING

INTRODUCTION

Towns faced with rapid residential growth have used developing pacing or subdivision phasing to confront the problem. This is a common tool in Massachusetts, New Jersey and California, and is growing more common in Rhode Island as we face the pressures of extremely rapid growth. Like all growth management tools, this model is a temporary answer to a long-term problem. Accordingly, one of the purposes of a growth management ordinance is to gain time to study the problems associated with growth, prepare legal and planning responses, and implement local regulations to address the issue.

The time to confront growth is not when the issuance of building permits reaches an historic high level. Towns must anticipate growth four to five years in advance to be effective. Careful planning should be used to monitor the economy, transportation, and other demographic trends in order to predict the need for growth management tools.

This model establishes a town wide cap on the number of building permits issued. The number of building permits allowed in any year or other time period such as a quarter, may NOT be set at some historical average, except for a very short term temporary emergency ordinance. Rather, the number of allowable permits must be based on the future capacity of community resources.

A rate limitation ordinance such as this is, by definition, an interim ordinance. Towns using the cap should take advantage of the time to study the effects of growth, and to come up with long term solutions to the problems growth creates.

The ordinance implementing the cap can and should set forth both priorities for obtaining a permit and exemptions from the cap. For example, development that permanently reduces the build-out of a parcel to half of its permissible density might be allowed to proceed at a faster rate. Likewise, development in the defined “core” of a community might be allowed to proceed faster than that in the defined “periphery.” Open space, affordable housing, and design consistency might also serve as exemptions under the cap. All of these preferences and exemptions must be justified by appropriate references to the Comprehensive Plan.

The legality of a development cap is dependant upon the municipality spending the time and expense associated with the underlying studies that are necessary to establish a legitimate governmental interest and demonstrate that the scope of the limitations placed on development are reasonably necessary. The only “legitimate interest” that has been challenged and accepted in Rhode Island by the courts is suburban growth’s impact on school systems. Other interests

have been accepted by courts in other states but have not yet been tried in Rhode Island. The process by which a municipality establishes the need for this type of regulation is, like the ordinance itself, cumbersome and complicated. The studies cited in Section 2 of the ordinance indicate the scope of the Town's preparation before adoption.

This model is taken from the ordinance adopted by the Town of South Kingstown and which is currently in effect.

1 - Purpose

The purpose of these Pacing and Phasing provisions is to equitably allocate available capacity for additional development among applicants over time, and to guide the form of development so as to minimize burdening the facilities, natural resources, and cultural resources whose adequacy is essential to capacity. It is the intent of these provisions to provide for the housing needs of all population groups in a manner which is consistent with the Town Comprehensive Community Plan, with the Town Capital Improvement Program as revised annually, and with Land Use 2010: State Land Use Policies and Plan (State Guide Plan Element 121, June 19, 1989 as may be amended from time to time).

2 - Findings

The Town Council, Planning Board, Town staff and consultants have conducted studies and have followed State planning documents in order to develop a growth management program as called for in the Comprehensive Community Plan. The Town Council finds that these studies and documents, listed below, establish the basis for the Town's Growth Management Program, and are incorporated herein by reference:

*** Below is a representative list of the type and scope of study, as utilized by South Kingstown.***

- [1. Managing Growth Rates and Amounts, Philip B. Herr & Associates, December 22, 1994*
- 2. Growth Management Options and Alternatives, Philip B. Herr & Associates, June 18, 1993*
- 3. Zoning School and Open Space Fees, Philip B. Herr & Associates, August 18, 1993*
- 4. Exploring Limits to Growth, Philip B. Herr & Associates, May 16, 1994*
- 5. The Quarterly Quota, Philip B. Herr & Associates, December 22, 1994*
- 6. Building and Pupils, Philip B. Herr & Associates, December 21, 1994*
- 7. Authorized Dwelling Unit Starts 1984-1995, Tony Lachowicz, Director of Planning, Town of South Kingstown, RI, February 1, 1996*
- 8. Rhode Island's Salt Pond Region: A Special Area Management Plan, Coastal Resources Management Council, Adopted November 27, 1984, as amended*
- 9. The Narrow River Special Area Management Plan, Coastal Resources Management Council, Adopted December 8, 1986, as amended*
- 10. Capital Improvement Programs, Town of South Kingstown, RI, as adopted by the Town Council for Fiscal Years 1992-1993 through 1997-1998, 1993-1994 through 1998-1999, 1994-1995 through 1999-2000, 1995-1996 through 2000-2001 and 1996-1997 through 2001-2002.]*

3 - Basic Residential Requirements

Issuance of building permits authorizing creation of one or more additional dwelling units as defined in [this ordinance] through new construction or change of use shall be allowed only under the procedures and requirements set forth herein.

Applicants for such residential building permits shall be authorized to proceed in the manner specified herein, and in accordance with the priority assigned to them in this ordinance, and shall be assigned dates to begin construction by the Building Official such that the total number of dwelling units authorized to begin construction in any quarter does not exceed either the 24-month quota as established in this ordinance or the Quarterly quota as established in this ordinance being exceeded, except as otherwise authorized.

The term "Quarter" shall mean a period of three consecutive calendar months, beginning on the first day of the first month following the beginning of a period of rapid Town growth, as defined below, and continuing through three consecutive months, whether or not that involves crossing into a new calendar or fiscal year.

The term "period of rapid Town growth" shall mean a period described as follows:

- (a) beginning when the total of dwelling units authorized under permits issued during a twenty-four month period, including the current month, plus the number of dwelling units sought in complete building permit applications received but not yet acted upon, exceeds the 24-month quota established under this ordinance by more than ten (10) percent; and
- (b) continuing through the remainder of that month and for the following three months (Quarter); and
- (c) ending when the total of the number of dwelling units in (a) above is less than the 24-month quota established in this ordinance.

The term "period of moderate Town growth" shall mean any period other than a period of rapid Town growth.

4 - 24-Month Quota

The term "24-month quota" shall mean the maximum number of residential dwelling units which may be authorized by building permits, except for exemptions as provided

herein, during any continuous 24-month period, regardless of calendar year. The 24-month quota shall be established as follows:

A. The 24-month quota shall be determined by the Town Council each year in adopting the Capital Improvement Program, as provided in this ordinance. below. That quota shall equal not more than one-third of the Town's capacity for additional dwelling units within the Town's then-sustainable and serviceable limits at the beginning of the fiscal year, based upon any one or a combination of the following:

1. the capacity to service growth with public facilities, including schools, as existing, as planned in the current Capital Improvement Program, and as anticipated to be provided by others;
2. other impacts of the rate of growth upon the capacity of the Town to sustain a high quality of life for all the citizens of the Town, as described in the Comprehensive Community Plan (for example at II. Land Use Element E.1.b), including:
 - the Town's capacity to provide land;
 - recoverable potable water;
 - nitrogen and phosphorous assimilative capacity in both groundwater and marine waters;
3. the expected demands upon capacity which will be made by non-residential development and by residential development not subject to the development priority provisions or exempted in previous years but not yet constructed.

B. Initially, it has been determined by the Town Council based upon studies conducted pursuant to the Comprehensive Plan that the Town's present capacity for additional dwelling units within its sustainable and serviceable limits as set forth in the most recent 6-year Capital Improvement Program equals not more than one thousand (1,000) dwelling units in addition to those now existing. The initial 24-month quota is therefore set at three hundred twenty (320) dwelling units. This quota will assure that the remaining capacity will not be exhausted before remedial or mitigative efforts can be taken by the Town.

C. For the purposes of this amendment, the effective date of this Article shall be [some date] Any application for a building permit creating one or more additional dwelling units submitted after the effective date of this Article shall be subject to the review procedures set forth infra. Permit applications submitted before the effective date of this Article shall not be subject to any of the quota limitations of this Article. For

consistency with the analysis upon which the 24-month quota has been determined, all dwelling units authorized by permits issued after [some date] will be reflected in the determination of whether 24-month or quarterly quotas have been filled, being counted subject to the same exceptions applicable to units seeking authorization subsequent to the effective date of this Article.

D. The Town Council shall set the Town's capacity as part of its annual Capital Improvement Program without necessity of amending the provisions of this article, and the section above shall be interpreted to set the initial development capacity only. For purposes of administering this Ordinance, the Council's determination of the Town's capacity shall take effect upon its adoption.

5 - Dwelling Units Exempt from the Quota

The following types of dwellings shall not be subject to the provisions of this Article with regard to the 24-month or current quarterly quota. These dwellings have been determined to have no or minimal impact upon Town capacities or provide positive benefits to the Town which are consistent with the Comprehensive Community Plan.

The Building Official shall accept applications for construction of the dwellings listed below and shall act upon them without regard to the quotas, priority determination and procedures as set forth in this Article. All such permits issued shall be considered to be issued in addition to the 24-month or quarterly quota provisions of this Article and shall not be counted when determining the current quarterly quota during periods of rapid Town growth. Complete applications for construction of dwelling units so authorized shall be granted permits within the time limits prescribed in the Rhode Island State Building Code, regardless of the availability of permits within the 24-month or current quarterly quota.

A. Protected Development - The application to construct a dwelling is subject to the vested rights provisions of Section 45-24-44 of the Zoning Enabling Act, and as further specified in this Ordinance.

B. Elderly Housing - Dwellings which would contribute to meeting the year-round housing needs of elderly citizens through publicly enforceable restrictions limiting occupancy to households at least half or more of whose members are sixty-two (62) years of age or older.

C. Special Impact Development - Dwellings having first received a special use permit from the Zoning Board of Review as a Special Impact Development under the

provisions of paragraph 9 below, on the grounds that it will have no or very limited impact on critical Town capacities.

D. Multi Household Dwellings - Multi Household dwellings having zero-bedroom (studio) or one-bedroom units, and which do not exceed a total of 800 sq. ft. floor area per dwelling unit.

E. Accessory Apartments, as defined in the ordinance.

6 - Dwellings in Phased Subdivisions

Any dwelling proposed for construction upon a lot in a subdivision which, upon the effective date of this Ordinance, is subject to restrictions imposed by the Planning Board as a condition of subdivision approval, and which includes a prohibition on the sale or recording of lots or units within that subdivision in order to establish a rate of development by requiring it to be recorded in phases shall be treated as follows:

A. Complete applications for construction of dwelling units upon lots within these subdivisions shall be granted permits within the time limits prescribed in the Rhode Island State Building Code, regardless of the availability of permits within the current quarterly quota, and shall not be subject to the procedural requirements of this article, or the priority criteria of this article;

B. During periods of rapid Town growth as defined the Building Official shall grant permits for dwellings on lots in Phased Subdivisions regardless of whether or not the quarterly quota has been reached, but shall be counted when determining the number of permits issued within the 24-month quota.

C. The provisions of this Section with regard to the 24-month or current quarterly quota shall remain in effect for a period of two (2) years from the date such lot is permitted to be sold or recorded, after which time applications for building permits upon these lots shall cease to be exempt and shall be subject to the full quota provisions of this Article.

7 - Low or Moderate Income Housing

Dwellings which are authorized under the provisions of the Low and Moderate Income Housing Act (Title 45, Chapter 53 of the R.I.G.L.) shall be treated as follows:

A. During periods of rapid Town growth as defined in this article, complete applications for construction of dwelling units so authorized shall be granted permits

within the time limits prescribed in the Rhode Island State Building Code, regardless of the availability of permits within the current quarterly quota, and shall not be subject to the procedural requirements and priority criteria of this article;

B. All permits so issued shall be considered to be issued as part of the quota provisions of this Article and shall be counted when determining the number of permits issued within the 24-month quota.

8 - Priority Criteria

In periods of rapid Town growth only [as defined in ordinance], building permits shall be issued by the Building Official up to the maximum number permitted by the applicable current quarterly quota, in the order of priority assigned below and in accordance with the procedure and limitations set forth in this article. In the event of a tie, priority shall go to the application with the earlier date and time of the submission of a complete application. The provisions of this Section do not apply to periods of moderate Town growth.

A. The first order of priority shall be given to applicants meeting the criteria for affordable housing as defined in this ordinance.

B. The second order of priority shall be given to applications for construction of a single household detached dwelling as an Individual Applicant if:

1. the applicant has not previously received this one-time priority for any lot; and,
2. the lot to be built upon is not and was not under common ownership with a lot or parcel which has previously received this priority; and either,
 - a) the applicant owned the lot to be built upon on the effective date of this Article, or,
 - b) the lot to be built upon has been subdivided from a larger parcel on or before the effective date of this Article.

C. The third order of priority shall be given to applicants whose application for construction of a dwelling has been denied for four (4) consecutive quarters because of the provisions of this Article.

D. The remainder of the current quarterly quota (if any remains after granting permits to all those eligible under priority categories 1-3 above) shall be issued to any other applications in the order of complete applications received.

9 - Special Impact Developments

Application for construction of dwellings shall qualify as an exemption under this article if the Zoning Board of Review grants a special use permit as a Special Impact Development for construction of dwellings having no or very limited impacts on critical Town capacities in accordance with the following:

A. Prerequisites - To be eligible for such special use permit, a dwelling must be:

1. proposed to be constructed upon a lot of record as of the time of application;
or,
2. proposed to be constructed upon a lot within a subdivision or land development project which has received final approval by the Planning Board under the provisions of the Subdivision and Land Development Regulations;
or,
3. proposed to be constructed within a part of a multi-household land development project, a multi-household structure, or a mobile and manufactured home park, permitted by and which has received final approval under the applicable provisions of the Zoning Ordinance and/or Subdivision and Land Development Regulations, or
4. proposed to be constructed within the Route 1 Special Management District (SMD) and which has received Conceptual Master Plan approval by the Planning Board under the applicable provisions of the Zoning Ordinance and/or Subdivision and Land Development Regulations. The Planning Board shall make an advisory recommendations to the Zoning Board on any such application for development within the SMD.

B. Criteria - In granting a special use permit under these provisions, the Zoning Board of Review shall first determine that the proposed dwelling units are demonstrated to have no or very limited impacts on those Town capacities which most severely limit sustainable and serviceable growth, including but not limited to educational facilities and services. For example, accessory apartments, accessory family dwelling units, or mobile or manufactured homes might meet this criterion because of having limited size and number of rooms, or having publicly

enforceable deed restrictions regulating their occupancy characteristics, thus having no potential school-aged residents impacting public schools.

10 - Procedure for Issuance of Building Permits

Applications for building permits for construction of one or more dwelling units shall be submitted to the Building Official, who shall adhere to the following procedure in reviewing and issuing permits:

A. **Completeness** - The Building Official shall, upon receipt of an application submitted, examine the application, plans and all materials for completeness, which shall include all plans and materials required for a building permit under the applicable provisions of the Zoning Ordinance and the Rhode Island State Building Code. If said application, plans and materials are complete, the Building Official shall stamp it indicating the date and time of official receipt by the Town.

B. **Incomplete Applications** - If the application is incomplete and does not contain all plans and materials as required by the Zoning Ordinance and the Rhode Island State Building Code, the application, plans and materials shall immediately be returned to the applicant who will be informed by the Building Official what is missing from the submission in order to qualify as a complete application.

C. **Periods of Moderate Town Growth** - During periods of moderate growth, as defined above, the provisions of this Article with regard to quota shall not apply. In such periods, the Building Official shall issue permits for all complete applications received within the time limits prescribed by the Rhode Island State Building Code, without further delay.

D. **Periods of Rapid Town Growth** - During periods of rapid growth, as defined above, the Building Official shall not issue building permits for any dwelling units in excess of the 24-month quota unless such units are not subject to that limitation. In such periods of rapid Town growth, the Building Official shall follow the procedures prescribed in the following paragraph.

11 - Procedure for Issuance of Building Permits During Periods of Rapid Town Growth

A. **Initiation** - The Building Official shall keep track of all permits issued plus complete applications submitted during the most recent consecutive 24-month period after [some date]. If, within any consecutive 24-month period after [same date] the number exceeds the 24-month quota by more than ten (10) percent (except for exempted dwellings) additional building permits shall no longer be issued, except as provided below. Applications for additional permits shall be

accumulated for action at the beginning of the next quarter, and shall be prioritized and issued under the current quarterly quota provisions below.

B. Current Quarterly Quota - Prior to the beginning of each quarter, the Building Official shall determine the current quarterly quota. The current quarterly quota shall equal one-eighth (1/8) of the 24-month quota established by the Town Council under the provisions of Section 1102.4, (initially resulting in forty (40) dwelling units). The Building Official shall not authorize building permits for construction of more residential dwellings in any quarter than the number authorized by the current quarterly quota, except for (a) exemptions as provided in this article and except for (b) permits for dwelling units constructed on lots within phased subdivisions which are issued after the current quarterly quota has been reached, as provided.

1. If approval of all applications submitted during the current quarter would result in exceeding the 24-month quota, the procedures for issuance of permits during rapid Town growth shall remain in effect continuously from quarter to quarter until that number is no longer reached or exceeded.
2. At the beginning of the next quarter, the Building Official shall add the total number of complete applications on file to the total number of permits issued during the previous seven (7) quarters. In the event that the resulting sum would result in the total number of permits for the previous 24-month period to be fewer than the 24-month quota, all accumulated permits shall be immediately issued.
3. After issuance of the permits in B.2, above, the procedures for issuance of permits during rapid Town growth shall cease, and the procedures set forth in below. for moderate Town growth shall apply henceforth until such time as the number of permits once again exceeds the 24-month quota by more than ten (10) percent, in which case the procedures for rapid Town growth shall once again apply, and so forth.
4. In determining the current quarterly quota, the Building Official shall not count the number of permits for dwelling units in phased subdivisions that were granted permits after the current quarterly quota has been reached, as provided in this article.

C. Priority Determination - During periods of rapid Town growth, at the beginning of each quarter, the Building Official shall determine the priority of all pending applications as follows:

1. The Building Official shall first prioritize those applications that were certified complete fifteen (15) or more days prior to the beginning of the current quarter by applying the criteria in paragraph 3, and issue such permits up to the number available under the current quarterly quota.
2. Where the current quarterly quota has not been reached, the Building Official shall issue building permits continuously throughout the quarter until the current quarterly quota is reached. If the current quarterly quota is reached, no further permits subject to these limitations shall be issued during that quarter. Permits received in excess of the current quarterly quota shall be retained for consideration in the next quarter in accordance with the procedure set forth in this Section.

12 - Limitation on Number of Authorized Units

During periods of rapid Town growth, in order to assure that permits for residential building permits are equitably distributed among all qualified applicants, the following shall apply:

- A. No single applicant shall be granted building permits for more than five (5) dwelling units during any quarter if doing so would result in denial of a permit for any other applicant.
- B. Permits for construction of affordable housing granted priority under the provisions of paragraph 3.A. shall be limited to a total of ten (10) dwelling units per quarter on a Town-wide basis if the issuance of more permits would result in denial of a permit for any other applicant(s) for other types of dwellings. If the Building Official receives applications for more than 10 such affordable dwelling units in any quarter, priority shall go to the application with the earlier date and time of submittal of a complete application.
- C. Notwithstanding the provisions of this Section or the provisions of Section 23-27.3-114.2 of the RI General Laws, nothing herein shall prevent any applicant from accumulating building permits (or commitments for future building permits) over a period of time and using all permits (or commitments) so accumulated to construct a multi-household structure or land development project as a single construction project.

13 - Non-Dwelling Development

In acting upon special use permits or variances for developments other than those comprising only dwellings, the Zoning Board of Review shall take into consideration the

intent of this Article, and in acting upon applications for Major Land Development Projects, other than those comprising only dwellings the Planning Board shall do the same. Those Boards shall require applicants for such special use permits, variances or Major Land Development Projects to document the Town-wide impacts of their proposals upon the following, using a format and materials to be provided by the Planning Department to facilitate that task:

- amount of land resources remaining for development;
- amount of recoverable water;
- if the proposed development is not to be serviced by public sewerage, the nitrogen and phosphorus assimilative capacity of groundwater or marine waters;
- impact upon the adequacy of the Town's road system;
- impact upon public schools;
- impact upon the adequacy of public facilities, including Town Hall, police and fire facilities, library, and recreation facilities.

In granting approvals for such permits, each of those Boards shall impose such conditions as are appropriate to ensure that the timing of the resulting development will be consistent with the objective to deplete not more than one third of the Town's capacity for additional development within sustainable and serviceable limits in any two years, taking into consideration the documented impacts, the context of impacts from other development, and the mitigation, if any, which has been proposed or required.

The provisions of this Section shall apply only to applications for major developments which require the granting of special use permits and/or variances and shall not apply to any use permitted by right in the Zoning Ordinance. Similarly, Major Land Development Projects, if allowed by right in the Zoning Ordinance, if no special use permits or variances are required, shall not be subject to the provisions of this Section. All such permitted non-dwelling uses shall be exempt from the procedural and quota provisions of this Article.

14 - Expiration

This Article shall expire [*some date not more than 5 years from effective date*], unless it is earlier extended through amendment of this provision. Upon its expiration, any timing limitations previously placed on building permit availability shall no longer be enforced, but any housing cost or income eligibility stipulations upon which permits were earlier qualified shall remain in full force and effect.

15 - Protection Against Zoning Change

Any protection against zoning change provided by this Ordinance (Article __) or by State law (e.g., Section 45-24-44 of the Zoning Enabling Act) shall be extended three months each quarter that a building permit application for the dwelling unit in question has been denied.

II. SUBDIVISION PHASING

INTRODUCTION

Where a pacing ordinance is adopted, a subdivision phasing ordinance should also be considered. The phasing device prevents one or two large subdivisions from using all of the available permits in one calendar year. Thus, a phasing ordinance can be used to establish a fair method for the distribution of available building permits.

This phasing ordinance is also worth considering as a stand-alone tool. Larger subdivisions are required to phase in over a period of not more than ten years. A community can soften the impacts of large subdivisions on schools, water and sewer, and other municipal facilities without adopting a town-wide pacing ordinance.

This is an effective alternative means of growth control. If used in conjunction with a building permit cap, consideration must be given to fairness, so that developers are not caught in a double restriction. Also, in many Rhode Island communities, the growth is coming in previously-platted lots so this model ordinance may be ineffective.

1. Purpose. The purpose of this section, "Subdivision Phasing," is to assure that growth shall be phased so as not to unduly strain the town's ability to provide public facilities and services, so that it will not disturb the social fabric of the community, so that it will be in keeping with the community's desired rate of growth; and so that the town can study the impact of growth and plan accordingly.

2. Applicability. The issuance of building permits for any tract of land divided pursuant to any provision of the Subdivision and Land Development Regulations into more than ___ lots after the effective date of this ordinance shall be subject to the regulations and conditions set forth herein. This provision shall apply to any proposed division or combination of properties which were in the same ownership and contiguous as of [*date of enactment*].

3. Phasing. Not more than ___ building permits shall be issued in any twelve month period for construction of residential dwellings on any tract of land divided into more than ___ lots pursuant to any provision of the Subdivision and Land Development Regulations.

The number of permits available to any single subdivision should be determined by (a) the number of permits available town-wide where a pacing ordinance has been adopted, and (b) locally sustainable development trends.

4. Exceptions. Issuance of more than ___ building permits for the same tract of land in a twelve month period may be allowed in the following circumstances:

a. The owner of said land may request the Planning Board for the issuance of more than ___ building permits in any 12 month period. The Planning Board may allow this only if the Board determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such permit, considering the impact on schools, other public facilities, traffic and pedestrian travel, recreational facilities, open spaces and agricultural resources, traffic hazards, preservation of unique natural features, planned rate of development, and housing for senior citizens and people of low or moderate income, as well as conformance with Comprehensive Plan and Growth Management Plan [if the Town has one]. The Planning Board shall give particular consideration to proposals that demonstrate a reduction in allowable density of fifty percent (50%) or more. Where such approval is granted, any building permits issued for dwelling units within such subdivision of land shall not count toward the ___ permits to be issued annually.

Where this option is used, the Town may use the specter of phasing to accomplish the objectives in subsection a. For example, if a developer proposes to reduce the otherwise allowable density of a project by a significant amount, freeing the project from the phasing requirement might be tenable. Open space and affordable housing contributions might also be worthy of a special permit.

b. Where the tract of land will be divided into more than [ten times the annual number above] ___ lots, the Planning Board may authorize development at a rate not to exceed ten percent (10%) of the units per year.

If the tract is very large, phasing the project for more than ten years may begin to take on aspects of a regulatory taking. Towns are advised to cap the phasing period at not more than ten years to avoid this problem.

5. Relation to Real Estate Assessment. For any lots which are created by the recording of a plat pursuant to these procedures, where a building permit will not be allowed for at least one year, the owner of such lot may apply to the Tax Assessor for a reduction in valuation which reflects such constraint on development.

PUBLIC WAY ACCESS PERMITS

INTRODUCTION

This general ordinance is intended to create a system by which municipalities can mitigate the impact of traffic generators on local roads. It is not a zoning ordinance; it should be adopted pursuant to the police power and is therefore available to any community that has its own home rule charter. This is NOT a new regulation, although this ordinance may be a new form of it. Most municipalities (including North Kingstown and Narragansett within the Project area) already regulate curb cuts through the local department of public works or town engineer.

Every curb cut on an existing municipal public way will require a permit, including but not limited to the following types of new openings:

- * all single family homes;
- * all roads for subdivisions, whether grandfathered under zoning or not;
- * all commercial and industrial access roads;
- * all access ways for churches, schools and other institutional.

The Town Council may delegate its authority under this ordinance to the Highway Superintendent or Director of Public Works, make rules and regulations for implementation, and charge reasonable fees.

The ordinance's primary purpose is not to "exact" improvements from permittees, but is to ensure that generators of new traffic minimize and mitigate the impacts of that traffic, and pay their fair share of infrastructure improvements related to the increase in traffic. For example, under Section E.2.e the Town Council may require actual work in the right of way by the permittee. When this occurs, the town must be careful to observe the Supreme Court's ruling in *Dolan v. City of Tigard*, 512 U.S. 374, 114 S.Ct. 2309 (1994). The minimum expectation of the Supreme Court is that the town will exact only those improvements "roughly proportional" to the impact of the project, and that the town will make an "individualized determination" as to that impact. In other words, staff or consulting experts must be able to quantify the impact of the project in order to justify the exaction. The Supreme Court warned that "conclusory statements" were not enough.

In the context of subdivision or land development project approvals, Rhode Island's law is even stricter. R.I.G.L. 45-23-47 authorizes the requirement for public improvements or payment to mitigate the impacts of a proposed project, but requires the following restrictions:

- “(1) All required public improvements must reflect the character defined for that neighborhood or district by the community's comprehensive plan;
- (2) The need for all dedications of land to the public and for payments-in-lieu of such dedications must be clearly documented in the adopted plans of the community, i.e., the comprehensive plan and the capital improvement plan;
- (3) No dedications of land to the public or payments-in-lieu of dedications may be required until the need for such are identified and documented by the municipality, the land proposed for dedication is determined to be appropriate for the proposed use, and the formulas for calculating a payment-in-lieu of dedication have been established in the local regulations;
- (4) All dedications, improvements, or payments-in-lieu thereof, for mitigation of identified negative impacts of proposed projects must meet the above standards. Furthermore, the significant negative impacts of the proposed development on the existing conditions must be clearly documented. The mitigation required as a condition of approval must be related to the significance of the identified impact; and
- (5) All payment-in-lieu of dedication or construction to mitigate the impacts of the proposed development shall be kept in restricted accounts and shall only be spent on the mitigation of the identified impacts for which it is required.”

Cities and towns must develop a defensible methodology in order to properly use this ordinance. As with all of these model ordinances, municipalities are advised to discuss the implementation of the ordinance with legal counsel. Remember that the general police power justification will work only on local roads. State law is clear that on State highways and roads, the RIDOT Physical Alteration Permit process preempts this kind of ordinance.

1. Purpose. It is the purpose of this ordinance to ensure public safety by providing for the review of public way access permit applications so as to: prevent unsafe site stopping distances, prevent unsafe turning movements, prevent unsafe traffic volume, and prevent stormwater runoff from negatively impacting adjacent landowners, public streets or water quality. It is also the purpose to establish predictable, timely, and uniform procedures. These procedures apply to public way access permit applications for the following traffic facilitators (hereinafter the “facility”):

- A. new access to a public way;
- B. physical modification to existing access to a public way;
- C. use of new or existing access to serve the construction or expansion of a use that generates a substantial increase in or impact on traffic from properties that abut the public way.

Ultimately, the purpose of the ordinance is to require the developer of a significant project to bear the burden of mitigating the traffic impacts of the project by making appropriate improvements to the local roads. This ordinance does not collect funds to finance municipal improvements: it is not an impact fee. Consequently, the developer must also obtain local approval to work in the public right of way.

2. Definitions. In this ordinance the following terms shall have the meanings prescribed below.

- A. "Modification" shall mean any alteration of the physical or traffic operational features of the access.
- B. "Substantial increase or impact on traffic" shall mean that generated by the facility which meets or exceeds any of the following thresholds:
 - i. Residential, including hotels, motels, lodging houses and dormitories:
ANY INCREASE TO THE EXISTING CERTIFICATE OF OCCUPANCY OF MORE THAN 25 PERSONS
 - ii. Nonresidential: 250 TRIPS PER DAY, AS DEFINED IN THE ITE TRIP GENERATION MANUAL, 4TH ED.
 - iii. Nonresidential: 25 NEW PARKING SPACES
 - iv. Nonresidential: 5,000 NEW SQUARE FEET

- C. "Public way" shall not be construed to mean a state highway but shall mean any road owned by the municipality.

As noted above, Towns do not have jurisdiction to mandate improvements to state highways. The ordinance extends only to roads under local control.

3. Submission of Permit Application. The [*Official having authority over roads*] shall be responsible for the issuance and/or denial of public way access permits. A permit applicant shall request issuance of a permit on a standard form supplied by the official. A permit application shall be deemed complete by the official only after the following items have been submitted:

- A. standard application form;
- B. evidence of certification of compliance with state permits, if applicable;
- C. engineering plans acceptable to the official, where required by the official.

The Town Council, by resolution, may adopt a schedule of reasonable fees to accompany said application.

4. Procedures of the Official.

- A. Any application for a public way access permit, other than an application pertaining to a single-family residential structure, shall be transmitted by the official within three (3) working days to the Town Planner and Chief of Police [*and Traffic Safety Commission if the town has one*] for review and comment. They shall, within twenty (20) days of receipt of the application, report to the official in writing their findings as to the safety of the proposed activity and, in the event of a finding that the proposed activity would be unsafe, its recommendations, if possible, for the adjustment thereof. Failure by the Town Planner and Chief of Police [*etc. etc.*] to respond within twenty days of the receipt of the application shall be deemed lack of opposition thereto. An application pertaining to a single-family residential structure shall be determined solely by the Official, although he or she may consult with other town officials.
- B. Where an application is deemed complete, the official shall render a decision within the following timetable, by filing same with the Town Clerk:
 - i. For an application pertaining to a single-family residential structure: twenty (20) days;
 - ii. For any other application: forty (40) days.

Where the official denies said application, he/she shall state specific findings for the denial in its decision.

- C. The official may deny the issuance of a public way access permit due to the failure of the applicant to provide sufficient highway improvements to facilitate safe and efficient highway operations, or when the construction and use of the access applied for would create a condition that is unsafe or endangers the public safety and welfare.
- D. The official may, in the alternative, condition an access permit to facilitate safe and efficient traffic operations, to mitigate traffic impacts, and to avoid or minimize environmental damage during the construction period and throughout the term of the permit. Such conditions may include, but not be limited to:
 - i. necessary limitations on turning movements;
 - ii. restrictions on the number of access points to serve the parcel;
 - iii. vehicle trip reduction techniques;
 - iv. necessary and reasonable efforts to maintain existing levels of service;
 - v. design and construction of necessary public way improvements by the permittee; and
 - vi. reimbursement by the permittee of costs of town inspection of public way improvement work.

This model is designed to enhance public health and safety; aesthetic concerns are ancillary and related, but not regulated herein. Therefore, unstated in the powers of the Town is the power to shape the project and to fit the project into its larger context of the neighborhood, the zoning district, the town and the region. These issues are more appropriately addressed by Subdivision and Land Development Project Review or Development Plan Review as applicable. To the extent that traffic concerns overlap these two permitting processes, the decisions of local authorities should be coordinated and the Planning Board approval should take precedence. The conditions of development plan approval ought to be reiterated in any public way access permit, and vice versa.

- E. Variance. Where site or access standards do not allow the proposed access to meet these standards, the applicant may apply to the Zoning Board for approval to

vary the application of the design standards on a case by case basis. In addition to satisfying the criteria for a dimensional variance the applicant shall provide the Zoning Board with evidence supporting a finding that:

- i. for either a private applicant or a governmental entity, where there are no reasonable available alternatives which would allow access in compliance with these standards. In this case, the applicant must commit to provide measures to mitigate impacts to traffic and operational safety, which the official determines are necessary; or
 - ii. as an alternative procedure for a governmental entity only, the variance is necessary to accommodate an overriding municipal, regional, or state public interest, including the avoidance or minimization of environmental impacts.
- F. An appeal of the decision of the officer may be brought to the Zoning Board by an aggrieved party.

5. Access Permit Provisions.

- A. Construction under the terms of a public way access permit shall be completed within one year of the date of issue, unless otherwise stated in the permit. The official may extend the permit for an additional year, at the written request of the permittee, filed prior to the expiration of the original construction period.
- B. When the official determines that a permit condition has not been complied with, it may suspend or revoke a public way access permit if, after notice to the permittee of the alleged noncompliance, twenty-four hours have elapsed without compliance.
- C. The official may require a performance bond to be posted by the permittee in an amount not to exceed the estimated cost of the work. The performance bond shall be posted prior to the issuance of the permit.
- D. The official may issue written orders to enforce the provisions of this ordinance.

REGULATIONS GOVERNING FEES AND FEE SCHEDULES

INTRODUCTION

Preserving open space, promoting appropriate residential design, and creating aesthetic commercial projects are among the goals of this project. No single tool better accomplishes these objectives than the model fee structure. The fee schedule is both traditional and innovative. An administrative fee is collected to pay for newspaper publication, certified mail, and staff time. In addition, a technical review fee is separately collected to pay for the experts necessary to advise the Zoning and Planning Boards. In an era when our precious few remaining resources have been developed, damaged, or destroyed, the fee structure outlined in this model can make a major difference. If towns adopt one model from this project, this should be the one.

This approach to build-out is both fiscally sound and aesthetically responsible. The lay persons who volunteer their time to serve on Zoning and Planning Boards are rarely experts in design components. Civil engineers, landscape architects, architects, historic preservationists, wetlands specialists, and attorneys, among others, bring a necessary expertise and professionalism to the development process.

Most importantly, boards may use this resource at no expense to the taxpayers of the town. The entire cost of technical review may be passed on to the developer. The developer, in turn, passes the cost on to his consumers, usually at a quite affordable price. For example, in the Town of Sterling, Massachusetts, the technical review fees for a civil engineer and an attorney in a subdivision of twelve detached single-family units averaged less than eight thousand dollars. The cost to consumers was less than \$750.00 per home, and this is often compensated by the higher value of better design for the subdivision.

This may be the most important ordinance for the small South County towns without full time staff assistance. It will also be of assistance to the larger towns to help alleviate the burden of professional review. The provision that the Planning Board chooses the expert may be met with resistance by the applicant/developer. An appeal of a selection of experts to the Zoning Board has been provided in this regard.

It should be noted that in some towns, charter constraints and custom may require Town Council approval of the fee structure.

SECTION 1. INTRODUCTION.

1.1 Procedural History. On [some date] the Planning Board held a public hearing, pursuant to 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 Method of Payment. The payment of administrative fees and technical review fees shall be by certified or bank check only. Each fee shall be submitted separately.

Bounced checks can complicate the computation of the date of submittal and lead to controversies. The bank or certified check will always be honored for payment.

SECTION 3. ADMINISTRATIVE FEES.

3.1 Applicability. An Administrative Fee shall be assessed to offset the expense of review by the Planning Board and its office 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 Zoning Ordinance, the Subdivision and Land

Development Regulations, and any listings which may have been compiled from time to time for the benefit of applicants.

- A. Administrative Subdivisions - \$100.00

- 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

As an alternative to “per unit” fee increments, some communities may wish to use “per acre” increments.

Fees must relate to the actual costs of administration and review but not exceed the actual costs. R.I.G.L. Section 45-23-58 governs these fees: “Local regulations adopted pursuant to this chapter may provide for reasonable fees, in an amount not to exceed actual costs incurred, to be paid by the applicant for the adequate review and hearing of applications, issuance of permits and the recording of the decisions thereon.” Some towns have undertaken a study of such costs before setting administrative fees and any town contemplating adopting this regulation should do so.

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 waive or reduce any Administrative Fee, if, in the opinion of the Board, unusual circumstances exist regarding the subject property or the applicant. Such circumstances shall include, but not be limited to, a significant public benefit being the result of the subdivision.

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 Major Subdivisions and Major Land Developments 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. In hiring outside consultants, the Board 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, by-laws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, design review of applications to determine consistency with the Town's Residential Design Manual, dated [some date], incorporated by reference in the Community Comprehensive Plan (hereinafter, the "Design Manual"); 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. Project Review Fees shall be submitted at the time of the submittal of the application for deposit in an account established by the Town Treasurer (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 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 Zoning Ordinance, the Subdivision and Land Development Regulations, and any listings 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 Project Review Fees shall be collected for deposit into the Escrow Account, and not the sum of those fees.

A. Conceptual Master Plan, Subdivision or Land Development Project

\$1,000 for the first six units or lots, plus \$100.00 per unit or lot, whichever is greater, after the first six.

Again, technical review fees must bear a close resemblance to the actual costs of expert assistance. The legal standard requires the fee to be "roughly proportional" to the Town's costs. Where unexpended funds are returned to the payer, this should not be an issue.

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 shall consider whether to require a supplemental Project Review Fee to cover the cost of the remaining project review.

If the initial deposit is used, review should cease until replenishment occurs. If there is no replenishment, the project should be denied for failure to submit necessary information lest it be constructively approved.

4.5 Inspection Phase. After the granting of a Special Permit, site plan approval or 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 Town Treasurer.

Boards are advised to consult with the Town Treasurer and Town Manager or Administrator, before establishing a fee schedule. Treasurers of neighboring communities are often willing to share information.

- A.** Outside consultants retained by the Planning Board to assist in the review of an application shall be paid from this account.
- B.** Project Review Fees shall be turned over to the Town Treasurer by the Planning Board for deposit into an Escrow Account.
- C.** A copy of the latest statement from the banking institution handling the Escrow Account shall be forwarded from the office of the Town Treasurer to the Planning Board office as soon as it is received for timely and accurate accounting.

- D.** The Town Treasurer shall prepare a report on activity in the Escrow Account on an annual basis.
- 1.** This report shall be submitted to the Planning Board and Town Council for review.
 - 2.** This report shall be printed in the Annual Report for the Town.
- E.** An accounting of an applicant's funds held in the Escrow Account may be requested by the applicant at any time.
- 1.** The Planning Board 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 Planning Board office, based on the latest statement from the banking institution.
 - b.** A report of all checks authorized for issuance since that last banking statement.
- F.** An applicant may request an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced.
- G.** Excess fees in the Escrow Account, including accumulated interest, shall be returned to the applicant or the applicant's successor in interest, at the conclusion of the review process, as defined below. 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.
- 1.** With the disapproval of a Plan at any stage. Subsequent reinstatement or re-application shall require redeposit of fees by the applicant.
 - 2.** With the approval of a Final Subdivision Plan.
 - 3.** With the release of the performance bond at the end of construction of an approved Final Subdivision Plan.

4. With the final inspection or the approval or disapproval on all other types of applications under the Zoning Ordinance or Subdivision and Land Development Regulations, whichever comes later.
- 4.7. Appeal.** The choice of a consultant selected by the Planning Board for the review of an application may be appealed in writing to the Zoning Board sitting as the Board of Appeal by the applicant, providing such appeal is initiated within twenty (20) days of the initial selection.
- A. Two circumstances may disqualify the selected consultant. These conditions of 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. Consultants must be in compliance with the Rhode Island Ethics Law.
 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.

The cap on grounds for appeal prevents political fights over the sympathies of the consultant. Nonetheless, the choice of a consultant is a very visible and significant one. The professionalism of the consultant is a reflection upon the board. Boards are advised to make sure that its consultants understand that the representation of private clients before the Board is ethically unacceptable, although not illegal.

- B. The required time limits for action upon an application by the Planning Board shall be extended by duration of the appeal.
- C. This appeal shall not preclude further judicial review, as an appeal of the Board of Appeal's decision.

SECTION 5. DELINQUENT ACCOUNTS. The following rules apply to fees owed to the Planning Board by applicants:

5.1 Monthly Interest Charge. All fees past due by one month from the date of invoice shall be subject to a monthly interest charge based upon an annual interest rate of eighteen percent (18%).

5.2 Costs of Collection. All costs of collection associate with past due accounts shall be borne by the applicant.

5.3. Current Delinquents. All applicants owing fees to the Planning Board at the time of any amendment to these provisions of the regulations shall be sent the following:

- A. A duplicate notice of the amount past due.
- B. A copy of the applicable sections of these regulations with all amendments clearly indicated.
- C. Notice of a 30 day grace period before the commencement of any changes in interest rates or charges.

SECTION 6. REVISION OF FEE SCHEDULES AND REGULATIONS GOVERNING FEES.

6.1 Amendment. The Planning Board may review and revise its regulations and fee schedules, from time to time, as it sees fit.

- A. Amendments shall be preceded by a public hearing.
- B. Any new regulations or alterations to the fee schedule shall take affect upon filing a copy of the amendments with the Town Clerk.
- C. The Planning Board will review its regulations and fee schedule on an annual basis.

DEVELOPMENT PLAN REVIEW - INCLUDING VISUAL RESOURCE DISTRICT

Many South County towns have development plan review ordinances; few are comprehensive. The development plan ordinance model sets standards for access and traffic impacts, lighting, parking, landscaping, appearance and architectural design, stormwater runoff, erosion control, water quality, noise, utilities, and other features of the site.

An ordinance regulating development plan review is best written specifically for the community in which it is to be used. Not all design concerns apply across the project area and even within individual towns, not all prescriptions work town-wide. For example, lighting is less of a concern in the middle of an industrial district than it is adjacent to residentially zoned properties. Standards which set basic goals ("minimize intrusion from lighting or glare onto adjacent properties") are easier to write, and so are contained within this model ordinance. However, while it is harder to write a specific ordinance, it is much easier to enforce one if you have specific standards. Although the details could be worked out in the review process, it makes for a longer review process, more uncertainty for the applicant (which is what applicants despise the most), and ultimately less protection for the people of the town.

This model ordinance is, of necessity, a one-size-fits-all ordinance, which can be applied to residential, commercial and industrial uses. Just because it can be so applied does not mean that it should be done. Each town is urged to think about what you are doing, what your Comprehensive Plan calls for, and what you want your town to look like. Then use this model ordinance as a template, and change the specifics to fit your own community.

It is crucial in conducting development plan review that communities have technical experts to help with the process. The difference between a good plan and a bad one is not always clear to laypersons. The presence of a civil or traffic engineer, environmental specialist, and an attorney, all working for the board, can take pressure off the decision makers and result in a defensible action. A model fee ordinance is also a part of this report.

This ordinance may be especially useful to many of the smaller communities which don't have existing sophisticated development plan review provisions. The details of the standards are useful to provide guidance for a lay board as to what issues should be scrutinized and considered during their review. The section on Appearance/Architectural Design is particularly useful for those towns without a Design Manual in place.

Following this model ordinance are models for resource areas which lend themselves to development plan review.

DEVELOPMENT PLAN REVIEW

1. Criteria for evaluation

In reviewing and evaluating a development plan, the reviewing board shall consider the following criteria and make recommendations to achieve the following objectives:

- A. the development plan complies with the zoning regulations of the district in which the site is located and the local comprehensive plan;
- B. the development plan minimizes traffic and safety impacts of the proposed development on adjacent highways or roads, and maximizes the convenience and safety of vehicular and pedestrian movement within the site;
- C. the proposed development, to the extent feasible: a) is integrated into the existing landscape; b) minimizes adverse environmental impacts on such features as wetlands, floodplains and aquifer recharge areas; c) minimizes obstruction of scenic views from publicly accessible locations; d) preserves unique natural or historical features; e) minimizes tree, vegetation, soil removal and grade changes; f) maximizes open space retention; and g) screens objectionable features from neighboring properties and roadways;
- D. the architectural design of the proposed development is in harmony with the prevailing character of the neighborhood and the Town;
- E. the proposed development will have adequate water supply and waste disposal systems and will not place excessive demands on Town services and infrastructure;
- F. the development plan shall show adequate measures to prevent pollution of surface or groundwater from stormwater runoff, to minimize erosion and sedimentation, and to prevent increased runoff and potential for flooding.

2. Performance Standards

In order to receive development plan approval, all projects or uses must demonstrate compliance with the performance standards herein.

- a. Access and Traffic Impacts

Applicants must demonstrate that the project will minimize traffic and safety impacts.

- A. The number of curb cuts on state and local roads shall be minimized. To the extent feasible, access to businesses shall be provided via one of the following: 1) access via a common driveway serving adjacent lots or premises 2) access via an existing side street 3) access via a loop road shared by adjacent lots or premises. Driveways may be required to provide access to adjacent properties.
- B. Curb cuts shall be limited to the minimum width for safe entering and existing, and in no case shall exceed the state standard.
- C. All driveways shall be designed to afford motorists exiting to roadways with safe sight distances.
- D. The proposed development shall assure safe pedestrian and vehicular circulation within its site.
- E. In each case where a new building or new use will generate more than 100 additional trips (total of inbound and outbound) during the adjacent roadways peak hours or the development's peak hours a traffic impact statement may be required. The traffic impact statement shall contain:
 - 1. A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or roads through which peak hour site traffic composes at least 5% of the existing capacity on an intersection approach, or roadway segments on which accident potential or residential traffic character is expected to be impacted.
 - 2. A plan to minimize traffic and safety impacts through physical design and layout concepts or other appropriate means.
 - 3. An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.
- F. Sidewalks may be required where appropriate to provide safe and secure access to adjacent properties and between individual businesses within a development.

- b. Lighting
 - A. Lighting shall be adequate but not so bright as to disturb neighboring uses. Parking lot luminaries should have a cutoff of 90 degrees, a maximum height of twenty feet, and a maximum permitted illumination of .5 foot-candles.
- c. Parking
 - A. Projected projects or uses must comply with Parking and Off-street Loading requirements of the zoning ordinance.
 - B. To the extent feasible, parking and loading areas shall be located to the side or rear of the structure.
 - C. Parking areas shall be designed to reduce their visual impact by vegetative buffers, berms, natural contours, structural screening such as a fence, or a combination of the above.
- d. Landscaping
 - A. A landscaped buffers strip at least ____ feet wide, continuous except for approved driveways, shall be established adjacent to any public road. The buffer strip shall be planted with grass, medium height shrubs, and shade trees (minimum 2 inch caliper, planted at least every 50 feet along the road frontage), or other landscaping acceptable to the board. At all street or driveway intersections, trees, shrubs shall be set back a sufficient distance so that they do not present a traffic visibility hazard.
 - B. Removal of large trees (over 5" diameter) along roadways shall be minimized. Preservation of existing vegetation where appropriate is encouraged.
 - C. Large parking areas shall be subdivided with landscaped islands. At least one tree (minimum 2" caliper) per ____ parking spaces shall be provided.
 - D. Exposed storage areas, machinery, service areas, truck-loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, berms or a wall or tight fence complemented by evergreen plantings.

- E. All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.
 - F. Front setback areas which use boxwood hedges, evergreen hedges, traditional style picket fences, stone walls, or iron picket fences with granite curb and pilasters is encouraged.
 - G. Fences or hedges should not exceed three feet in height at the fronts of buildings. Fences and landscaping to screen service areas may exceed this height, consistent with the intent and use of the space.
- e. Appearance/Architectural Design
- A. **Massing and Style.** Building massing and style must be distinctively regional in character, drawing on the historical design elements that are contextually consistent with regional New England architecture. Historical and traditional design elements are encouraged.
 - B. **Roofs.** Preference shall be given to roof pitches consistent with New England design. New England traditional or vernacular styles are preferred. Material must be consistent with the architecture of the building. Composition shingle material is acceptable, providing that it is of high quality and provides architectural definition to the tab shingle to emulate traditional wood shingle styles. Tile, slate, or metal roofing is permitted, provided it is consistent with the architectural style of the building. Gutters and down spouts are encouraged to provide drainage away from foundations, but must be consistent with the other architectural elements of the building. No service equipment, including HVAC equipment, shall be carried above the roof line so as to be visible from adjacent properties or public roads.
 - C. **Facade element.** Design of the facade shall be detailed and articulated to be compatible with the scale and sensitivity to the residential uses of the project. Facades should have a well defined foundation, a modulated wall element, and pitched roof or articulated cornice which defines the character of the building, and provides relation to the human scale of typical family residences.
 - D. **Entrances.** Building entrances must comply with all current accessibility regulations, however the use of ramps and lifts is discouraged. Buildings should be designed with entrances that are barrier free for the intended

residential or commercial uses. The use of sloping entry walks, covered entryways, porticos, arcades, and covered porches is encouraged. Where grade separation of an entrance is required because of site topography, accommodation should be provided in the architectural detail of the entry to allow barrier free use by building residents and visitors.

- E. Door and window openings. Doors and windows form the transition from public to private space, and should reflect residential detailing in design and placement. The use of cornices, architectural moldings, side lights, transom lights, and raised panels in doors is encouraged. Window openings should vary between buildings, but should not be unbroken and continuous in any circumstance. The use of opening sash windows with true divided lights, or detailing to convey the character of divided lights is encouraged. The use of shutters consistent with the architecture of a building is encouraged. A wide range of material for doors and windows is acceptable, except that the use of commercial, anodized or painted aluminum or steel storefront assemblies is discouraged.
- F. Materials and design elements. Material chosen for exterior elements should be consistent with the intent and use of materials traditionally found in residential design in New England. Siding materials such as clapboard and shingle are preferred, and the use of new materials which reduce maintenance, but emulate the look and feel of traditional materials is encouraged. The use of a variety of trim material to provide detail at the eaves, comers, gables, pediments, lintels, sills, quoins, and balustrades is encouraged. The use of bays, towers, cupolas, cross gables, and dormers to provide unique character to a building and provide articulation of the facade is encouraged. The color palette chosen for any building should be consistent with colors traditionally found in residential design in New England.

f Storm Water Runoff

- A. All storm water runoff from impervious surfaces shall be recharged on-site unless in conducting development plan review it is determined that either recharge is infeasible because of site conditions or is undesirable because of uncontrollable risks to water quality from such recharge. Such recharge shall be by surface infiltration through vegetated surfaces unless otherwise approved by the reviewing board during development plan review.

- B. If dry wells or leaching basins are approved for use, they shall be preceded by oil, grease and sediment traps except for specific exemptions allowed by state statutes. Drainage from loading areas for toxic or hazardous materials shall be separately collected for safe disposal.

- C. Detention/retention basins shall be designed for the 100 year storm. Pipes shall be sized for the 25 year storm.
- D. Surface water in impervious areas shall be collected at intervals to avoid puddling and excessive sheet runoff.

g Water Quality

- A. All outdoor storage facilities for fuel, hazardous materials or wastes, and potentially harmful raw materials shall be located within an impervious, diked containment area adequate to hold the total volume of liquid kept within the storage area, or shall employ other protective measures acceptable to the board.

h Utilities

- A. Electrical, telephone, cable TV, and other such utilities shall be underground where physically and environmentally feasible.

VISUAL RESOURCE DISTRICTS

INTRODUCTION

This model is designed to protect a critical resource area, or to target a specific type of use for more focused review. For example, development plan review might be used to oversee development in the following critical resource areas:

- * visible and elevated sites;
- * land along streams, lakes or ponds;
- * scenic highway corridors;
- * gateway corridors.

Alternatively, specific types of land uses might be made subject to development plan review, including trophy homes, multifamily structures, and other large buildings.

This model could be used for a variety of areas where development plan review is desired. Specific changes would be needed to integrate this with each municipality's existing development plan review mechanism. For example, review may be delegated to Technical Review Committee or Planning Department, as is currently done in many locales.

Item 1. Amend the zoning ordinance.

1. **Purpose.** The Visual Resource District is established to minimize visual intrusion of development in certain areas of the Town, where scenic vistas have been determined to be essential to the character of the Town or the quality of life. The District is intended to allow development, with reasonable conditions attached thereto.
2. **Establishment of Districts.** The Visual Resource District is herein established as an overlay district. The boundaries of the Visual Resource District are defined as all land [_____]. All uses within the underlying districts are hereby permitted, subject to the following provisions.
3. **Development Plan Review.** Applications shall be made first to the Planning Board for Development Plan Review and shall be accompanied by four (4) copies of a development plan in accordance with the criteria specified below. The burden of proof shall be upon the owner of the land in question to demonstrate to the Planning Board that reasonable conditions set forth by the Planning Board in Development Plan Review would not further minimize such visibility.
4. **Procedure.** Development plans shall be processed in accordance with the procedures for Development Plan Review.

5. Plans. Plans subject to this section shall show:

- A. Existing and proposed topography at 10 foot contour intervals;
- B. All boundary line information pertaining to the land sufficient to permit location of same on ground, including the location of the frontage for the lot;
- C. Location and height of the proposed structure(s);
- D. Parking, access, and egress provisions;
- E. Location of existing stonewalls, large trees, and wooded areas, and proposed removal or retention of same;
- F. Compliance with all applicable provisions of this Zoning ordinance.

Development plans shall be submitted on 24-inch by 36-inch sheets. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=200'.

6. Decision. Development plan approval shall be granted upon determination by the Planning Board that the development complies, to the maximum extent feasible, with the following criteria and standards. The Planning Board may impose reasonable conditions, even at the expense of the applicant, to ensure that the criteria and standards have been satisfied. Except where the applicant has removed, or caused to be removed, mature trees from the site, the Planning Board shall not require the planting of mature trees as a condition of development plan approval. New building construction or other site alteration shall be designed in the development plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

- A. Minimize the number of removed trees 6" caliper or larger and the length of removed stone walls;
- B. Minimize disruption of scenic views from publicly accessible locations;
- C. Minimize visual intrusion by controlling the visibility of the principal and accessory structures, parking, storage, or other outdoor service areas as viewed from public ways;

D. Minimize unreasonable departure from the character and scale of building in the vicinity, as viewed from public ways.

Item 2. Amend the Zoning Map of the Town by making the following change to create the Visual Resource District:

[Visual Resource District map to be inserted]

SUBDIVISION STRATEGIES

There are three strategies for subdivision development set forth in this section.

The first and most mild example is for a Residential Compound. This is good for minor subdivisions, especially where a “family compound” is desired.

The second and more involved example utilizes the concept of “Conservation Design.” This concept has been addressed by many authors, most notably Randall Arendt. The idea is to identify the “conservation areas” first, whether they be fields, forests, views, coastal shoreline, historic sites, or whatever is valuable in your town. Then, the home sites are determined. Then the roadways and walkways are laid out. The lot lines come last (as opposed to first in conventional design by an engineer). This concept requires reducing the minimum lot size at least by half (to 50% or less of dwelling unit density, WHICH DENSITY DOES NOT CHANGE) in order to create at least 50% open space in which to preserve the conservation areas.

The third example is Flexible Design Residential Projects, which combines elements of the previous examples, and goes hand in hand with a Design Manual. It is somewhat complex to administer and absolutely requires sufficient town staff, plus outside consultants to advise the town, paid for by the developer through fee ordinances and/or regulations.

I. RESIDENTIAL COMPOUND

INTRODUCTION

South County has many wooded public roads where subdivisions have sprouted. When development occurs along these roads, too often the subdivision road dwarfs the public road and is totally out of character with the old country lane serving the site.

The Residential Compound Model addresses this problem. It allow greater flexibility and creates more opportunities for open space than the conventional alternative or a minor subdivision. The model promotes development which fits South County's rural areas in several ways. First, reduced density and a visual buffer between the first home site and the existing public roadway may be required. The town obviously benefits from both results. The developer, in return, may be allowed to significantly reduce road construction specifications and frontage requirements. This results in a financial savings.

The compound model fits the subdivision road into the landscape while creating a win-win situation for the developer and the town. In effect, waivers are pre-packaged to accomplish the twin objectives of open space and reduced density. The model can be adopted by making a change to the land development regulations.

South Kingstown and North Kingstown have been doing this for years. This a variation on the same theme with some good suggestions such as keeping that visual buffer between the existing roadway and the homes.

SUBDIVISION REGULATIONS

1. Purpose. The purpose of this Section is to provide qualified subdividers an option to develop a parcel of land under less stringent requirements, where, and only where, the Board determines that such alternative procedures will promote development of the parcel in the best interests of the Town, considering the factors specified in Section 3, below. The approval of a Residential Compound is wholly within the informed discretion of the Board. Denial by the Board of a request to submit an application for a Residential Compound, or denial of a Residential Compound, shall not be construed as denial of the right to subdivide the property, and the applicant shall retain all rights to submit a plan under orthodox procedures set forth herein.

2. Applicability. Applicants may request that their proposal be handled as a Residential Compound. To qualify for consideration as a Residential Compound, the subdivision must satisfy all of the following conditions; however, satisfaction of all of the following conditions shall only result in rendering the plan eligible for further consideration as a Residential Compound and shall not be construed as approval.

- a. The subdivision must create at least two, but not more than five lots and be located entirely in a residential use district.
- b. The area of each lot so created shall be at least one and one-half times the minimum lot area set forth in the Zoning Ordinance.
- c. All lots so created shall have ingress and egress to a Common Private Way.
- d. Each lot shall have at least 50 feet of frontage on the Common Private Way.
- e. The Common Private Way shall extend from a Town approved or accepted public way, and shall end in a cul-de-sac, as described below.
- f. Not more than one Residential Compound shall be created from a property or a set of contiguous properties in common ownership as of [date of enactment] *or as an alternative*, Not more than one Residential Compound shall be created per Common Private Way leading to a public street.

The number of lots within a compound is a purely local decision. More than five lots would require a Major Subdivision, while more than ten lots is not recommended in any case. The traffic generated by more than ten homes may require a road with more construction detail.

The dimensional requirements for lots within a compound are also locally determined. The model, for example, suggests that compound lots must have 1.5 times the area and at least 50 feet of frontage.

3. Design Standards. In order to be approved as a Residential Compound, the proposed subdivision must be determined by the Planning Board to promote one or more of the following design standards in a manner superior to conventional subdivision of the locus:

- a. reduce the number of lots having egress onto existing streets;
- b. reduce the number of lots having frontage on existing public ways;
- c. be constructed in a manner which will have the least visual impact on the parcel of land in question as viewed from the public way providing access to the locus, or from adjacent residentially zoned properties;
- d. produce less irregularly shaped or contorted lot configurations; or
- e. be constructed in a manner that preserves primary and secondary resource areas on the tract or adjacent to the tract, such as wetlands, water courses or bodies, open fields, meadows, wildlife habitat, steep slope, or other significant areas.

4. Application. The Residential Compound shall be depicted on a plan that complies with the requirements of these Subdivision Regulations for the appropriate classification of subdivision, provided further that on said plan, the following information has been made specific:

- a. centerline profile of proposed Common Private Way;
- b. location of any wetlands;
- c. proposed drainage;
- d. proposed utilities and road construction design.
- e. proposed lot lines and building sites;
- f. scale and area of vegetative screening separating the Common Private Way and Residential Compound lots from adjacent residentially zoned property.

Such plan shall be prepared by a Rhode Island licensed Registered Professional Engineer or Land Surveyor.

5. Filing Fee. A filing fee of \$___ will be submitted by the applicant with the application form as a part of this application process, to cover costs of processing and engineering review. In the event that the Board determines that unusual or exceptional circumstances necessitate expert technical review to exceed the cost of the filing fee, the cost of that expertise shall be paid by the subdivider.

6. Conditions. To be approved as a Residential Compound, the plan must contain or refer to recorded covenants and notices regarding each of the following:

- a. The Common Private Way shall remain permanently a private way, which shall not be extended;
- b. The Common Private Way shall not be connected to any other way except where it originates on a public way;
- c. The lots shall obtain access from the Common Private Way if, and only if, ownership of the lot provides membership in an automatic membership homeowner association responsible for all maintenance and snow removal of or from the Common Private Way. The homeowners association shall retain all rights in the Common Private Way.
- d. The Common Private Way does not meet the standards of the Town for acceptance for new ways laid in accordance with any applicable ordinance.
- e. Owners of lots in the plan are subject to betterments for Common Private Way repairs and improvements, even though the Common Private Way shall not be accepted by the Town.
- f. The homeowners association shall indemnify, hold harmless and release the Town from liability for any damages resulting from an action brought by a third party or the association in any court due to the repair, use, or maintenance of the Common Private Way.

7. Common Private Ways. Common Private Ways shall have:

- a. an intercept width at the existing public way of at least 100 feet;
- b. a staging area of at least 40 feet in length from the street line, with a minimum width of 20 feet of pavement, and sloped not more than 4% grade for the 40 feet it extends from the street line;
- c. a centerline intersection with the street centerline of not less than 60%;
- d. a wear surface, on that portion of the Common Private Way extending beyond the staging area, of a minimum of 6 inches of graded gravel, placed over a properly prepared base, graded and compacted to drain from the crown;

- e. proper drainage appurtenances, where required, to prevent washout and excessive erosion, with particular attention to the staging area, so that water draining onto the street surface from the staging area is eliminated to the maximum extent feasible;
- f. a wear surface, on that portion of the Common Private Way extending beyond the staging area, with a minimum width of 16 feet for its entire length;
- g. a turnaround or cul-de-sac of not less than 30 feet in depth and 40 feet in width provided at the end of each terminus.

These minimal construction standards for the subdivision roadway provide an incentive to choose the compound over a conventional minor subdivision. They should be adapted to address local concerns. Steeper slopes may require more expensive and better constructed roads. Coastal area compounds have long existed on sand or dirt roads without a wear surface.

II. CONSERVATION SUBDIVISION DESIGN

INTRODUCTION

The Conservation Subdivision Development Model promotes an alternative to conventional subdivision development. The model permits the construction of exclusively single-family detached dwellings. If your town would prefer to authorize single-family, two-family and/or multifamily structures as an alternative to conventional subdivisions, the Flexible Design Residential Project Model would be a better choice.

Conservation Subdivision requires a minimum amount of open space to be set aside in the development for use by the residents or townspeople. Lots may be reduced in area, frontage, lot width, and yards in order to accommodate the open space. It must be noted that while lot size must be reduced to accommodate open space, the density does not change. It must always be stressed that “density does NOT equal lot size.”

The density for the development is computed by generating a yield plan for the site; which yield plan must be approved as buildable by the Planning Board. In the Zoning Ordinance, more units may be allowed as a zoning incentive for such things as affordable housing, low-school-impact housing (no more than two bedrooms) and increased open space above and beyond the 50% minimum. Standards are also established for parking, drainage, buffers, street specifications, and other aspects of the development.

The real difference between a Conservation Design subdivision and a conventional subdivision, or even a “cluster” subdivision, lies in the order in which the subdivision is created. As noted previously, the idea is to identify the “conservation areas” first, whether they be fields, forests, views, coastal shoreline, historic sites, or whatever is valuable in your town. Then, the home sites are determined. Then the roadways and walkways are laid out. The lot lines come last (as opposed to first in conventional design by an engineer).

SUBDIVISION REGULATIONS

1. Purpose. The purpose of this section, "Conservation Subdivision Design", is to encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use; to preserve historical and archeological resources; to protect the natural environment; to protect the value of real property; to promote more sensitive siting of buildings and better overall site planning; to perpetuate the appearance of the Town's traditional New England landscape; to allow landowners a reasonable return on their investment; to facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner; and to promote the development of housing affordable to low and moderate income families.

2. Applicability. Any creation of five (5) or more lots, whether a subdivision or not, from a parcel or set of contiguous parcels held in common ownership and located entirely within the _____ Districts, may proceed under this section, Conservation Subdivision Design.

Conservation Subdivision may be specified as an option in any residential district; alternatively, it might be used only in districts with larger minimum lot area requirements.

3. Procedures. Applicants for Conservation Subdivision Design shall also file with the Planning Board some number (x) of copies of the following:

- A. A Development Plan conforming to the requirements for a master plan subdivision plan under the Subdivision Regulations of the Planning Board. Such plan shall indicate proposed topography, wetlands, and, unless the development is to be sewerred, the results of deep soil test pits (and percolation tests if required by RIDEM) at the rate of one per acre, but in no case fewer than four (4) per Conservation Subdivision. The Planning Board shall review and consider RIDEM approvals and findings, but shall have the authority to impose stricter standards for environmental protection purposes, if documented by appropriate findings of fact. The Planning Board may also require as part of the Development Plan additional relevant information necessary to make the determinations and assessments cited herein.
- B. Four-Step Design Process. Each Development Plan shall follow a four-step design process, as described below. When the Development Plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that these four design steps were followed by their site designers in determining the layout of their proposed streets, house lots, and open space.

- i. *Designating the Open Space.* During the first step, the open space is identified. The open space shall include, to the extent feasible, the most sensitive and noteworthy natural, scenic, and cultural resources on the property.
- ii. *Location of House Sites.* During the second step, potential house sites are tentatively located. House sites should generally be located not closer than 100 feet to wetlands areas, but may be situated within 50 feet of open space areas, in order to enjoy views of the latter without negatively impacting the former.
- iii. *Street and Lot Layout.* The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on open space. To the greatest extent practicable, wetland crossings and streets traversing existing slopes over 15% shall be strongly discouraged. The creation of single-loaded residential access streets is encouraged, in order that the maximum number of homes in new developments may enjoy views of open space.
- iv. *Lot Lines.* The fourth step is simply to draw in the lot lines (where applicable). These are generally drawn midway between house locations.

4. Modification of Lot Requirements. In an application for Conservation Design Subdivision, the Board may authorize modification of lot size, shape, and other bulk requirements for lots within a Conservation Subdivision, subject to the following limitations:

- A. Lots having reduced area or frontage shall not have frontage on a street other than a street created by a subdivision involved.
- B. Each lot shall contain not less than _____ % of the area otherwise required, and have frontage of not less than 50 feet.
- C. Each lot shall have at least _____ % of the required yards and _____ % of the required lot width.

Modification of the dimensional requirements is a purely local decision. If this used, the Zoning Ordinance will need to be amended as well to authorize it, and this will become a Land Development Project. There is no reason a "zero lot-line" approach would not work. In such an approach, lots are sized by the marketplace and applicable requirements of RIDEM for the

healthy siting of an ISDS and a well on the same lot. As noted above, these regulations can be stricter than those of RIDEM.. If a condominium form of ownership of the land is used, lot lines would not be required at all. South County has several examples of this type of development, foremost of which is Jerry Brown Farm in South Kingstown.

To the extent lots are required, lot sizes should be kept small, ideally not to exceed 10,000 to 20,000 square feet. The Conservation Subdivision Model promotes open space; smaller lots enable open space to be set aside in a meaningful fashion. Separation for wells and ISDS can be achieved by siting such infrastructure on commonly-owned land.

5. Number of Dwelling Units. The maximum number of dwelling units allowed shall be equal to the number of lots which could reasonably be expected to be developed upon that parcel under a conventional plan in full conformance with all zoning, subdivision regulations, RIDEM ISDS regulations, wetlands regulations and other applicable requirements. The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan.

Some towns use a "formula" to set the maximum density. We do not recommend this approach. No formula (that we have encountered) works so predictably that it matches the build-out for all conventional plans. Instead, we suggest that the maximum density be a negotiated item, after consideration of the information set forth in Subsection D, above.

6. Open Space

- a. The open space shall be established as a lot or lots separate and distinct from the lots intended for residential and accessory uses, and from land dedicated as street rights-of-way.
- b. The minimum amount of required open space area shall be _____ % of the gross area of the site. This minimum required area shall be in addition to any open space used for stormwater drainage facilities. No more than _____ % of the minimum required open space area shall be devoted to land unsuitable for development as defined in these regulations. Provided, however, that the Planning Board may allow drainage facilities in the required open space areas if it finds that such facilities do not conflict with the intent and purpose of this section or with the general purposes of these Regulations and are compatible with open space use, such as for a skating pond.

The minimum amount of open space should be locally determined. Some towns have elected to set the minimum at a lower level in the hope of attracting more applicants. If a lower standard is used, it is important to create an incentive to increase density where more open space is voluntarily provided by the developer.

c. In accordance with R.I.G.L. 45-24-47(D), open space provided for public or common use, shall either be conveyed to the Town and accepted by the Town for park, open space, agricultural, or other specified use or uses, or be conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space, or be conveyed to a corporation or trust owned or to be owned by the owners of lots or units within the subdivision or owners of shares within a cooperative development. If such a corporation or trust is used, ownership shall pass with conveyances of the lots or units. In any case where the land is not conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that the land shall be kept in the authorized condition(s) and not be built upon or developed for accessory uses such as parking or roadway, except as provided herein.

1. All open space shall be protected against further development; and unauthorized alteration in perpetuity by appropriate deed restrictions, and by the grant of a conservation or preservation restriction to the Town, pursuant to Title 34, Chapter 39 of the Rhode Island General Laws, as amended, and the Planning Board shall approve the form and content of any such restrictions at the time of final approval of the subdivision.

2. The perpetual maintenance of all open space shall be guaranteed by appropriate deed restrictions, and by the grant of a conservation or preservation restriction to the Town, pursuant to Title 34, Chapter 39 of the Rhode Island General Laws, as amended, and the Planning Board shall approve the form and content of any such restrictions at the time of final approval of the subdivision. The restrictions shall contain the following provision:

- (a) If the owners, or their successors or assigns fail to maintain the open space, the Town may perform any necessary maintenance and enforce the payment for such costs, including reasonable attorneys' fees, by an action at law or in equity against the owners or their successors or assigns.

3. Any buildings, structures, parking areas or any impervious improvements associated with the open space use may be located on any open space lot, provided that they occupy no more than five (5) percent of the total open space area of the site.

d. The Planning Board shall specifically authorize plans for the use of all open space areas within any subdivision. Areas proposed to fulfill the minimum open space requirement within the subdivision shall not be excavated or regraded nor shall any disturbance be made to the natural contours of the land nor shall any existing natural

vegetation be removed or any natural or man-made features altered in any way except as is needed for recreation or conservation purposes or for forestry or wildlife habitat as specifically authorized by the Planning Board.

At the time of master plan review by the Planning Board, the applicant shall submit a separate open space use plan containing:

1. the general location and area of all proposed open spaces;
2. the general proposed use(s) of the open space;
3. existing topography and existing ground cover of open space areas;
4. the location and nature of any buildings, structures, stone walls or other unique natural and/or historic features;
5. areas of open space from which existing vegetation will be removed or altered and areas which are proposed to be disturbed or otherwise graded, excavated or altered from their existing natural state;
6. generalized proposals for the regrading, revegetating and/or landscaping of proposed disturbed areas; and,
7. areas proposed to be left in their existing natural states without any disturbance.

At the time of preliminary review by the Planning Board, a more detailed open space use plan shall be submitted for review and approval, which may be combined with any required grading plans, landscaping plans, soil erosion plans or drainage plans required for preliminary approval.

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

e. Commercial earth removal within any open space areas shall be permitted only upon specific authorization by the Planning Board. In approving the removal of any earth, soil, or topsoil from any open space area, the Board shall clearly indicate, as a condition of preliminary approval, the approximate quantities of material and the general areas from which earth removal is authorized. Clearing and excavation of open space areas shall be permitted only for the installation of stormwater retention or detention facilities, other drainage facilities, or for permitted park, open space, recreational or agricultural uses in accordance with a plan approved by the Planning Board.

7. Buffer Areas. All dwellings and structures shall be located a minimum of 50 feet from adjacent properties, and 100 feet from adjacent surface waters or wetlands. Buffer areas shall be retained in their natural vegetative state to the maximum extent feasible, except where adjacent to agriculturally used property.

8. Decision. The Planning Board may approve, approve with conditions, or deny a application for a conservation Subdivision or Land Development Project in accordance with the Subdivision and Land Development Regulations and Zoning Ordinance as applicable, and after assessing whether the conservation subdivision better promotes the objectives of this section, herein, than would conventional development.

9. Relation to Other Requirements. The submittals and permits of this section shall be in addition to any other requirements of the subdivision and land development regulations or any other provisions of the zoning ordinance.

III. FLEXIBLE DESIGN RESIDENTIAL PROJECTS

INTRODUCTION

In conjunction with Dodson Associates and Mark Bobrowski, South Kingstown will propose a version of this ordinance for adoption by its Town Council in 2001. We recommend the ordinance as a model for other communities to promote alternative residential design. The model allows projects which have a mix of single-family detached dwelling units and townhouse-style buildings with up to four dwelling units. If your town prefers single-family construction without attached multifamily structures, use the Conservation Subdivision Development Model to accomplish your goal.

The key to this ordinance was its linkage with South Kingstown's Residential Design Manual. Where the proposed development meets the design standards of the Manual, an additional ten (10%) percent may be added to density. The Design Manual describes each of the town's six distinct development patterns, from Wakefield to the coastal areas.

The density for the development is computed by generating a yield plan for the site; more units may be allowed as a zoning incentive. The incentives include bonus units for age restricted occupancy and for one and two bedroom units. All incentive units are limited to not more than two bedrooms. The total of all units shall not exceed 1.3 times the otherwise allowable maximum. A minimum of forty (40%) percent of the site must be set aside as open space. Lots may be reduced or eliminated altogether. Standards are established for parking, drainage, buffers, street specifications, and other aspects of the development.

R.I.G.L. 45-24-30 is entitled "General purposes of zoning ordinances." It provides that: "The general assembly recognizes these purposes, each with equal priority and numbered for reference purposes only." For this set of ordinances, the key purposes are:

- (3) Providing for orderly growth and development which recognizes:
 - (d) The values of unique or valuable natural resources and features;
 - (g) The use of innovative development regulations and techniques.
- (11) Promoting a high level of quality in design in the development of private and public facilities.

These principal goals give local municipalities the confidence to implement these innovative regulations and to control design. As usual, the caveat is to perform the background analysis and studies, such as the Design Review Manual, before implementing this type of strict regulation.

Item 1. Zoning Ordinance Amendment

A. Intent - It is the intent of this Section to encourage the preservation of open land for its scenic beauty and to enhance agricultural, forestry, and recreational use; to preserve historical and archeological resources; to protect the natural environment, including varied landscapes; to protect the value of real property; to promote more sensitive siting of buildings and better overall site planning consistent with the "Residential Design Manual, prepared by for this purpose, which is incorporated by reference in the Community Comprehensive Plan, (hereinafter, the "Design Manual"); to perpetuate the appearance of the traditional New England landscape; to allow landowners a reasonable return on their investment and to reward landowners with reduced infrastructure costs and density bonuses; to facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner; to offer an alternative to standard subdivision development; and to promote the development of housing affordable to low and moderate income families.

B. Approval Procedure - The Planning Board may approve, as a Land Development Project, a Flexible Design Residential Project (FDRP) in Zoning Districts where allowed under the zoning ordinance. Application for such Land Development Projects shall be made in accordance with the procedures of the Town's Subdivision and Land Development Regulations, whether a subdivision or not. No FDRP shall be initiated until a plan of the project has been submitted to the Planning Board and approval has been granted.

C. Permitted Uses - Permitted dwelling units in an FDRP may include single household, two household, and multi-household structures (not to exceed four dwelling units per structure). Permitted accessory uses include _____.

Again, if your town prefers exclusively single-family development, the Conservation Subdivision Development Ordinance is a better choice of model.

The Assisted and Independent Living Facilities Model Ordinance contains some reasonable suggestions for accessory uses in Section 5.n.

D. Maximum Density for FDRP - The maximum density for an FDRP shall not exceed the number of lots which could reasonably be expected to be developed upon the FDRP site under a Yield Plan as defined in the Zoning Ordinance of the Town(the Basic Maximum Number), plus any incentive units; provided, however, that the maximum number of permitted dwellings in the FDRP site shall not be increased by a factor of more than 1.3 where granted a zoning incentive as provided in Section D, below.

Some towns use a "formula" to set the maximum density. We do not recommend this approach. No formula (that we have encountered) works so predictably that it matches the build-out for all conventional plans. Instead, we suggest that the maximum density be a negotiated item, after consideration of the information set forth in Subsection D, above.

The cap on the number of units, here 1.3 of the Yield Plan, may be locally determined. Some towns allow a density increase of two or three times the Yield Plan. Towns are advised to proceed cautiously in this regard. The incentives can be adjusted as experience reveals a proper balance.

D. Zoning Incentives - The Planning Board may approve an FDRP with one or more of the following zoning incentives:

1. For every single household dwelling unit having one or fewer bedrooms, including so-called "studio" units, and for every accessory apartment, the maximum number of permitted dwellings in the development may be increased by a factor of 1.3.
2. For every single household dwelling unit having a maximum of two bedrooms, the maximum number of permitted dwellings in the development may be increased by a factor of 1.1.
3. Where the Planning Board determines that occupancy of the dwelling unit in the FDRP is limited to adults fifty-five (55) years of age or older, subject to the exceptions set forth in the Federal Fair Housing Act, the maximum number of permitted dwellings in the development may be increased by a factor of 1.1.
4. Any dwelling unit awarded as an incentive shall contain no more than two bedrooms.
5. In computing the number of incentive units, all figures shall be rounded down.

The choice of incentives, or whether to provide incentives at all, is a purely local one. Incentives might also be created for additional open space (over the minimum required), affordable units, and diversification of housing types. Incentives may also be provided for protection of other resources. Each town should look to its Comprehensive Plan for those resources deemed worthy of protection.

The model requires all incentive units to be two-bedroom units. Two-bedroom units have far less impact on the school system than larger units.

E. Modification of Lot Requirements - Applicants are encouraged to modify lot size, shape, and other dimensional characteristics within an FDRP. An FDRP may be developed with dwelling units on separate lots, a single lot, or a combination thereof. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the FDRP; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood.

A minimum lot size is not prescribed in the model. If one is locally required, it should probably not exceed 10,000 to 20,000 square feet. Prescription of minimum lot sizes reduces the flexibility available to the developer for the design of the project. Lot size is best left to the marketplace and minimum RIDEM requirements as to ISDS and well separation.

F. Streets - Streets within an FDRP may be public or private. Streets shall be designed to conform with the standards of the Town whether public or private. Private streets shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or such other means or entity as may be approved by the Planning Board.

It is important that the local Subdivision and Land Development Regulations establish standards for both public and private streets.

G. Open Space - Open space shall be provided and administered in accordance with the Subdivision and Land Development Regulations.

Item 2. Amend Schedule of Use Regulations, by adding a new entry for "Flexible Residential Design Projects" as follows:

[The entry should be added to existing Schedules and appropriately regulated]

Item 3. Subdivision Regulations Amendment

Many of these provisions mirror those in Item 1, the Zoning Ordinance Amendment, and the comments that apply to that item also apply below.

1. Purpose

The purposes of this section, Flexible Design Residential Projects (FDRP), are:

- a. to encourage the preservation of open space for its scenic beauty and the appropriate use thereof;
- b. to preserve historical and archeological resources; to protect the natural environment, including the towns' varied landscapes;
- c. to protect the value of real property;
- d. to promote more sensitive siting of buildings and better overall site planning consistent with the "Residential Design Manual," (hereinafter, the "Design Manual");
- e. to perpetuate the appearance of the Town of (*your town's name here*) traditional New England landscape;
- f. to allow landowners a reasonable return on their investment and to reward landowners with reduced infrastructure costs and density bonuses;
- g. to facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
- h. to offer an alternative to standard subdivision development; and
- i. to promote the development of housing affordable to low and moderate income families.

2. Applicability

- a. In accordance with the standards set forth in these regulations, the Planning Board may approve, as a Land Development Project, a Flexible Design Residential Project (FDRP) in Zoning Districts where allowed in the Zoning Ordinance, whether a

subdivision or not. No FDRP shall be initiated until a plan of the project has been submitted to the Planning Board and approval has been granted.

b. The Planning Board shall have the authority to require that a major subdivision which is being proposed for conventional subdivision be developed as a FDRP. To this end, the Planning Board shall require that the subdivider provide an alternative plan or plans for developing the plat as an FDRP. In all such cases, the applicant shall be so informed at the Conceptual Master Plan stage of review. At that time, the Board shall make findings of fact in writing and shall identify the reasons for such a requirement. Findings shall be consistent with the criteria stated in the subdivision regulations.

3. Procedures

Applications for FDRP approval shall be made in accordance with the procedures for approval of a major or minor subdivision based on the number of lots or dwellings in the development as provided in Article V.

4. Design Process

The design of an FDRP shall follow the design process outlined in the Design Manual, as summarized in the following steps. When the preliminary plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that this design process was considered in determining the layout of proposed streets, houselots, and open space.

a. *Understanding the Site.* The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, including stone walls and significant trees, and to determine the connection of these important features to each other and strategies for protection.

b. *Evaluating Site Context.* The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., street and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.

c. *Designating the Open Space.* The third step is to identify the open space to be preserved on the site. The open space should include the most sensitive and noteworthy resources of the site, and, where appropriate, areas that serve to extend neighborhood open space networks. The designation of open space should reflect consistency with the Comprehensive Plan and Open Space Plan.

d. *Location of Development Areas.* The fourth step is to locate building sites, streets, parking areas, paths and other built features of the development. The design should

include a delineation of private yards, public streets and other areas, and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns.

e. *Lot Lines.* The final step is simply to draw in the lot lines (if applicable).

5. Modification of Lot Requirements

Applicants are encouraged to modify lot size, shape, and other dimensional characteristics within an FDRP. An FDRP may be developed with dwelling units on separate lots, a single lot, or a combination thereof. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the FDRP; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood. Unless waived pursuant to the Subdivision and Land Development Regulations, dimensional regulations applicable in the ____ District, as set forth in the Zoning Ordinance, Schedule of Dimensional Regulations, shall be applicable to an FDRP. *See the comments in Item 1, above.*

6. Basic Maximum Number of Dwelling Units

The Basic Maximum Number of dwelling units allowed shall be equal to the number of lots which could reasonably be expected to be developed upon that parcel under a Yield Plan as defined in the Zoning Ordinance of the Town. The proponent shall have the burden of proof with regard to the design and engineering specifications for such Yield Plan; provided, however, that the Planning Board's determination of the Basic Maximum Number shall be conclusive.

7. Incentives

The Planning Board may award a zoning incentive so as to increase the number of dwelling units beyond the Basic Maximum Number; provided, however, that the maximum number of permitted dwellings in the FDRP site be increased by a factor of more than 1.3. An incentive may be awarded in the following circumstances:

- a. For every single household dwelling unit having one or fewer bedrooms, including so-called "studio" units, and for every accessory apartment, the maximum number of permitted dwellings in the development may be increased by a factor of 1.3.
- b. For every single household dwelling unit having a maximum of two bedrooms, the maximum number of permitted dwellings in the development may be increased by a factor of 1.1.

- c. Where the Planning Board determines that occupancy of the dwelling unit in the FDRP is limited to adults fifty-five (55) years of age or older, subject to the exceptions set forth in the Federal Fair Housing Act, the maximum number of permitted dwellings in the development may be increased by a factor of 1.1.
- d. Any dwelling unit awarded as an incentive shall contain no more than two bedrooms.
- e. In computing the number of incentive units, all figures shall be rounded down.
- f. Dwelling units qualifying for incentives pursuant to paragraphs 7.a, 7.b, 7.c, and 7.d herein shall be subject to deed restrictions approved as to form by the Planning Board's legal counsel.

See the comments set forth in Item 1, above.

8. Types and Location of Buildings

An FDRP may consist of any combination of single household and multi-household residential structures. A multi-household structure shall not contain more than four (4) dwelling units. Residential structures shall be oriented toward the street serving the premises and not the required parking area. The Planning Board may require the development plan to show the location of building footprints, and their relation to driveways and streets, and may approve, approve with modification, or deny such location. Where the applicant seeks a zoning incentive pursuant to Section 7.c, above, the applicant may be required to submit building elevations and architectural plans to the Planning Board for its approval.

The number of units in the multifamily structures may be locally adapted. For example, Flexible Design Projects in or on the fringe of village areas may have more units per structure; twenty units per structure might be appropriate. In outlying larger tracts, townhouse construction is novel enough.

9. Stormwater Management

The stormwater management system for the FDRP shall conform to the Subdivision and Land Development Regulations.

10. Parking

Each dwelling unit shall be served by two (2) off-street parking spaces; provided, however, that this requirement may be waived where on-street parking is acceptable to the Planning Board. Spaces in driveways in front of garages may be counted in any computation.

Visitor parking might be required where on-street parking is limited (such as where narrower roads have been allowed) and especially when multifamily structures are authorized.

11. Open Space

- a. The open space shall be established as a lot or lots separate and distinct from the lots intended for residential and accessory uses, and from land dedicated as street rights-of-way.
- b. The minimum amount of required open space area shall be forty percent (40%) of the gross area of the FDRP. This minimum required area shall be in addition to any open space used for stormwater drainage facilities. No more than fifty percent (50%) of the minimum required open space area shall be devoted to land unsuitable for development as defined in these regulations. Provided, however, that the Planning Board may prohibit any drainage facilities from required open space areas if it finds that such facilities are in conflict with the intent and purpose of the FDRP as stated in Section 1 of this Article or with the general purposes of these Regulations.

The minimum amount of open space should be locally determined. Some towns have elected to set the minimum at a lower level in the hope of attracting more applicants: as low as 10% of the tract is possible. If a low standard is used, it is important to create an incentive to increase density where more open space voluntarily provided by the developer.

- c. Open space provided by a FDRP for public or common use, shall either be conveyed to the Town and accepted by the Town for park, open space, agricultural, or other specified use or uses, or be conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space, or be conveyed to a corporation or trust owned or to be owned by the owners of lots or units within the FDRP or owners of shares within a cooperative development. If such a corporation or trust is used, ownership shall pass with conveyances of the lots or units. In any case where the land is not conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that the land shall be kept in the authorized condition(s) and not be built upon or developed for accessory uses such as parking or roadway, except as provided in subsection 11.c.3, below.

1. All open space shall be protected against further development; and unauthorized alteration in perpetuity by appropriate deed restrictions, and by the

grant of a conservation or preservation restriction to the Town, pursuant to Title 34, Chapter 39 of the Rhode Island General Laws, as amended, and the Planning Board shall approve the form and content of any such restrictions at the time of final approval of the subdivision.

2. The perpetual maintenance of all open space shall be guaranteed by appropriate deed restrictions, and by the grant of a conservation or preservation restriction to the Town, pursuant to Title 34, Chapter 39 of the Rhode Island General Laws, as amended, and the Planning Board shall approve the form and content of any such restrictions at the time of final approval of the subdivision. The restrictions shall contain the following provision:

(a) If the owners, or their successors or assigns fail to maintain the open space, the Town may perform any necessary maintenance and enforce the payment for such costs, including reasonable attorneys' fees, by an action at law or in equity against the owners or their successors or assigns.

3. Any buildings, structures, parking areas or any impervious improvements associated with the open space use may be located on any open space lot, provided that they occupy no more than five (5) percent of the total open space area of the FDRP.

d. The Planning Board shall specifically authorize plans for the use of all open space areas within any FDRP. Areas proposed to fulfill the minimum open space requirement within a FDRP shall not be excavated or regraded nor shall any disturbance be made to the natural contours of the land nor shall any existing natural vegetation be removed or any natural or man-made features altered in any way except as is needed for recreation or conservation purposes or for forestry or wildlife habitat as specifically authorized by the Planning Board.

At the time of master plan review by the Planning Board, the applicant shall submit a separate open space use plan containing:

1. the general location and area of all proposed open spaces;
2. the general proposed use(s) of the open space;
3. existing topography and existing ground cover of open space areas;
4. the location and nature of any buildings, structures, stone walls or other unique natural and/or historic features;

5. areas of open space from which existing vegetation will be removed or altered and areas which are proposed to be disturbed or otherwise graded, excavated or altered from their existing natural state;

6. generalized proposals for the regrading, revegetating and/or landscaping of proposed disturbed areas; and,

7. areas proposed to be left in their existing natural states without any disturbance.

At the time of preliminary review by the Planning Board, a more detailed open space use plan shall be submitted for review and approval, which may be combined with any required grading plans, landscaping plans, soil erosion plans or drainage plans required for preliminary approval.

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

e. Commercial earth removal within any open space areas shall be permitted only upon specific authorization by the Planning Board. In approving the removal of any earth, soil, or topsoil from any open space area, the Board shall clearly indicate, as a condition of preliminary approval, the approximate quantities of material and the general areas from which earth removal is authorized. Clearing and excavation of open space areas shall be permitted only for the installation of stormwater retention or detention facilities, other drainage facilities, or for permitted park, open space, recreational or agricultural uses in accordance with a plan approved by the Planning Board.

12. Buffer Areas

A buffer area of one hundred (100) feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer requirement (i) where the land abutting the site is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least fifty (50') feet in depth which may include such restricted land area within such buffer area calculation; or (ii) where the land abutting the site is held by the Town for conservation or recreation purposes; or (iii) the Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.

13. Streets

Streets within an FDRP may be public or private. Streets shall be designed to conform with the standards of the Town where the street is or may be ultimately intended for dedication and acceptance by the Town. Private streets shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or such other means or entity as may be approved by the Planning Board.

The Regulations must contain standards for both public and private streets.

14. Decision

The Planning Board may approve, approve with conditions, or deny an application for an FDRP after assessing whether the FDRP better promotes the objectives of the Planning Board's Subdivision and Land Development Regulations and the Design Manual than would an orthodox development, and after considering all of the criteria set forth at Article III, Section A, herein.

15. Regulations

The Planning Board may adopt rules and regulations for the administration of this Section.

ASSISTED AND INDEPENDENT LIVING FACILITIES.

INTRODUCTION

The South County area is fertile ground for assisted living. Already home to many retired persons, the coastal towns in particular are likely to see assisted living and independent living facilities make applications for development. These types of facilities should not be discouraged from appropriate locations. They are net tax and resource contributors. Empty nest multifamily units do not impact school systems. The campus-style development typical of many facilities preserves open space and can be designed to buffer resource areas.

This model ordinance suggests a flexible approach to assisted and independent living. For example, there is no minimum parcel size prescribed in the ordinance. Ten acre parcels in residential districts could be developed; infill lots in more densely developed centers could also be targeted. Conversion of existing municipal or mill buildings is contemplated. The model also prescribes various standards for the design of the project, including buffers from neighboring parcels, parking specifications, drainage, wastewater disposal, and architectural standards.

The Affordable Unit definition provided in this model is a 30-year restriction period, which is the custom in Rhode Island. This model is useful in providing guidance in the management of this rapidly growing use. Municipalities should give consideration to the incentives for conversion of existing structures that are contained in the model.

1. PURPOSE. The purpose of this Section is to provide a mechanism for the approval of:

- a. assisted living facilities (ALF) within a residential environment that offer supportive services to individuals who are unable to live independently in the community by offering supervision and/or assistance with basic activities of daily life, such as, but not limited to, dressing, bathing, toileting, and nutrition; and
- b. independent living facilities (ILF) that offer congregate living arrangements to persons over the age of fifty five;
- c. the development of ALF and ILF in a manner that conserves environmental features, woodlands, wet areas, open space, areas of scenic beauty, views and vistas as well as encouraging the renovation and rehabilitation of older, existing buildings; and
- d. the development of ALF and ILF in a manner harmonious with the surrounding land uses while protecting natural resources and open space.

The model can be adapted to authorize only assisted living facilities or only independent living facilities. Typically, independent facilities generate a bit more traffic because some of the occupants may still use cars. Very few residents of assisted living drive a car; the typical resident is an 82 year old woman who is disabled under federal law. Towns should adapt some or all of this the model to permit independent and assisted living in the appropriate zoning districts.

2. DEFINITIONS. Within this Section, the following terms shall have the following meanings:

Affordable Unit: A dwelling unit sold or leased at a price affordable to persons earning not more than 80% of the area median income. Such units shall be restricted for a period of not less than thirty (30) years.

Applicant - An owner or authorized agent of the owner submitting an application or appealing an action of any official, board or agency. (R.I.G.L. 45-24-31)

Assisted Living Facility (ALF) - A publicly or privately operated residence that provides directly or indirectly by means of contracts or arrangements personal assistance, lodging and meals to two (2) or more adults who are unrelated to the licensee or administrator of such a facility; as defined in R.I. General Laws, Chapter 23-17.4, as amended from time to time. Medication and nursing services need not be provided.

Bedroom - Any habitable room in a dwelling if separated from other rooms by a door or capable of being separated by a door, and having more than 70 square feet floor area, if not a living room, dining room, kitchen or bathroom. Any dwelling unit in which no such room exists shall be construed to contain one bedroom.

Dwelling Unit - A structure or portion thereof providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and containing a separate means of ingress and egress. (R.I.G.L. 45-24-31)

Independent Living Facility (ILF) - A facility reserved by deed for occupancy by persons over the age of fifty-five who are able to care for themselves, but with some common facilities as described herein.

Lot -Either:

- (1) The basic development unit for determination of lot area, depth, and other dimensional regulations; or
- (2) A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

Regulations - The rules and regulations of the Planning Board relative to subdivisions and land development.

Thoroughfare - A street open at both ends, affording an unobstructed exit at each end into another street.

Wetlands - A coastal wetland is a salt marsh bordering on the tidal waters of this state and contiguous uplands extending no more than fifty (50) yards inland therefrom. A freshwater wetland is a marsh, swamp, bog, pond, river, river or stream flood plain or bank, area subject to flooding or storm flowage; emergent or submergent plant community in any body of fresh water; or area within fifty feet (50') of the edge of a bog, marsh, swamp, or pond, as defined in R.I. Gen. Laws § 2-1-20.

3. SPECIAL USE PERMIT OR LAND DEVELOPMENT PROJECT APPROVAL REQUIRED.

An ALF or ILF may be constructed, in all districts except _____ [choose which districts it would be inappropriate such as industrial and open space], upon [**CHOOSE ONE**] {the issuance of a special use permit by the Zoning Board} {approval by the Planning Board as a Land Development Project}, and subject to the requirements set forth herein. No other use or structures shall be permitted in conjunction with

an ALF or ILF, except as specifically provided herein. An application for a Land Development Project shall be governed by the following rules.

If you want to encourage these uses, you do not want to put too many obstacles in their way. They should be permitted as of right in any multifamily or mixed residential-commercial use zones. If you do want to make them subject to further review, it is recommended that these uses be either a Special Use Permit or Land Development Project. It will be too much of a barrier if both requirements are imposed. The following sections assume a Land Development Project because that is the preferred mechanism for reviewing all of the many design and safety elements.

4. APPLICATION. An application for a Land Development Project shall be submitted to the Planning Board on forms furnished by the Planning Board. In addition the applicants shall submit:

*Please note that we have provided a list of items to be submitted but we **STRONGLY RECOMMEND THAT SUCH APPLICATION CHECKLISTS BE CONTAINED IN OR APPENDED TO THE SUBDIVISION AND LAND DEVELOPMENT REGULATIONS.***

a. The following plans:

1. a site plan and all supporting documents as set forth herein;
2. a plan at a scale of 1" = 40' showing the topography of the site at a minimum of two foot intervals, as well as vegetation and special features, including wetlands, perennial streams and ponds, trees of more than 8" caliper, rock outcroppings, slopes in excess of 15%, existing and proposed trails and paths, open vistas, structures of historical importance and biological or wildlife habitats, and proposed conservation and recreation easement areas;
3. a plan illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, and typical elevations, as well as the general height, bulk and appearance of structures. Perspective drawings may be subsequently required by the Planning Board;

b. The following narrative reports or data:

1. a proposed development schedule showing the beginning of construction, the rate of construction and development, including stages, if applicable, and the estimated date of completion;

2. a development impact statement prepared by qualified professionals, detailing the impact of the development on the Town's capacity to furnish services including, but not limited to, roads, police, fire, emergency services and water;
3. information pertaining to any organization which the Applicant proposes to form where the development is to be a condominium development, including forms and plans to be used to organize and manage the same, for approval as to form by Town Solicitor;
4. copies of all proposed covenants, easements, and other restrictions which the Applicant proposes to grant to the Town, the Conservation Commission, utility companies, any condominium organization and the owners thereof, including plans of land to which they are intended to apply, for approval as to form by Town Solicitor;
5. any and all other information that the Planning Board may reasonably require in accordance with the Subdivision and Land Development Regulations, in a form acceptable to it to assist in determining whether the Applicant's proposed development plan meets the objectives of this Section.

5. STANDARDS. In order to be eligible for consideration for a special Land Development Project pursuant to this Section, the Planning Board shall first determine that the proposed development meets all of the following standards:

a. **Size of Parcel.** In all eligible districts, the minimum lot size shall control.

If campus-style assisted or independent living is preferred, a minimum parcel size of five (or more) acres may be required here. If infill facilities are acceptable, the district requirements should control.

b. **Open Space Requirements.** Maximum lot coverage by buildings in the Residence Districts shall not exceed 30%; a maximum lot coverage by impervious surfaces in the Residence Districts shall not exceed 50%.

Obviously, these percentages can be locally adjusted. Infill facilities may require more coverage percentage.

c. **Buffer.** In all eligible districts except the Residence Districts, a buffer area of one hundred (100) feet shall be provided at the perimeter of the property where it abuts residentially zoned properties, except for driveways necessary for access and egress to and from the site. In the Residence Districts, the following buffer shall be required:

SIZE OF PARCEL	REQUIRED BUFFER (FT.)
5 TO 7.5 ACRES	100
7.5 ACRES TO 10 ACRES	150
MORE THAN 10 ACRES	200

No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer requirement (i) where the land abutting the site is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least fifty (50') feet in depth which may include such restricted land area within such buffer area calculation; or (ii) where the land abutting the site is held by the Town for conservation or recreation purposes; or (iii) the Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.

d. Removal and Replacement of Vegetation. With the site, no clear cutting shall be permitted, except incidental to construction of buildings, roads, trails and parking areas.

e. Roadways. The public roadway providing access to the site shall be a thoroughfare. The principal roadway(s) within the site shall be designed to conform with the standards of the Town where the roadway is or may be ultimately intended for dedication and acceptance by the Town. Private ways within the site shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the Applicant.

f. Parking. The applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. The minimum number of parking spaces provided on the site shall be 0.3 parking space per dwelling unit in an ALF, and one (1) parking space per dwelling unit in an ILF. One (1) parking space shall be provided for every three (3) employees during the largest shift. The Planning Board may increase the required parking by up to 10% to serve the needs of employees, visitors and service vehicles. All parking areas shall be screened from view from adjacent residentially zoned or occupied premises located outside the site, including public ways, by a landscaped border at least ten (10) feet in width. Parking lots in front setbacks in residential zones, and in buffer areas in all zones, with the exception of necessary access driveways, are prohibited. Parking areas in residential districts shall be located to the side or rear of all buildings. Parking lot layout shall be planned to permit landscaping, buffering, or screening to prevent direct views of parked vehicles from adjacent streets. The use of traditional picket fencing, hedges, walls, or landscape berms to define parking areas is encouraged. In parking areas of eleven or more parking stalls, at least one tree of three inch or greater caliper shall be planted for every six parking places. Adequate

tree wells and irrigation shall be provided for all parking lot landscaping. Pedestrian access is to be taken into consideration in parking lot design. The use of separate walkways is encouraged. Textured paving or grade separated (elevated) walkways are desired on all pedestrian access ways.

g. Loading. Loading areas must be at least 20 X 9 feet, and have a minimum overhead clearance of 10 feet. Screening and landscaping shall be provided to block all views of loading areas (except those specifically designated for emergency vehicles) from the public right-of-way and adjacent properties.

h. Surface Drainage. The surface drainage system shall be designed in accordance with the Regulations of the Planning Board.

i. Utilities. All electric, gas, telephone, and water distribution lines shall be placed underground, except upon a demonstration of exceptional circumstances. The facility shall be served by the municipal water system.

j. Paths. Paths for the use of residents shall be attractively designed with proper regard for convenience, safety (including lighting), separation of vehicular, bicycle and pedestrian traffic, adequate connectivity, completeness of access to the various amenities and facilities on the site and to pathways on adjacent sites.

k. Paving and curbing. Where the roadway is or may be ultimately intended for dedication and acceptance by the Town, granite curbing, gray in color, is required, except in areas of very low traffic volume where no curbing will be required. Rolled asphalt (Cape Cod berm) curbing is unacceptable in all such ways. Curbing is to be sloped or cut to provide a barrier free transition at road crossings and building entrances. Paving should be textured or of different materials at pedestrian crossings and walkways. The use of stone, brick or cultured stone pavers for entrance walkway borders is encouraged. The use of textured materials for walkway borders is encouraged.

l. Density of Units. In _____ Districts, the number of units in an ALF shall not exceed _____ per acre of parcel size, and in an ILF the number of units shall not exceed _____ per acre of parcel size. Units may contain one or two bedrooms, with the Planning Board to determine the mix of bedroom units.

The numbers should be locally selected and set for each zoning district or type of district. Where conversion is allowable, the numbers of units may be the product of negotiation over the scope of the proposal. On vacant parcels, the number of units should balance traffic, aesthetic, and environmental impacts with the financial requirements of the developer.

m. Buildings - Design and Architectural Character. An ALF or ILF may consist of a single building or multiple buildings. The maximum building height and maximum number of stories shall be as set forth in the requirements for the district in which the parcel is located.

Buildings should be designed to meet the standards set forth in the Development Plan Review model ordinance or some locally acceptable style. For example, if brick is preferred over wood facades, the ordinance should state the preference here.

n. Accessory Structures and Uses. Structures and uses accessory to the ALF or ILF may also be provided (with the exception of covered parking areas) within the same building, including, but not limited to, the following: beauty and barber salons; recreational, physical fitness and therapy services; nondenominational chapel; library; bank automated teller machine; management offices; adult day care or adult day health facility; hospice residence; food service; laundry and covered parking areas; provided, however, that such accessory uses and structures shall be designed for the primary use of the residents and staff of the facility. Such accessory uses may not be designed for or used as a general business by the general public unless otherwise permitted in the zoning district in which they are located. Such accessory uses shall be wholly be within a structure containing residential units, and shall have not exterior advertising display.

This list of accessory uses should be expanded or reduced to meet local expectations.

o. Emergency Systems. The ALF shall have an integrated emergency call, telephone and other communications system to provide monitoring for its residents. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Fire Department for the emergency evacuation of the residents with emphasis on ensuring the safety of residents with physical impairments.

6. AFFORDABLE UNITS. Applicants are encouraged to provide affordable units. Such affordable units shall be integrated into the overall development of the ALF so as to prevent the physical segregation of such units. For every three (3) affordable units, the applicant may add an additional market rate unit, provided that in no event shall the total number of units exceed the computation derived from Section 6.1, above, by 20%.

Affordable units should be, at a minimum, encouraged. They are not required. In order to promote affordable units, an incentive provision like the one above might be included. The ratio of market units to affordable units can be adjusted locally. If affordable units are to be provided, the mechanism for distribution of the units should be specified.

7. INCENTIVES FOR CONVERSION OF STRUCTURES. It is the intent of this subsection to permit and encourage the appropriate reuse of land and buildings that are no longer needed or suitable for their original use, and to permit reuses which are compatible with the character of the neighborhood and which take into consideration the interests of abutters,

neighbors and the public, especially where the site abuts a residential area or the building(s) merit preservation.

Eligible structures can be locally specified. For example, if municipal buildings are acceptable for conversion, the ordinance can identify the specific site by parcel number. Similarly, old mill buildings can be identified as targets for conversion.

a. The Planning Board must find that the proposal protects the Towns' heritage by minimizing removal or disruption of historic, traditional or significant uses, structures or architectural elements, whether these exist on the site or on adjacent properties. If the building is a municipally owned building, the proposed uses and structures are consistent with any conditions imposed by the Town Council on the sale, lease, or transfer of the site.

b. Applicants wishing to convert existing structures to be used as ALFs may do so, subject to the following additional conditions: the buffer requirements, minimum open space requirements, and building height requirements shall be those physically existing as of [date of enactment]. Furthermore, in the process of granting a Land Development Project hereunder, the Planning Board may permit expansion of the structure to the degree reasonably necessary to construct entryways and features to comply with A.D.A. requirements and fire escape and fire protection features, and add to the architectural and aesthetic qualities of the structure.

8. ACTION BY THE PLANNING BOARD. The Planning Board may grant a Land Development Project for an ALF or ILF where it makes the following findings:

1. The proposed facility complies with the requirements of this section;
2. The proposed facility does not cause substantial detriment to the neighborhood after considering the following potential consequences:
 - a. noise, during the construction and operational phases;
 - b. pedestrian and vehicular traffic;
 - c. environmental harm;
 - d. visual impact caused by the character and scale of the proposed structure(s).

Towns should add additional specific findings as necessary to comply with their own Comprehensive Plan.

PLANNED DEVELOPMENT DISTRICTS

INTRODUCTION

All of the South County towns have large, undeveloped tracts of land that may be suitable for commercial and industrial development. When the development proposal emanates from the landowner, it rarely accounts for the site in the context of the community and, particularly its economic and transportation networks. Developer-driven proposals focus on the locus, with little regard for the neighborhood, the highway corridor, or the town.

A Planned Development District (PDD) is an appropriate tool to regulate the development of key, vacant parcels of land. In effect, a PDD is a pre-planned alternative to the ad hoc approach of development plan review. Development plan review reacts to proposals emanating from the development community. A PDD is initiated by the land use agencies of the town, in conjunction with the development community. Sites in the following locations may be suitable for a PDD:

- * Highway corridors
- * Large parcels of industrially or commercially zoned land
- * Abandoned military bases
- * Brownfields sites
- * Fringe of village or neighborhood areas

A PDD may be used to promote commercial and industrial uses, separately or in combination. Residential components may also be appropriate in some circumstances.

The PDD is a separate district. As with any other zoning, the development of a PDD requires conformance with the comprehensive plan and a vote of the Town Council to re-zone the locus into the district.

Obviously, these steps require careful planning and study. The best approach to the creation of a PDD is to first engage in the fashioning of a Concept Plan. A Concept Plan examines the locus, determines appropriate uses to allow in the PDD, fits these uses into the particular site, and sets performance standards for the development phase. These tasks require the participation of the landowner(s), the development proponent (if not the owner), the

neighborhood or district landowners, and the regulatory agencies of the town. This "visioning" process, when successfully completed, results in a Concept Plan that can be codified as the PDD. The picture, reduced to legal text, becomes the regulation for the PDD.

A Concept Plan has significant costs, especially when conducted by an outside consultant. A PDD may be enacted without a Concept Plan. The essential planning requirements, however, remain intact. The Planning Board or Planning Department may take the lead in deciding the best course of action with regard to a specific site and regulate the area accordingly. It is crucial to include the landowners in the discussion before any proposals are floated for public review. However, this approach to Concept Planning may not result in the same consensus achieved in a full-scale study.

The models that follow are intended to provide examples of PDDs. The first model set forth below focuses on nonresidential uses in the PDD, envisioning a large tract suitable for such development. The second model targets a village neighborhood as the site of the PDD and authorizes residential uses.

I. PLANNED DEVELOPMENT DISTRICT - COMMERCIAL AND/OR INDUSTRIAL SITES

1. Conformity to Comprehensive Plan

All development within the _____ Planned Development District ("the District") shall conform to the policies and design guidelines as set forth in the Comprehensive Community Plan. In order to demonstrate such conformity, the applicant shall be required to submit a description of all proposed development with the Planning Board. This description shall be a statement, in text, maps, illustrations or other media of communication that is designed to provide a basis for rational decision-making regarding the long-term physical development of the District.

2. Purpose

A. The purpose of the District is to provide an area for economic development in the community according to prescribed review and approval procedures, and according to design standards particular to the District. The District is intended to provide for a diversity of compatible land uses and development densities, which may include a mixture of residential, office, retail, light industrial, recreational, open space, and other miscellaneous uses.

Depending upon the location of the PDD, other goals may also be appropriate. For example, where the PDD is adjacent to a highway, the following language would be suitable:

B. The District is also designed to preserve, create or enhance the scenic roadside view and adjacent properties, and to encourage traditional architecture and historical village settlement patterns which are well integrated into the existing community, while avoiding the creation of large scale shopping centers, business or industrial parks having little or no relation to each other or to the surrounding community.

3. Applicability

Provisions of this Section shall apply only to property located in the zoning district entitled _____ Planned Development District, as shown on the Official Zoning Map.

4. Procedure for Approval

A. For new uses on undeveloped land, development within the District shall be reviewed and approved by the Planning Board as a Major Land Development Project, and as further provided

herein. In order to expedite the review and approval of Major Land Development Projects within the District, the Planning Board may combine the stages of review as provided in Section _____ of the Subdivision and Land Development Regulations.

The Planning Board may combine Master Plan and Preliminary Plan stages if all the requirements for both stages have been met and all required information submitted.

B. Existing conforming uses seeking approval for enlargement or significant expansion, or change to another permitted use code category shall be reviewed as new uses. Existing nonconforming uses within the District may be continued as provided herein.

5. Permitted Uses

A. The uses listed herein shall be permitted by right or respectively by special use permit, subject to the criteria set forth below for such specially permitted uses.

Permitted Uses:

[list]

Special Use Permit Required:

[list]

The determination of appropriate uses is a key component of the Concept Plan. The landowner or development proponent has a crucial stake in these lists and must be included in the process.

B. The Planning Board shall determine, at the time of review for approval of, or amendment to a previously-approved Land Development Project within District, that the proposed use is consistent with the Comprehensive Community Plan; provided however, that the Planning Board may not approve any use listed in Section 6, below. Changes in use of land or buildings or combination thereof within an approved Land Development Project shall be reviewed by the Administrative Officer as provided in the Subdivision and Land Development Regulations.

C. The Planning Board shall, in reviewing applications for development within the District, apply such controls and restrictions as may be necessary to achieve the provisions of the Comprehensive Plan with regard to the proportion of buildable land, which is devoted to different uses. The Board shall require that at least ___ percent of the buildable land in the entire District be used for office, institutional, light industrial or similar non-retail business use. The

Board shall also require that no more than ___ percent of the buildable land in the District be devoted to retail commercial use, and that this proportion shall be distributed relatively equally. The Board may apply these proportions on an individual lot basis or it may allow variation from these proportions for individual lots, if evidence exists that the proportions are, or can be met in combination with other lots in the District such that the intent of the Plan on a District-wide or sub-district basis is met.

D. At least ___ percent of the buildable land area in the entire District shall be set aside for open space as provided below.

6. Prohibited Uses

The following uses are prohibited in the District:

The list of prohibited uses ought to reflect the character of the PDD. Single family homes are certainly incompatible in most PDDs and are negative financial drains on the town due to school costs. Other candidates for prohibition might include:

- * *Drive-up windows (If you are trying to create a new village atmosphere, it is absolutely essential that people get out of their cars.)*
- * *Open lot storage & sales of materials or products of any kind*
- * *Noxious or heavy commercial or industrial uses*
- * *Automobile or Gasoline Service Station*
- * *Adult Entertainment*
- * *Freight Terminal*
- * *Retail, with perhaps the prohibition aimed at “big box” retail.*

Again, prohibited uses should be identified in the Concept Plan study.

7. Highway Access and Buffering

A. No new building or use shall be provided with any new direct driveway access to [name of limited access highway]. All new uses constructed after the effective date of this Section shall be provided with vehicular access to a common internal street(s) or frontage road(s) which shall intersect with [highway] at a location(s) approved by the Planning Board. Subject to the approval of the Board, new uses may also have vehicular access from [name(s) of other suitable streets]. In reviewing applications for new or expanded existing uses having existing driveway access to [highway], the Board shall determine if such access to the proposed new use would be safe, attractive and otherwise consistent with the intent and purpose of this District and shall

make their findings in writing. Based on these findings, the Board may permit new use(s) to utilize existing access, may require improvements to such access or may deny such access.

B. Uses with existing direct vehicular access to [highway] shall be permitted to retain such access. Change of existing uses to other permitted uses in the District or additions or enlargements which do not involve significant expansion of a structure shall not require new access. Any expansion, enlargement or intensification of such existing use shall be encouraged to relocate existing driveways on [highway] to internal streets or common driveways to the maximum extent possible. New streets and street patterns shall consider and accommodate parcels within and adjacent to the District.

C. No new principal building shall be located within ____ feet of [highway]. No parking area or access drive, except required principal access streets or driveways, if allowed, shall be located within this 100-foot setback unless the Planning Board finds that such parking area or access drive can be totally hidden from view by motorists on [highway]. Such screening shall be accomplished by lowering the elevation of such parking area or drive by a significant amount below the grade of [highway], which, in combination with grading, landscaping, stone or masonry walls, or a combination thereof, will have the effect of completely preventing views of such facilities from [highway].

D. The area within the required 100-foot setback shall be devoted to a landscaped or natural buffer zone, the purpose of which is to provide an audio and visual screen of development within the District. Provided, however that the buffer zone adjacent to any driveway or access road may be cleared of vegetation which may impede sight distances to vehicles entering or exiting the District, but shall be suitably landscaped in a manner consistent with the purposes of this Ordinance and the Comprehensive Plan. The Planning Board shall require a landscape plan prepared by a landscape architect of all portions of this buffer zone to be submitted for review and approval.

8. Buffering from Adjacent Residential Uses

A. Buffering of uses proposed to be developed within the District shall be governed by the applicable provisions of the Subdivision and Land Development Regulations. Provided, however that in reviewing any new use proposed to be developed within the District adjacent to existing residential uses, the Planning Board may require additional screening, landscaping or buffering, including, but not limited to, the construction of fences, walls or other architectural barriers the purpose of which is to mitigate any adverse impacts upon adjacent residential property.

9. Dimensional and Density Standards

A. Retail and Commercial Uses - Intensity of Development

- Minimum lot area
- Lot width
- Lot Depth
- Yard dimensions -
 - Build-to line
 - Front yard
 - Rear Yard
 - Side Yard
- Maximum % lot building coverage
- Minimum pervious area
- Minimum separation between buildings on the same lot
- Maximum building size
- Max. Floor Area Ratio (FAR)
- Building Height

B. Light Industrial Uses - Intensity of Development

- Minimum lot area
- Lot width
- Lot Depth
- Yard dimensions -
 - Build-to line
 - Front yard
 - Rear Yard
 - Side Yard
- Maximum % lot building coverage
- Minimum pervious area
- Minimum separation between buildings on the same lot
- Maximum building size
- Max. Floor Area Ratio (FAR)
- Building Height

C. Other Uses - Intensity of Development

The dimensional requirements are a function of the Concept Plan. Once the site has been designed, the picture is codified as set forth above.

10. Maximum Floor Area for Individual Uses (per building)

A. Within the District, no building or portion of a building devoted to an individual use as specified below, may be constructed which exceeds the following maximum gross leasable floor area (GLFA):

- Restaurants =
- Theaters or theater complexes =
- Retail uses =
- Light industrial and office uses =
- Hotels, Motels and Inns =
- Indoor Sports Facilities =
- Others =

The maximum floor area is a function of the Concept Plan. Once the site has been designed, the picture is codified as set forth above.

11. Parking Standards

A. Number of Spaces - The required number of parking spaces for all uses within the District shall be as otherwise provided herein.

B. Landscaping - Parking lot landscaping for all uses within the District shall be as provided in Subdivision and Land Development Regulations. To the extent practicable, existing trees shall be retained and used to satisfy the provisions of this section. The Planning Board may require the preparation of a plan showing the location of significant trees on property proposed for development in order to maximize the preservation of such trees and/or to incorporate them into the proposed development plan.

C. Shared parking - Common parking areas shall be encouraged for mixed-use developments which have different hours, days and/or seasons of peak parking demand. The Board may, in approving development within the District, permit individual parking standards to be reduced for separate uses where it can be demonstrated that adequate parking may be made available on a shared basis. The Board may require written easements or other assurances as may be required to enforce shared parking arrangements. Where reasonable and practicable, the Planning Board shall require common driveways and interconnected parking lots in order to facilitate shared parking.

D. Location - To the greatest extent possible, off-street parking lots and loading facilities shall be located to one side or behind commercial, industrial and multi-household buildings in order to screen such facilities from adjacent streets.

E. The Planning Board shall review the proposed location of parking facilities and may require relocation, modification or additional screening as required in order to protect views from adjacent public and private streets. Provided however, that the Planning Board shall require that all off-street parking and loading facilities shall be located so that they are not visible from adjacent highways.

F. On-Street Parking - On-street parking may be permitted by the Planning Board for any development within the District. In permitting on-street parking, the Board may require roadway construction standards, including pavement width, which may be reasonably necessary to accommodate on-street parking. If permitted, the number of on-street spaces may be added to the number of off-street spaces for the purpose of calculating minimum parking requirements. The Board may impose conditions required in order to guarantee that on-street parking spaces remain available for parking in the future.

G. Required Loading and Service Areas - When required, loading and other service areas such as trash dumpsters shall be placed to the rear or side of buildings in visually unobtrusive locations. Screening and landscaping shall prevent direct views of the loading areas and their driveways from adjacent properties or from public or private streets used by the general public. Screening and buffering shall be achieved through walls, fences and landscaping, shall be a minimum of 5 feet tall, and shall be visually impervious.

12. Open Space

A. At least ____ percent of the land suitable for development in the District shall be designated as open space. In order to achieve this requirement, the developer of any parcel proposed for development within the District shall provide open space by means of any of the following options, subject to the approval of the Planning Board:

- designation of open space upon the individual parcel proposed for development; or,
- designation of open space in another part of the District; or,
- payment of a fee-in-lieu of open space dedication to the Town may be required by the Planning Board as provided in the Subdivision and Land Development Regulations. Such funds shall be kept in restricted accounts by the Town and shall only be spent on purchase of open space land within the District; or,
- any combination of the above options. The designation of land in the District shall be encouraged by the Board as a preferable alternative to the payment of fees-in-lieu of open space. Payment of fees shall be restricted to situations only where the Board finds that designation of land is impractical.

B. Open space within the District may include the following:

- Uses permitted in Open Space in a Residential Cluster Development in Section 304.A.4 of the Zoning Ordinance
- Highway buffer areas
- Pedestrian parks, plazas, Town green, village commons, etc.
- Water features (fountains, pools, etc.)
- Bicycle or foot paths, but excluding sidewalks
- Lawns, landscaped or wooded areas larger than 5,000 sq. ft.

C. Prior to the approval of any development within the district, the Planning Board shall require the submission of an overall conceptual open space use plan for the parcel(s) being developed for review and approval. This conceptual open space use plan shall indicate the general patterns and type of open space proposed to be created or reserved on the parcel(s). The Planning Board shall review this Plan for consistency with the Comprehensive Plan and shall encourage the development of a comprehensive system of open space throughout the District. This open space plan shall coordinate the individual reservation or creation of open spaces upon individual parcels in order to create a system of open space for the whole District. This plan may be amended and refined by approval of the Planning Board as individual portions of the District are developed over time. Required open space dedications on individual parcels may be combined with open space dedicated from other parcels to a common open space area(s) within the District. Such open space dedication shall be consistent with an approved open space use plan as provided above. Open space shall be protected against further development and unauthorized alteration in perpetuity by appropriate deed restrictions and by the grant of a conservation or preservation restriction to the Town as provided in the Subdivision and Land Development Regulations. No more than _____ % of the minimum required open space in the District may be devoted to impervious surfaces. Wetlands may be devoted to open space but shall not be counted towards the minimum open space requirements as set forth in this Section. Parking areas or access drives located within the 100-foot wide highway buffer required herein shall not be counted as open space for the purpose of fulfilling the minimum open space requirements of this subsection. No more than ____ % of the required highway buffer shall be devoted to parking areas or access drives.

D. The Planning Board may allow incentives as provided below, within the District in order to encourage a comprehensive system of open space throughout the District, on adjacent parcels, or on single parcels. In granting such incentives, the Board shall find that the incentive so granted will promote the objectives and purposes of the Comprehensive Community Plan and the Zoning Ordinance. Incentives so authorized may include the following:

1. Adjustments from the literal dimensional requirements of the zoning ordinance in the instance of the construction, alteration, or structural modification of a

structure or lot of record up to a maximum of ____ % of the requirements of this Section.

2. Increases in permitted residential density up to a maximum of five percent (5%) of the requirements of this Section.

13. Architectural Standards

A. The architectural design of buildings, structures and site layout shall be visually compatible with the traditional historic character of the Town and the surrounding area, including building materials, massing, scale, and roof line.

B. A diversity of roof heights, gable orientations and volumes in new buildings shall be considered. New buildings shall be designed with traditional roof forms that are compatible with the character of the Town, including but not limited to gambrel, gable and hipped roofs commonly found in the Town and other small New England towns.

C. Architectural elements such as dormers should be in proportion with the overall building and should also be in keeping with the surrounding building context. Exaggerated or excessively large (or small) architectural elements shall be avoided. Traditional and contemporary architectural detailing which creates variety, interest and texture on new buildings and additions and which is compatible with the historical character of the Town is encouraged.

D. Traditional building materials such as shingles, wood clapboards, brick and stone should be used for the exterior skin of additions and new construction. These materials shall be considered for all buildings or portions of buildings facing public or private streets. Especially with regard to buildings visible from adjacent highways, the exterior architectural design and exterior materials used shall be compatible with the traditional historic character of the area.

E. The construction of buildings which are designed primarily according to themes or architectural styles associated with chain stores or restaurants shall be reviewed by the Planning Board, and may be modified or prohibited if found to be inconsistent with the Comprehensive Plan or with this Ordinance.

F. Large scale development should take the form of village-like groupings of small scale buildings, rather than a large individual structure or box-like buildings set back on a large expanse of paved parking. New buildings shall not be large, bulky masses, but shall be scaled down into groupings of smaller attached or detached structures.

G. The Planning Board shall require schematic architectural drawings of the exteriors of all proposed new buildings to be submitted as part of review of Land Development Projects. The

Board shall review these drawings for conformity with the design guidelines set forth herein and in the Comprehensive Plan. The Board may permit specific written or graphic architectural standards or codes for building appearance and design to be submitted by the applicant for review and approval.

14. Signs

A. The Planning Board shall require the submission of a comprehensive signage plan for all uses, individual buildings or complex of buildings and uses as part of its review. The signage plan shall include conceptual drawings and supporting information describing the proposed signage for all major buildings and uses, including entrance signs, directional signs, etc. The Board may approve, revise or reject such plan as required to achieve consistency with the Comprehensive Plan and the purposes of this Ordinance.

B. Revisions to signs in an approved signage plan shall be reviewed by the Administrative Officer as an amendment to an approved plan, as provided in the Subdivision and Land Development Regulations.

C. Signs for individual buildings and uses shall not be located within the 100-foot highway open space buffer, except for permanent signs at major entrances to the development. The Planning Board shall limit the number of such major entrance signs to roads or driveways which provide access to major complexes of uses and buildings within the District, and not to individual uses or buildings. No such major entrance sign shall be permitted for individual uses or buildings. Such entrance signs shall be not more than 200 square feet in sign display area per side and no more than 15 feet in height.

D. For commercial, institutional, office and light industrial uses in the District there may be one (1) wall mounted sign for each main building not to exceed one (1) square foot for each lineal foot of the building frontage on which the sign is located, not to exceed 75 square feet.

E. In addition to permitted wall mounted signs for main buildings above, there may be one individual wall-mounted sign or projecting sign to identify each individual use in a multiple use building. Such signs shall not exceed 10 sq. ft. in area per use and shall be located at or near any entrance open to the public.

F. In addition to permitted wall-mounted signs, there shall also be allowed one free standing sign for each main building or use not to exceed 40 square feet per side. Such free standing signs shall not exceed 20 feet in height above the ground. No such free standing sign shall be erected in such a manner as to materially impede vision or obstruct access to or from any public or private street, sidewalk, driveway, off-street parking or loading facility or any other access required by this ordinance.

G. Permitted signs within the District may be illuminated or indirectly illuminated.

15. Utilities

All proposed new uses in the District shall be serviced with public sewer and water service. Electric and communications lines shall be placed underground. Installation schedules for public utilities shall be controlled by the Planning Board. Individual lots within the District may be developed prior to the availability of public water and sewer, provided however, connection to the utility once available may be required by the Planning Board.

16. Internal Street and Drainage Standards

Construction of streets and storm water drainage facilities within the District shall be as provided in the Subdivision and Land Development Regulations. The Planning Board may modify these standards as required in order to adapt street standards to meet special conditions or other requirements particular to non-residential development in the District. The provisions for inspections, recording of approved plans and revisions thereto, and posting of performance guarantees for all required improvements shall be applicable to development within the District.

The town should adopt non-residential street standards in its Regulations.

17. Off-Site Traffic Improvements

A. The Planning Board shall require vehicular traffic created by development in the District to be integrated into the surrounding area and be compatible with abutting and nearby properties. Proposed vehicular traffic circulation shall be regulated to provide for safe and efficient traffic flow to and from adjacent highways. The Board may require improvements to abutting streets such as _____ and may require the installation of traffic signals at appropriate off-site locations. If State Highways are involved, such improvements shall also be approved by the RI Department of Transportation and Federal agencies, if applicable. In making this determination of the need for off-site traffic improvements, the Board may require a separate circulation plan to be submitted by the developer as part of the application for approval.

B. The costs of installing or constructing off-site improvements shall be distributed equitably among all proposed development in the District which will benefit from such improvements. The Planning Board may require that construction improvements be made as a condition of approval, or may require the payment of a fee to the Town in lieu of construction of off-site improvements. Such payment shall be used for off-site improvements within or adjacent to the District on a shared basis among all property owners in the District for which development is

proposed. All payments in lieu of construction shall be kept in restricted accounts by the Town and shall only be spent on the mitigation of the identified impacts for which it is required.

C. All required public improvements shall reflect the character defined for the District in the Comprehensive Community Plan.

D. The Planning Board shall clearly state the need for such improvements in writing, setting forth findings of fact based on studies of traffic circulation in the impacted area, the Comprehensive Plan, or the Capital Improvement Program. The Board shall identify any significant negative impacts of proposed development projects on existing conditions within or in the vicinity of the District and the reasons for and extent to which mitigative measures are required.

18. Lighting

A. Streets, parking areas, pedestrian areas and other actively used development in the District shall be provided with adequate lighting while minimizing adverse impacts, such as glare and overhead sky glow, on adjacent properties and public rights-of-way. Street lights shall be decorative and blend with the architectural style of buildings in the District.

B. Along all commercial or mixed use streets, parking areas, sidewalks, walkways, courtyards, community greens, and interior open spaces, twelve-foot high decorative lamp posts shall be provided at regular intervals. Posts shall be spaced at no greater than 80 feet on center on both sides of a commercial main street. Lighting on residential streets should be confined to street intersections and corners. Lighting standards shall be consistent throughout the District. In parking lots, post heights may be extended to a maximum of 16 feet.

C. Use of minimum wattage metal halide or color corrected sodium light sources is encouraged. Non-color corrected low pressure sodium and mercury vapor lights are prohibited, except in light industrial areas where access by the public is restricted.

19. Pedestrian and Bicycle Circulation

A. As part of its review of development within the District, the Planning Board shall require that adequate, safe and attractive pedestrian and/or bicycle circulation be provided. A sidewalk network shall be provided throughout the District that interconnects all dwelling units with other dwelling units, non-residential uses, common open spaces, and with major activity centers adjacent to the District. The Board may require construction of on-site or off-site sidewalks, footpaths or bicycle paths. In particular, pedestrian access shall be provided in retail commercial areas, but pedestrian access for light industrial and institutional development shall be required only if the Planning Board finds that such access is reasonable and necessary for reasons of

public safety. Access to off-site areas is required, particularly to permit pedestrian and/or bicycle access to [nearby amenities].

II. PLANNED DEVELOPMENT DISTRICT - VILLAGE AND NEIGHBORHOOD SITES

1. Conformity to Comprehensive Plan

All development within the _____ Planned Development District ("the District") shall conform to the policies and design guidelines as set forth in the Comprehensive Community Plan. In order to demonstrate such conformity, the applicant shall be required to submit a description of all proposed development with the Planning Board. This description shall be a statement, in text, maps, illustrations or other media of communication that is designed to provide a basis for rational decision making regarding the long-term physical development of the District.

2. Purpose

A. The purpose of the District is to permit residential densities and dwelling unit types that are compatible with nearby residential areas of the Town and to encourage development of residential uses which have little impact on public school enrollments and which are within the capacities of the Town to provide educational services.

If the District is being designed for mixed residential and smaller scale commercial uses, the purposes should also include the following:

B. The purpose of the District is also to provide an area for small-scale village-oriented economic development in the community according to prescribed review and approval procedures, and according to design standards particular to the District. The District is intended to provide for a diversity of compatible land uses and development densities, which may include a mixture of residential, retail, recreational, open space, _____ and other miscellaneous uses.

Depending upon the location of the PDD, nonresidential options may be encouraged or limited. The Concept Plan should identify the appropriate mix of residential and nonresidential uses.

3. Applicability

Provisions of this Section shall apply only to property located in the zoning district entitled _____ Planned Development District, as shown on the Official Zoning Map.

4. Procedure for Approval

A. For new uses on undeveloped land, development within the District shall be reviewed and approved by the Planning Board as a Major Land Development Project, and as further provided herein. In order to expedite the review and approval of Major Land Development Projects within the District, the Planning Board may combine the stages of review as provided in Section _____ of the Subdivision and Land Development Regulations.

B. Existing conforming uses seeking approval for enlargement or significant expansion, , or change to another permitted use code category shall be reviewed as new uses. Existing nonconforming uses within the District may be continued as provided herein.

5. Permitted Uses

A. . The uses listed herein shall be permitted by right or respectively by special use permit, subject to the criteria set forth below for such specially permitted uses.

Permitted Uses:

[list]

Special Use Permit Required:

[list]

The determination of appropriate uses is a key component of the Concept Plan. The landowner or development proponent has a crucial stake in these lists and must be included in the process. Where the site borders existing neighborhoods, the nearby landowners should be given a stake in the outcome.

B. The Planning Board shall determine, at the time of review for approval of, or amendment to a previously-approved Land Development Project within District, that the proposed use is consistent with the Comprehensive Community Plan; provided however, that the Planning Board may not approve any use listed in Section 6, below. Changes in use of land or buildings or combination thereof within an approved Land Development Project shall be reviewed by the Administrative Officer as provided in the Subdivision and Land Development Regulations.

C. The Planning Board shall, in reviewing applications for development within the District, apply such controls and restrictions as may be necessary to achieve the provisions of the Comprehensive Plan with regard to the proportion of buildable land which is devoted to different uses.

If mixed use options are created, the following provision should be considered:

D. The Board shall require that no more than ___ percent of the buildable land in the District be devoted to [specific nonresidential uses], and that this proportion shall be distributed relatively equally. The Board may apply these proportions on an individual lot basis or it may allow variation from these proportions for individual lots, if evidence exists that the proportions are, or can be met in combination with other lots in the District such that the intent of the Plan on a District-wide or sub-district basis is met.

E. At least ___ percent of the buildable land area in the entire District shall be set aside for open space as provided below.

6. Prohibited Uses

The following uses are prohibited in the District:

The list of prohibited uses ought to reflect the character of the PDD. If the PDD is designed as exclusively residential in character, most nonresidential uses should be prohibited. On the other hand, small-scale nonresidential uses may be compatible in some Village PDDs. Other candidates for prohibition might include:

- * *Drive-up windows*
- * *Open lot storage & sales of materials or products of any kind*
- * *Fast-food restaurants*
- * *Light industrial uses*
- * *Noxious or heavy commercial or industrial uses*
- * *Automobile or Gasoline Service Station*
- * *Adult Entertainment*
- * *Freight Terminal*

Again, prohibited uses should be identified in the Concept Plan study.

7. Buffers

If the PDD is different in character from neighboring residential properties, the ordinance might include a buffer requirement.

A. The dimensional setbacks of the abutting zoning district shall apply, unless the existing structures on such abutting properties do not meet those setbacks, in which case the average of the existing setbacks shall apply. No parking area or access drive, except required principal access streets or driveways, if allowed, shall be located within this setback unless the Planning Board is satisfied that the buffer mitigates any adverse impacts upon adjacent residential property. Such mitigation may be accomplished by lowering the elevation of such parking area or drive by a significant amount below the grade of neighboring properties which, in combination with grading, landscaping, stone or masonry walls, or a combination thereof, will have the effect of minimizing views of such facilities.

B. The Planning Board shall require a landscape plan prepared by a landscape architect of all portions of this buffer zone to be submitted for review and approval.

8. Dimensional and Density Standards

A. Permitted residential uses shall be regulated by net density as well as by the dimensional standards set forth herein. The provisions of this Section supersede all other applicable provisions of this ordinance.

B. Residential dwellings constructed in the District shall be regulated as follows:

1. Single Household Detached Structures (___ bedrooms or less per unit)

a. For dwellings on individual lots (subdivisions):

- Min lot area -
- Min. lot width/street frontage -
- Yard dimensions - Build-to line -
- Front yard -
- Rear Yard -
- Side Yard -
- Max. residential density -
- Minimum pervious area -
- Maximum % lot building coverage -
- Maximum building height -

- b. For detached structures or multi-household or other residential structures on the same lot or on commonly-owned land:

2. Two-Household Detached Dwellings (___ bedrooms or less per unit)

- a. For dwellings on individual lots (subdivisions):

- Min lot area -
- Min. lot width/street frontage -
- Yard dimensions - Build-to line -
- Front yard -
- Rear Yard -
- Side Yard -
- Max. residential density -
- Minimum pervious area -
- Maximum % lot building coverage -
- Maximum building height -

- b. For detached structures or multi-household structures or other residential structures on the same lot or on commonly-owned land:

3. Multi Household Dwelling Structures (___ bedrooms or less per unit)

- Min lot area -
- Min. lot width/street frontage -
- Yard dimensions - Build-to line -
- Front yard -
- Rear Yard -
- Side Yard -
- Max. residential density -
- Minimum pervious area -
- Maximum % lot building coverage -
- Maximum building height -
- Maximum building size - ___ dwelling units
- Min. interior yards -
- Rear yard parking and service lane access are required

4. Multi Household Land Development Projects (2 bedrooms or less per unit). Two or more multi household structures may be located on the same lot in accordance with the following standards:

Min lot area -
Min. lot width/street frontage -
Yard dimensions - Build-to line -
Front yard -
Rear Yard -
Side Yard -
Max. residential density -
Minimum pervious area -
Maximum % lot building coverage -
Maximum building height -
Maximum building size - ____ dwelling units
Min. interior yards -
Rear yard parking and service lane access are required

5. Accessory Apartments

Accessory apartments shall be counted as ¼ dwelling unit for the purpose of calculating the maximum residential density permitted in the District. Density for single or two household detached dwellings with accessory apartments shall be cumulative. Accessory apartments shall not be permitted for multi household dwellings. Yard dimensions and all other regulations shall be governed by the applicable provisions of this ordinance.

6. Residential Care and Assisted Living Facilities

If a specific ordinance, such as the model herein, has been adopted, then this section may be reduced to a cross reference.

Residential Care and Assisted Living Facilities which provide assisted living services for persons age 55 or older are permitted in the District subject to the following:

- a) No assisted living unit shall have more than 2 bedrooms and no unit shall have more than 2 permanent occupants;
- b) The average floor area for all residential units shall not exceed 600 sq. ft.;
- c) The maximum number of dwelling units in a single building shall be ____ dwelling units;
- d) Permitted uses shall include the following:
 - residential unit (apartment or condominium);

- common dining area or kitchen;
- central laundry facilities;
- offices for staff and administration of the Assisted Living Facility only;
- indoor and/or outdoor recreational and/or entertainment facilities for use of the residents and guests; including but not limited to library, exercise room, lounge, or similar accessory uses.

e) In addition to other open space requirements for the District in general, there shall be at least ___ sq. ft. of outdoor area per dwelling unit, which shall be suitably designed and landscaped to meet the specific needs of elderly and/or handicapped residents of the Facility.

The amount of open space required needs to be looked at in conjunction with the land area available. If this is a village infill development, then a lot of area may not be appropriate.

f) The following dimensional requirements shall apply to Assisted Living Facilities:

- Yard dimensions - Build-to line -
 - Front yard -
 - Rear Yard -
 - Side Yard -
- Minimum separation between buildings -
- Maximum % lot building coverage -
- Minimum pervious area -

C. Nonresidential Uses - Intensity of Development

- Minimum lot area
- Lot width
- Lot Depth
- Yard dimensions -
 - Build-to line
 - Front yard
 - Rear Yard
 - Side Yard
- Maximum % lot building coverage
- Minimum pervious area
- Minimum separation between buildings on the same lot
- Maximum building size
- Max. Floor Area Ratio (FAR)
- Building Height

The eligible residential and nonresidential uses and the dimensional requirements are a function of the Concept Plan. Once the site has been designed, the picture is codified as set forth above.

11. Parking Standards

- A. Number of Spaces - The required number of parking spaces for all uses within the District shall be as otherwise provided herein.
- B. Landscaping - Parking lot landscaping for all uses within the District shall be as provided in Subdivision and Land Development Regulations. To the extent practicable, existing trees shall be retained and used to satisfy the provisions of this section. The Planning Board may require the preparation of a plan showing the location of significant trees on property proposed for development in order to maximize the preservation of such trees and/or to incorporate them into the proposed development plan.
- C. Shared parking - Common parking areas shall be encouraged for mixed-use developments which have different hours, days and/or seasons of peak parking demand. The Board may, in approving development within the District, permit individual parking standards to be reduced for separate uses where it can be demonstrated that adequate parking may be made available on a shared basis. The Board may require written easements or other assurances as may be required to enforce shared parking arrangements. Where reasonable and practicable, the Planning Board shall require common driveways and interconnected parking lots in order to facilitate shared parking.
- D. Location - To the greatest extent possible, off-street parking lots and loading facilities shall be located to one side or behind nonresidential or multi-household buildings in order to screen such facilities from adjacent streets. Parking and garages for all single and two-household dwellings shall be prohibited in front yard setback areas.
- E. The Planning Board shall review the proposed location of parking facilities and may require relocation, modification or additional screening as required in order to protect views from adjacent public and private streets. Provided however, that the Planning Board shall require that all off-street parking and loading facilities shall be located so that they are not visible from adjacent highways.
- F. On-Street Parking - On-street parking may be permitted by the Planning Board for any development within the District. In permitting on-street parking, the Board may require roadway construction standards, including pavement width, which may be reasonably necessary to accommodate on-street parking. If permitted, the number of on-street spaces may be added to the number of off-street spaces for the purpose of calculating minimum parking requirements.
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G. Required Loading and Service Areas - When required, loading and other service areas such as trash dumpsters shall be placed to the rear or side of buildings in visually unobtrusive locations. Screening and landscaping shall prevent direct views of the loading areas and their driveways from adjacent properties or from public or private streets used by the general public. Screening and buffering shall be achieved through walls, fences and landscaping, shall be a minimum of 5 feet tall, and shall be visually impervious.

12. Public Space

A. At least ____ percent of the land suitable for development in the District shall be designated as public space. In order to achieve this requirement, the developer of any parcel proposed for development within the District shall provide public space by means of any of the following options, subject to the approval of the Planning Board:

- designation of public space upon the individual parcel proposed for development; or,
- designation of public space in another part of the District; or,
- payment of a fee-in-lieu of public space dedication to the Town may be required by the Planning Board as provided in the Subdivision and Land Development Regulations. Such funds shall be kept in restricted accounts by the Town and shall only be spent on purchase of public space land within the District; or,
- any combination of the above options. The designation of land in the District shall be encouraged by the Board as a preferable alternative to the payment of fees-in-lieu of public space. Payment of fees shall be restricted to situations only where the Board finds that designation of land is impractical.

B. Public space within the District may include the following:

- Uses permitted in Open Space in a Residential Cluster Development
- Highway buffer areas
- Pedestrian parks, plazas, Town green, village commons, etc.
- Water features (fountains, pools, etc.)
- Bicycle or foot paths, but excluding sidewalks
- Lawns, landscaped or wooded areas larger than 5,000 sq. ft.

C. Prior to the approval of any development within the district, the Planning Board shall require the submission of an overall conceptual public space use plan for the parcel(s) being developed for review and approval. This conceptual public space use plan shall indicate the general patterns and type of public space proposed to be created or reserved on the parcel(s). The Planning Board shall review this Plan for consistency with the Comprehensive Plan and shall encourage the development of a comprehensive system of public space throughout the District.

This public space plan shall coordinate the individual reservation or creation of public spaces upon individual parcels in order to create a system of public space for the whole District. This plan may be amended and refined by approval of the Planning Board as individual portions of the District are developed over time. Required public space dedications on individual parcels may be combined with public space dedicated from other parcels to a common public space area(s) within the District. Such public space dedication shall be consistent with an approved public space use plan as provided above. Public space shall be protected against further development and unauthorized alteration in perpetuity by appropriate deed restrictions and by the grant of a conservation or preservation restriction to the Town as provided in the Subdivision and Land Development Regulations. No more than _____ % of the minimum required public space in the District may be devoted to impervious surfaces. Wetlands may be devoted to public space but shall not be counted towards the minimum public space requirements as set forth in this Section. . .

D. The Planning Board may allow incentives as provided below, within the District in order to encourage a comprehensive system of public space throughout the District, on adjacent parcels, or on single parcels. In granting such incentives, the Board shall find that the incentive so granted will promote the objectives and purposes of the Comprehensive Community Plan and the Zoning Ordinance. Incentives so authorized may include the following:

1. Adjustments from the literal dimensional requirements of the zoning ordinance in the instance of the construction, alteration, or structural modification of a structure or lot of record up to a maximum of ___ % of the requirements of this Section.
2. Increases in permitted residential density up to a maximum of five percent (5%) of the requirements of this Section.

13. Architectural Standards

A. The architectural design of buildings, structures and site layout shall be visually compatible with the traditional historic character of the Town and the surrounding area, including building materials, massing, scale, and roof line.

B. A diversity of roof heights, gable orientations and volumes in new buildings shall be considered. New buildings shall be designed with traditional roof forms that are compatible with the character of the Town, including but not limited to gambrel, gable and hipped roofs commonly found in the Town and other small New England towns.

C. Architectural elements such as dormers should be in proportion with the overall building and should also be in keeping with the surrounding building context. Exaggerated or excessively large (or small) architectural elements shall be avoided. Traditional and contemporary

architectural detailing which creates variety, interest and texture on new buildings and additions and which is compatible with the historical character of the Town is encouraged.

D. Traditional building materials such as shingles, wood clapboards, brick and stone should be used for the exterior skin of additions and new construction. These materials shall be considered for all buildings or portions of buildings facing public or private streets. Especially with regard to buildings visible from adjacent highways, the exterior architectural design and exterior materials used shall be compatible with the traditional historic character of the area.

E. The construction of buildings which are designed primarily according to themes or architectural styles associated with chain stores or restaurants shall be reviewed by the Planning Board, and may be modified or prohibited if found to be inconsistent with the Comprehensive Plan or with this Ordinance.

F. Large scale development should take the form of village-like groupings of small scale buildings, rather than a large individual structure or box-like buildings set back on a large expanse of paved parking. New buildings shall not be large, bulky masses, but shall be scaled down into groupings of smaller attached or detached structures.

This is where having a design manual will be invaluable to each community, to try to explain what the town really wants its structures to look like.

G. The Planning Board shall require schematic architectural drawings of the exteriors of all proposed new buildings to be submitted as part of review of Land Development Projects. The Board shall review these drawings for conformity with the design guidelines set forth herein and in the Comprehensive Plan. The Board may permit specific written or graphic architectural standards or codes for building appearance and design to be submitted by the applicant for review and approval.

14. Signs

A. The Planning Board shall require the submission of a comprehensive signage plan for all uses, individual buildings or complex of buildings and uses as part of its review. The signage plan shall include conceptual drawings and supporting information describing the proposed signage for all major buildings and uses, including entrance signs, directional signs, etc. The Board may approve, revise or reject such plan as required to achieve consistency with the Comprehensive Plan and the purposes of this Ordinance.

B. Revisions to signs in an approved signage plan shall be reviewed by the Administrative Officer as an amendment to an approved plan, as provided in the Subdivision and Land Development Regulations.

C. The Planning Board shall limit the number of major entrance signs to roads or driveways which provide access to major complexes of uses and buildings within the District, and not to individual uses or buildings. No such major entrance sign shall be permitted for individual uses or buildings. Such entrance signs shall be not more than 200 square feet in sign display area per side and no more than 15 feet in height.

D. For nonresidential uses in the District there may be one (1) wall mounted sign for each main building not to exceed one (1) square foot for each lineal foot of the building frontage on which the sign is located, not to exceed 75 square feet.

E. In addition to permitted wall mounted signs for main buildings above, there may be one individual wall-mounted sign or projecting sign to identify each individual use in a multiple use building. Such signs shall not exceed 10 sq. ft. in area per use and shall be located at or near any entrance open to the public.

F. In addition to permitted wall-mounted signs, there shall also be allowed one free standing sign for each main building or use not to exceed 40 square feet per side. Such free standing signs shall not exceed 20 feet in height above the ground. No such free standing sign shall be erected in such a manner as to materially impede vision or obstruct access to or from any public or private street, sidewalk, driveway, off-street parking or loading facility or any other access required by this ordinance. Directional signs shall be permitted in accordance with Section _____ of the Zoning Ordinance.

G. Permitted signs within the District may be illuminated or indirectly illuminated.

15. Utilities

All proposed new uses in the District shall be serviced with public sewer and water service. Electric and communications lines shall be placed underground. Installation schedules for public utilities shall be controlled by the Planning Board. Individual lots within the District may be developed prior to the availability of public water and sewer, provided however, connection to the utility once available may be required by the Planning Board.

16. Internal Street and Drainage Standards

Construction of streets and storm water drainage facilities within the District shall be as provided in the Subdivision and Land Development Regulations. The Planning Board may modify these standards as required in order to adapt street standards to meet special conditions or other requirements particular to non-residential development in the District. The provisions for

inspections, recording of approved plans and revisions thereto, and posting of performance guarantees for all required improvements shall be applicable to development within the District.

17. Off-Site Traffic Improvements

A. The Planning Board shall require vehicular traffic created by development in the District to be integrated into the surrounding area and be compatible with abutting and nearby properties. Proposed vehicular traffic circulation shall be regulated to provide for safe and efficient traffic flow to and from adjacent highways. The Board may require improvements to abutting streets such as _____ and may require the installation of traffic signals at appropriate off-site locations. If State Highways are involved, such improvements shall also be approved by the RI Department of Transportation and Federal agencies, if applicable. In making this determination of the need for off-site traffic improvements, the Board may require a separate circulation plan to be submitted by the developer as part of the application for approval.

B. The costs of installing or constructing off-site improvements shall be distributed equitably among all proposed development in the District which will benefit from such improvements. The Planning Board may require that construction improvements be made as a condition of approval, or may require the payment of a fee to the Town in lieu of construction of off-site improvements. Such payment shall be used for off-site improvements within or adjacent to the District on a shared basis among all property owners in the District for which development is proposed. All payments in lieu of construction shall be kept in restricted accounts by the Town and shall only be spent on the mitigation of the identified impacts for which it is required.

C. All required public improvements shall reflect the character defined for the District in the Comprehensive Community Plan.

D. The Planning Board shall clearly state the need for such improvements in writing, setting forth findings of fact based on studies of traffic circulation in the impacted area, the Comprehensive Plan, or the Capital Improvement Program. The Board shall identify any significant negative impacts of proposed development projects on existing conditions within or in the vicinity of the District and the reasons for and extent to which mitigative measures are required.

18. Lighting

A. Streets, parking areas, pedestrian areas and other actively used development in the District shall be provided with adequate lighting while minimizing adverse impacts, such as glare and overhead sky glow, on adjacent properties and public rights-of-way. Street lights shall be decorative and blend with the architectural style of buildings in the District.

B. Along all nonresidential or mixed use streets, parking areas, sidewalks, walkways, courtyards, community greens, and interior open spaces, twelve-foot high decorative lamp posts shall be provided at regular intervals. Posts shall be spaced at no greater than ___ feet on center on both sides of a street. Lighting fixtures and poles shall not be located in the pedestrian path part of the sidewalk, nor make the sidewalk unpassable under ADA requirements. Lighting on residential streets should be confined to street intersections and corners. Lighting standards shall be consistent throughout the District. In parking lots, post heights may be extended to a maximum of 16 feet.

C. Use of minimum wattage metal halide or color corrected sodium light sources is encouraged. Non-color corrected low pressure sodium and mercury vapor lights are prohibited.

19. Pedestrian and Bicycle Circulation

A. As part of its review of development within the District, the Planning Board shall require that adequate, safe and attractive pedestrian and/or bicycle circulation be provided. A sidewalk network shall be provided throughout the District that interconnects all dwelling units with other dwelling units, non-residential uses, common open spaces, and with major activity centers adjacent to the District. The Board may require construction of on-site or off-site sidewalks, footpaths or bicycle paths. Pedestrian access shall be provided in nonresidential areas only if the Planning Board finds that such access is reasonable and necessary for reasons of public safety. Access to off-site areas is required, particularly to permit pedestrian and/or bicycle access to [nearby amenities].

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