**Minor land development and subdivision is required. The language in red is directly from state law and must be inserted into the Regulations as written. The additional language in black is derived from best practices. Those sections are recommended for consideration by the municipality to accompany the required text and provide guidance to applicants and the municipality.**

* 1. *Minor land development and minor subdivision review.*

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

1. Application types.
2. Applications requesting relief from the zoning ordinance.
3. Applications under this section which require relief which qualifies only as a modification shall proceed by filing an application under this chapter and a request for a modification to the zoning enforcement officer. If such modification is granted the application shall then proceed to be reviewed by the administrative officer pursuant to the applicable requirements of this section. If the modification is denied or an objection is received, such application shall proceed under unified development plan review.**[[1]](#footnote-1)**
4. Applications under this section which require relief from the literal provisions of the zoning ordinance in the form of a variance or special use permit, shall be reviewed by the [planning board] under unified development plan review, and a request for review shall accompany the preliminary plan application.
5. Any application involving a street creation or extension shall be reviewed by the [planning board] and require a public hearing.
6. Other applications. The administrative officer shall review and grant, grant with conditions or deny all other applications under this section and may grant waivers of design standards as set forth in the local regulations and zoning ordinance. The administrative officer may utilize the technical review committee for initial review and recommendation. The administrative officer may grant the following waivers:**[[2]](#footnote-2)**
* [ADD WHAT TYPES OF WAIVERS THE AO MAY GRANT HERE]
1. Submission requirements. Any applicant requesting approval of a proposed minor subdivision or minor land development, as defined in this chapter, shall submit to the administrative officer the items required by the [INSERT CHECKLIST REFERENCE].
2. Certification. For each applicable stage of review, the application shall be certified, in writing, complete or incomplete by the administrative officer within twenty-five (25) days of the submission so long as a completed checklist of the requirements for submission are provided as part of the submission. If no street creation or extension is required, and/or unified development review is not requested, and a completed checklist of the requirements for submission are provided as part of the submission, such application shall be certified, in writing, complete or incomplete by the administrative officer within fifteen (15) days. The running of the time period set forth in this section will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission.
3. Decision on preliminary plan. If no street creation or extension or unified development review is required, the administrative officer **[[3]](#footnote-3)** will approve, deny, or approve with conditions, the preliminary plan within sixty-five (65) days of certification of completeness, or within any further time that is agreed to by the applicant and the board. If a street extension or creation is required, and/or the application is reviewed under the unified development plan review, the [planning board] will hold a public hearing prior to approval according to the requirements in [INSERT FOR PUBLIC HEARING NOTICE] and will approve, deny, or approve with conditions, the preliminary plan within ninety-five (95) days of certification of completeness, or within any specified time that is agreed to by the applicant and the board, according to the requirements of [INSERT SECTIONS RELATING TO REQUIRED FINDINGS AND DECISIONS AND VOTES OF PLANNING BOARD; see §§ 45-23-60 and 45-23-63].
	1. Failure to act.**[[4]](#footnote-4)** Failure of the [planning board] or administrative officer to act within the period prescribed constitutes approval of the preliminary plan and a certificate of the administrative officer as to the failure to act within the required time and the resulting approval will be issued on request of the applicant.
	2. Re-assignment to major review. The [planning board] may re-assign a proposed minor project to major review only when the [planning board] is unable to make the positive findings required in [INSERT SECTION RELATING TO REQUIRED FINDINGS; see § 45-23-60].
	3. Final plan. Final plans shall be reviewed and approved by either the [CHOOSE: ADMINISTRATIVE OFFICER OR TECHNICAL REVIEW COMMITTEE]. The officer or committee will report its actions, in writing to the [planning board] at its next regular meeting, to be made part of the record. The [CHOOSE: ADMINISTRATIVE OFFICER OR TECHNICAL REVIEW COMMITTEE] shall approve, deny, approve with conditions, or refer the application to the planning board based upon a finding that there is a major change within twenty-five (25) days of the certificate of completeness.
	4. Modifications and changes to plans.
4. Minor changes to the plans approved at any stage may be approved administratively, by the administrative officer. The changes may be authorized without additional public hearings, at the discretion of the administrative officer. All changes shall be made part of the permanent record of the project application. This provision does not prohibit the administrative officer from requesting recommendation from either the technical review committee or the permitting authority. Denial of the proposed change(s) shall be referred to the applicable permitting authority for review as a major change. Minor changes include the following:
* [LIST MINOR CHANGES]
1. Major changes to the plans approved at any stage may be approved only by the applicable permitting authority and must follow the same review and hearing process required for approval of preliminary plans, which shall include a public hearing if originally required as part of the application. Major changes include the following:
* [LIST MAJOR CHANGES; INCLUDE “CATCH-ALL” THAT ANYTHING NOT LISTED AS A MINOR CHANGE IS A MAJOR CHANGE]
1. The administrative officer shall notify the applicant in writing within fourteen (14) days of submission of the final plan application if the administrative officer determines the change to be a major change.
2. Appeal. Decisions under this section shall be considered an appealable decision pursuant to [INSERT SECTION].
3. Expiration of approvals. Approvals of a minor land-development or subdivision plan expires one year from the date of approval unless, within that period, a plat or plan, in conformity with approval, and as defined in this act, is submitted for signature and recording as specified in [INSERT SECTION]. Validity may be extended for a longer period, for cause shown, if requested by the application in writing, and approved by the [planning board].
1. RIGL §45-23-38(1)(i) requires that applications that require relief which qualifies as a modification file the application for a modification and the application for subdivision and if the modification is granted the development application shall then be reviewed by the administrative officer. Submission of an application for land development or subdivision triggers a time clock for certification. Once certified complete, a timeclock for decision is triggered. If these time clocks are triggered while the modification is being considered, there is the potential for time to be lost on the certification and/or decision timeclocks for the development application while waiting for the modification to be granted. Municipalities should consult with their solicitors on how to address that situation and remain in compliance with the state law. [↑](#footnote-ref-1)
2. RIGL §45-23-38(a)(2) states that local regulations shall specifically list what limited waivers an administrative officer is authorized to grant as part of their review. [↑](#footnote-ref-2)
3. RIGL §45-23-38(d) states that a preliminary plan decision on applications that do not propose a street creation or extension and are not required to undergo unified development review, shall be issued by the administrative officer or the planning board. Under RIGL §45-23-38(a)(2) the planning board does not have authority over minor subdivisions or land development projects that do not propose a street creation or extension and do not require unified development review. The permitting authority for those applications is the administrative officer. There is a discrepancy in this section of the enabling legislation. This template only lists the administrative officer as the permitting authority and has not included the planning board as written in the general law and has added the wording regarding unified development review. This discrepancy should be discussed with your local solicitor for guidance on how to properly comply with the state law requirement. [↑](#footnote-ref-3)
4. RIGL §45-23-38(e) does not include the administrative officer within the failure to act section, leaving no consequence when the administrative officer fails to act on minor applications that do not involve street creation or extension or unified development review. This template has added the administrative officer to this section. This omission should be discussed with your local solicitor for guidance on how to properly comply with the state law requirement. [↑](#footnote-ref-4)