

TOWN OF PERTH SUBDIVISION REGULATIONS

ARTICLE 1
AUTHORITY FOR PLAT APPROVAL

1.0

By The authority of a resolution of the Town Board of the Town of Perth adopted on December 5, 1995, pursuant to the provisions of Section 276 of the Town Law of the State of New York, the Planning Board of the Town of Perth is authorized and empowered to approve plats showing lots, blocks, or sites with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the county and to approve, modify or disapprove preliminary plats within the Town of Perth.

ARTICLE II
PURPOSE

2.0

It is declared to be the policy of the Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the town. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health of peril from fire, flood or other menace; that proper provision shall be made for drainage, water supply, sewage, and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient system conforming to the Official Map and shall be properly related to the proposals shown on the Comprehensive Plan and shall be of such width, grade and locations as to accommodate the prospective traffic, to facilitate fire protection and to provide access for fire-fighting equipment to buildings; and that proper provision shall be made for open spaces. In order that land subdivisions may be made in accordance with this policy, these regulations, which shall be known as and which may be cited as the "Town of Perth Land Subdivision Regulations" have been approved by the Planning Board on February 13, 2006.

ARTICLE III
DEFINITIONS

3.0

For the purpose of these regulations, certain words and terms used herein are defined as follows.

APPLICANT – The owner, lessee, or contract vendee of land including the authorized representative of such owner, lessee or contract vendee who submits a preliminary plat or final plat to the Planning Board for the purpose of subdividing such land.

BLOCK – An area of land encompassed by roads, streets, or highways.

BUILDABLE AREA – The particular dimensional area within a buildable lot or parcel of land on which the proposed structures can be located and built within the required setbacks affording utilities, water supply and waste disposal to acceptable engineering and environmental standards.

BUILDABLE LOT – A lot in which the proposed structures can be located and built within required setbacks and with supporting utilities including water supply and waste disposal pursuant to accept engineering and environmental standards.

CLUSTER DEVELOPMENT – Subdivision plan that would allow for higher density housing on smaller parcels of land while the additional land that would have been allocated to individual lots is converted to common shared open space. [See Planned Unit Development in Zoning Law.]

CODE ENFORCEMENT OFFICER – The duly designated Code Enforcement Officer of the town.

COLLECTOR STREET – A street which serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major street.

COMPREHENSIVE PLAN – A comprehensive plan prepared by the Planning Board pursuant to 272-a of the Town Law, which indicates the general locations recommended for various functional classes of public works, places and structures and the general physical development of the Town and includes any unit or part of such plan separately prepared and any amendment to such plan or parts therein.

DEAD-END STREET OR CUL-DE-SAC – A street or a portion of a street with only one (1) vehicular traffic outlet.

EASEMENT – Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

ENGINEER or LICENSED PROFESSIONAL ENGINEER – A person licensed as a professional engineer by the State of New York.

FINAL PLAT – A drawing, in final form, showing a proposed subdivision containing all information or detail required by law and by these regulations, to be presented to the Planning Board for approval and which, if approved, maybe duly filed or recorded by the applicant in the Office of the County Clerk.

LOT – A parcel of land occupied or designed to be occupied by one principal building and use and the accessory buildings or uses customarily infinite to it including such open spaces as are required by the Town of Perth Zoning Law for these regulations.

MAJOR STREET – A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic-generating areas.

MAJOR SUBDIVISION – Any subdivision not classified as a minor subdivision, but not limited to subdivision of five (5) or more lots, or any size subdivision requiring any new street or extension of municipal facilities.

MONUMENT – A concrete, stone, or iron pin permanently set into the ground that delineates the corners or sides of individual property boundaries.

MINOR STREET – A street intended to serve primarily as an access to abutting properties.

MINOR SUBDIVISION – Any subdivision containing not more than four (4) lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Comprehensive Plan, Official Map or Zoning Law, or these regulations.

OFFICIAL MAP – The map established by the Town Board pursuant to 270 of the Town Law, showing streets, highways, parks and drainage, both existing and proposed.

OPEN SPACE - Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

PLANNING BOARD or BOARD – The Planning Board of the town.

PRELIMINARY PLAT – A drawing or drawings clearly marked “preliminary plat” showing the salient features of a proposed subdivision submitted to the Planning Board for purposes of consideration prior to

submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

PRIVATE ROAD – Any road that services no more than one (1) residence or business.

SETBACK – The distance between a road line and a building structure or use, measured from the right-of-way of the road line to the nearest point of the building structure or use. The setback from a stream or other water course or body shall be the distance between the shoreline and a building structure or use measured from the mean high water mark to the nearest point of the building structure or use.

STREET – Includes streets, roads, avenues, lanes, other trafficways between right-of-ways or deeded streets.

STREET PAVEMENT – The wearing or exposed surface of the roadway used by vehicular traffic.

STREET TREES – Trees which are adjacent to any street.

STREET WIDTH – The width of the right-of-way, measured at right angles to the center line of the street.

SUBDIVIDER – Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

SUBDIVISION – The division of any parcel of land into two (2) or more lots, blocks or sites, with or without streets or highways, and includes resubdivision.

SUBMISSION DATE – For purposes of these regulations, the submission date shall be the first regularly scheduled Planning Board meeting after receipt by the Planning Board of the completed preliminary plat, final plat, or any other submission.

SURVEYOR – A person licensed as a land surveyor by the State of New York.

ARTICLE IV **APPLICATION PROCEDURE**

4.1 Adherence to procedures

Whenever any subdivision of land is proposed to be made and before any contract for the sale of or any offer to sell any lots in such subdivision or any part thereof is made, and before a permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the following procedures.

4.2 Preapplication Review

- A. Prior to the submission of a preliminary plat for subdivision review, any owner of land or his or her duly authorized representative who desires to subdivide his or her property, must contact the Town Clerk and request an appointment with the planning Board for the purpose of discussing a potential subdivision application. Preapplication review forms are available in the Town Clerk's office and must be presented to the Planning Board seven (7) days prior to the applicant's initial meeting with the Planning Board. The Town Clerk will notify the owner of his or her duly authorized representative as to the time date and place of the next regularly scheduled Planning Board meeting. The Town Clerk must then notify the Planning Board Chairman that a Preapplication Review application has been requested for the next regularly scheduled Planning Board meeting so that the owner or his or her duly authorized representative will be placed on the agenda.
- B. The applicant must attend the next regularly scheduled meeting of the Planning Board in order to answer Planning Board questions and in order to discuss the requirements of these regulations for lot layouts, street improvements, drainage, sewage, water supply, flood protection, natural resources and

availability of existing municipal services as well as any other similar aspects or other pertinent information relevant to the proposed subdivision.

- C. At the time of the Preapplication Review, the applicant must be able to provide the following information to the Planning Board.
1. The name of the owner and all adjoining property owners as disclosed by the most recent municipal tax records.
 2. The tax map sheet, block and lot numbers.
 3. The location and boundaries of the proposed subdivision in relation to any municipal boundaries.
 4. List the use of all contiguous properties (i.e. vacant, agricultural, residential, commercial, and industrial).
 5. The total acreage of the property to be subdivided.
 6. The number of lots to be created as part of the subdivision proposal.
 7. If there are any roads to be constructed as part of the subdivision proposal, approximate and identify the location of these roads.
 8. Identification of lot use and zone.
 9. Topographical depictions showing wetlands and elevations.
 10. Proof of the appropriate fees having been paid to the Town of Perth.
- D. Within thirty (30) days of the date of the Preapplication Review, the Planning Board shall issue a written response to the applicant identifying the information the Planning Board wishes to see on a preliminary plat of the proposed subdivision. It is recommended that if the applicant does not submit a preliminary subdivision plat to the Planning Board within six (6) months that they contact the Town Clerk to schedule a second Preapplication Review in order to determine if any additional information is now being required by the Planning Board.

4.3 Preparation of Documents

All subdivision plat drawings that are presented to the Town of Perth Planning Board must be prepared and stamped by a licensed engineer or surveyor. Any plat drawings that have not been prepared by a licensed engineer or surveyor shall be returned to the applicant. The scale on all drawings submitted shall not be less than 1 inch equals 100 feet.

4.4 Classification of Subdivision

- A. A minor subdivision is the division of a parcel of land:
1. into no more than four (4) lots
 2. all of which front on an existing street
 3. which does not involve a new proposed street or extension or municipal facilities
 4. which does not adversely affect the development of said parcel or adjoining properties
 5. which does not adversely affect the surrounding environment
 6. which has not been previously subdivided for a period of five (5) years
 7. is in conformance with the Comprehensive Plan, the Zoning Law, and the objectives of these regulations

However, even if all of the above conditions for a minor subdivision classification are met, the Planning Board may require that a minor subdivision comply with all or certain of the requirements for a major subdivision if the Planning Board deems that such requirements are necessary under the circumstances involved for the protection of the health, safety, and general welfare of the public.

- B. A major subdivision is any proposed subdivision of land into five (5) or more lots. The Planning Board may also classify a division of land into less than five (5) lots as a major subdivision if the

unique circumstances warrant such a classification. For example, any new private road or drive proposed in an otherwise minor subdivision would cause it to be classified as a major subdivision.

4.5 Review of minor subdivision

- A. The applicant must submit ten (10) copies of the proposed subdivision plat to the Town Clerk at least seven (7) days in advance of a Planning Board meeting in order to be placed on the agenda. The subdivision plat must contain the following information. However, any of the following may be waived at the discretion of the Planning Board.
1. The location of that portion which is to be subdivided in relation to the entire tract and the distance to the nearest existing street intersection
 2. All existing structures, wooded areas, streams and other significant physical features within the portion to be subdivided and within 250 feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than 10 feet.
 3. The name of the owner(s) and all adjoining property owners as disclosed by the most recent municipal tax records
 4. Tax map sheet, block and lot number, if available
 5. All the utilities available and all existing streets.
 6. The proposed pattern of lots including lot width and depth, recreation areas, systems of drainage, sewer and water supply within the subdivided area
 7. All existing restrictions on the use of land including easements, covenants, and zoning lines. A copy of such covenants or deed restrictions that are intended to cover all or part of the tract shall be included.
 8. An actual field survey of the boundary lines of the tract giving complete descriptive data by bearings and distances made and certified by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments as described in section 3.0 of this document, and shall be referenced and shown on the plat.
 9. All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the State Department of Health and a note to this effect shall be stated on the plat and signed by a licensed engineer.
 10. The proposed subdivision name and the name of the Town and County in which it is located
 11. The date, north arrow, map scale, name and address of record owner and subdivider.
 12. Short Environmental Assessment Form with Part I completed by the applicant. The Planning Board may require a Full Environmental Assessment Form if circumstances are warranted.
- B. Within thirty (30) days of the receipt by the Planning Board of a complete subdivision plat for a minor subdivision, the Planning Board shall schedule and hold a Public Hearing in accordance with the requirements of Town Law, Section 276. Within sixty-two (62) days after the close of the Public Hearing on the subdivision plat for a minor subdivision, the Planning Board shall, by resolution, conditionally approve with or without modification, disapprove, or grant final approval of the proposed subdivision plat. In the case of a conditional approval, the resolution shall include a statement of the requirements which need to be completed before the plat will be approved. The time in which a Planning Board must take such action on the final plat may be extended by mutual consent of the applicant and the Planning Board. The Planning Board shall provide written notification on its decision on the final plat by mailing a letter to the owner or his or her representative within five (5) business days of the date that the decision was rendered.
- C. If the Planning Board grants final approval, the Planning Board shall authorize the signing of the final plat as approved for purposes of filing the same with the Fulton County Clerk and the Town Clerk of the Town of Perth. The applicant shall, after notification of such approval, submit at least four (4) copies of the final plat to the Town Clerk for purposes of signing and filing.
- D. If the Planning Board grants conditional approval, the Planning Board shall empower a duly authorized officer of the Planning Board to sign the subdivision plat upon completion of the

requirements including modifications, if any, which are stated in the resolution granting conditional approval. Within five (5) business days of the resolution granting conditional approval, a letter shall be sent to the applicant identifying the requirements which, when completed, will authorize the signing of the conditionally approved subdivision plat. The requirements of the conditional approval must be met and four (4) copies of the final plat submitted for signature within 180 days after the date of the resolution granting conditional approval. The Planning Board may extend the time in which a conditionally approved subdivision plat must be submitted for signature if, in the Board's opinion, such extension not to exceed two (2) additional periods of ninety (90) days each, is warranted under the circumstances.

- E. If the subdivision plat is disapproved, the Planning Board shall send a letter to the applicant indicating the reasons for such disapproval.

4.6 Preliminary Plat for major subdivision

- A. An applicant must submit at least ten (10) copies of the preliminary plat for a major subdivision which shall include the following information.
1. Proposed subdivision name; name of Town and County in which it is located; date; true North arrow; scale; name and address of record owner, subdivider and engineer or surveyor, including license number and seal.
 2. The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent property
 3. Zoning district, including exact boundary lines of district if more than one (1) district, and any proposed changes in the zoning district lines and/or the Zoning Law text applicable to the area to be subdivided
 4. All parcels of land proposed to be dedicated to public use and the conditions of such dedication
 5. Location of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, wooded areas, and other significant existing features, including wells and septic systems, for the proposed subdivision and all adjacent properties
 6. Location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow
 7. Contours at intervals of five (5) feet or less as required by the Board, including elevations of existing roads; approximate grading plan if natural contours are to be changed more than two (2) feet
 8. The width and location of any streets or public ways or places shown on the Official Map or the Comprehensive Plan, within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the developer
 9. The approximate location and size of all proposed water lines, valves, hydrants and sewer lines, road signage, all utilities and fire alarm boxes; connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law; profiles of all proposed water and sewer lines
 10. Storm drainage plan indicating the approximate location and size of proposed lines and their profiles; connection to existing lines or alternate means of disposal
 11. Plans and cross sections showing the proposed location and type of sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof; the character, width and depth of pavements and subbase to show conformity with current town road specifications; the location of manholes, basins and underground conduits
 12. Preliminary designs of any bridges or culverts which may be required
 13. The proposed lot lines with approximate dimensions and area of each lot
 14. Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the preliminary plat shall show the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than twenty (20) feet in width and shall provide

- satisfactory access to an existing public highway or other public highway or public open space shown on the subdivision map or the Official Map
15. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the Code Enforcement Officer and shall be referenced and shown on the plat.
 16. A copy of letter or certificate from New York State Department of Health indicating approval of realty subdivision
 17. A completed full Environmental Assessment Form
 18. A summary table listing the number of lots proposed to be created, the size of each lot, total acreage of the parcel, linear feet of streets and acreage devoted to streets and other rights of way and acreage devoted to parks, recreation areas and/or open space areas.
- B. The subdivider shall attend the meeting of the Planning Board to discuss the preliminary plat. The Planning Board shall study the preliminary plat taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location, width of streets, their relation to topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet undivided and the requirements of the Comprehensive Plan and Zoning Law. The time of submission of the preliminary plat shall be considered to be the date of the regular monthly meeting of the Planning Board at least seven (7) days prior to which the application for a preliminary plat shall have been submitted to the Town Clerks office.
- C. A public hearing shall be held by the Planning Board within sixty-two (62) days from the time of submission of the preliminary subdivision plat for approval. This hearing shall be advertised in a newspaper of general circulation in the town at least five (5) days before such hearing. Within sixty-two (62) days after the time of the Public Hearing on the preliminary plat, the Planning Board shall take action to approve with or without modifications or disapprove such preliminary plat and the grounds of any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within such sixty-two (62) day period shall constitute conditional approval of the preliminary plat
- D. When granting approval with modifications to a preliminary plat, the Planning Board shall state the conditions of such approval, if any, with respect to the specific changes which it will require in the preliminary plat; the character and extent of the required improvements for which waivers may have been requested and which, in its opinion, may be waived without jeopardy to the public health, safety, morals, and general welfare; and the amount of improvement or the amount of all bonds therefore which it will require as prerequisite to the approval of the subdivision plat. Within five (5) days after the Planning Board's decision on the preliminary subdivision plat, a letter shall be sent to the applicant identifying the Planning Board's decision on the preliminary plat indicating any amendments that may need to be made.
- E. Approval with modifications of a preliminary plat shall not constitute approval of the subdivision plat, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plat as a guide to the preparation of the final plat, which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these regulations and the conditions of the approval with modifications, if any. Prior to approval of the subdivision plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

4.7 Final Plat for major subdivision

- A. Within six (6) months from the date that the Planning Board approved with or without modification the preliminary plat, the applicant must submit the final plat to the Town Clerk at least seven (7) days prior to a regularly scheduled Planning Board meeting. If the final plat is not

- submitted within six (6) months time period, the Planning Board may revoke the preliminary plat approval.
- B. At the time of final plat submission, the following information must be provided to the Planning Board.
1. Ten (10) copies of a map clearly marked final plat drawn accurately to a scale of not less than 1 inch equals 100 feet which shall show all information and detail required to be shown on the preliminary plat and any modifications required by the Planning Board at the time of the approval of the preliminary plat.
 2. A final summary table listing the number of lots proposed to be created, the size of each lot, total acreage of the entire parcel, linear feet of streets and total acreage devoted to streets and other right-of-ways
 3. Grading, drainage, erosion control and/or landscaping plans if required by the Planning Board
 4. Final design of all proposed septic and water supply facilities as approved and endorsed by the NYS Department of Health and the Fulton County Public Health Department
 5. The final construction detail sheets showing the following information:
 - a. plans and street profiles of the location and typical section and cross-section of street pavements including shoulders, curbs, drainage facilities, culverts, proposed bridges, if any, and such other facilities as may be applicable
 - b. where steep slopes exist, 2' contour lines shall be delineated and all proposed right-of-ways in any areas of proposed drainage or at least within 50' of the center line of all streets.
 - c. final designs of any bridges, culverts or other such structures
 6. An offer of succession in a form approved by the Planning Board of all land included in public right-of-ways, easements and streets not specifically reserved by the applicant
 7. Letters of recommendations or approvals with respect to the adequacy of the proposed water supply and septic system as required by the Public Health Law and/or the Department of Environmental Conservation in New York State
 8. Deeds, easements or other required description and proof of ownership, title insurance or an abstract of title of any land to be dedicated to the Town at no cost or expense to the Town
 9. Protective covenants and restrictions in proper form for recording as applicable
 10. Proof of any other information required by the Planning Board as provided at the time of the approval of the Preliminary Plat. The Planning Board reserves the right to, and may, waive any of the above mentioned final plat submission requirements as it deems appropriate.
- C. When the Planning Board determines that a submitted final plat does not have substantial changes and is in substantial agreement with a preliminary plat approved pursuant to this article, the Planning Board shall, by resolution, conditionally approve with or without modification, disapprove or grant final approval and authorize the signing of such final plat within sixty-two (62) days of its receipt by the Town Clerk. Upon notification of final approval or conditional approval with or without modifications, the applicant shall submit at least four (4) copies of the final plat to the Town Clerk as so approved for purposes of signing and filing.
- D. When the Planning Board determines that a submitted final plat is not in substantial agreement with the approved preliminary plat pursuant to this article, the Planning Board shall hold a Public Hearing on such final plat within sixty-two (62) days of its receipt of the final plat. The hearing shall be advertised in at least one newspaper having general circulation in the town at least five (5) days before such hearing. The Planning Board shall by resolution, conditionally approve with or without modification, disapprove or grant final approval and authorize the signing of such plat within sixty-two (62) days after the date of the Public Hearing. The grounds for modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. Notwithstanding the foregoing provisions of this article, the period in which the Planning Board

- must take action on such final plat may be extended by mutual consent of the applicant and the Planning Board.
- E. Upon resolution granting conditional approval of the final plat, the Planning Board shall empower a duly authorized officer to sign the plat subject to completion of any requirements as may be stated in the resolution. Within five (5) business days of such resolution, the Planning Board shall send a letter to the applicant stating the requirements which, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of such requirements, the plat shall be signed by said duly authorized officer of the Planning Board. Conditional approval of a final plat shall expire within 180 days after the date of the resolution granting conditional approval unless such requirements have been certified as completed. Notwithstanding the foregoing provisions of this section, the Planning Board may extend the time in which a conditionally approved plat in final form must be submitted for signature if, in its opinion, such extension is warranted by the particular circumstances thereof which shall not exceed two additional periods of 90 days each.
 - F. In the event that the Planning Board fails to take action on the final plat within the time described herein, or for such extended periods established by the mutual consent of the owner and the Planning Board, the plat shall be deemed approved and the certificate of the Town Clerk as to the date of submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.
 - G. In granting conditional or final approval of a plat in final form, the Planning Board may permit the plat to be subdivided and developed in two or more sections and may, in its resolution granting conditional or final approval, state that such requirements, as it deems necessary, to ensure the orderly development of this plat be completed before said sections may be signed by the duly authorized officer of the Planning Board. Conditional or final approval of sections of a final plat may be granted concurrently with conditional or a final approval of the entire plat subject to any requirements imposed by the Planning Board.
 - H. The signature of the duly authorized officer of the Planning Board constituting final approval of the Planning Board as a plat herein provided or the approval of the Planning Board of the development of a plat or plats already filed in the office of the Fulton County Clerk if such plats are entirely or partially undeveloped or the certificate of the Town Clerk as to the date of the submission of the final plat and the failure of the Planning Board to take action within the time herein provided shall expire within 62 days from the date of such approval or from the date the certificate is issued unless within such 62-day period such plat or a section thereof shall have been duly filed or recorded by the owner in the office of the County Clerk.
 - I. In the event the owner shall file only a section of such approved plat in the office of the County Clerk, the entire approved plat shall be filed within thirty (30) days of the filing of such section with the Town Clerk in each town in which any portion of the land described in the plat is situated. Such section shall encompass at least 10 percent of the total number of lots contained in the approved plat and the approval of the remaining sections of the approved plat shall expire unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of subdivision 2 of section 265(A) of Town Law.
 - J. The Planning Board has the authority to call upon any department or agency or employee of the Town for such assistance in reviewing subdivision applications and plats as shall be deemed necessary and as shall be authorized by the Town Board. The Planning Board may also hire and retain consultants in order to assist the Board with SEQR review of applications and/or review of applications and plats when the Planning Board deems such expert assistance is necessary in order for the Board to properly carry out its functions and duties. The Planning Board may require the applicant to reimburse the Planning Board for such consultant costs and/or to set up an escrow account with the Town for purposes of reimbursing the Board for such consultant costs.

4.8 Required Improvements

A. Improvements and performance bond

1. Before the Planning Board grants final approval of the subdivision plat, the subdivider shall follow the procedure set forth in either subsection a or b below:
 - a. In an amount set by the Planning Board, the subdivider shall file with the Town Clerk either a certified check to cover the full cost of the required improvements, or irrevocable letter of credit with an “evergreen” clause, or a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of Section 277 of Town Law and, further, shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety. A period of one (1) year, or such other period as the Planning Board may determine appropriate, not to exceed three (3) years, shall be set forth in the bond within which required improvements must be completed.
 - b. The subdivider shall complete all required improvements to the satisfaction of the Code Enforcement Officer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements not so completed, the subdivider shall file with the Town Clerk a bond, or irrevocable letter of credit with an “evergreen” clause, or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvement not approved by the Code Enforcement Officer. Any such bond or irrevocable letter of credit with an “evergreen” clause shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety.
2. The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Code Enforcement Officer and a map satisfactory to the Planning Board has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements according to this section, then said map shall be submitted prior to endorsement of the plat by the appropriate Planning Board officer. However, if the subdivider elects to provide a bond, or irrevocable letter of credit with an “evergreen” clause, or certified check for all required improvements as specified in this section, such bond or letter shall not be released until such a map is submitted.

B. Modification of design of improvements. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Code Enforcement Officer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Code Enforcement Officer may, upon approval by a previously delegated member of the Planning Board, authorize modifications, provided these modifications are within the spirit and intent of the Planning Board’s approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Code Enforcement Officer shall issue any authorization under this subsection in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.

C. Inspection prior to construction. At least five (5) days prior to commencing construction of required improvements, the subdivider shall notify the Town Board in writing of the time when he/she proposed to commence construction of such improvements so that the Town Board may cause inspection to be made to assure that all town specifications and requirements shall be met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

- D. Proper installation of improvements. If the Code Enforcement Officer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Town Board and Planning Board. The Town Board then shall notify the subdivider and take all necessary steps to preserve the Town's rights under the bond. No plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plat.

4.9 Public Roads and Streets; recreation areas

- A. Public acceptance of streets. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement or other open space shown on such subdivision plat.
- B. Ownership and maintenance of recreation areas. When a park, playground or other recreation area shall have been shown on a plat, the approval of said plat shall not constitute an acceptance by the town of such area. The Planning Board shall require the plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of any such recreation area.

ARTICLE V
GENERAL REQUIREMENTS AND DESIGN STANDARDS

5.1 Minimum requirements; waiver

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter.

These standards shall be considered to be minimum requirements and shall be waived by the Planning Board only under circumstances set forth in Article VI herein.

5.2 General

- A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.
- B. Conformity to Comprehensive Plan. Subdivisions shall conform to the Official Map of the town and shall be in harmony with the Comprehensive Plan.
- C. Specifications for required improvements. All required improvements shall be constructed or installed to conform to town specifications, which may be obtained from the Town Clerk and/or the Code Enforcement Officer.

5.3 Street Layout

- A. Width, location and construction. All streets, both public and private, shall be of sufficient width, suitably located and adequately constructed to conform to the current town road specifications, and to accommodate the prospective traffic and afford access for fire fighting, snow removal, and other road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system. All potentially dangerous trees and natural obstructions that are located within the town right-of-way must be removed prior to construction in order to alleviate any potential hazardous situations within the development.

- B. Private roads with 2 to 4 houses on that road will be required to have a 60-foot right of way and meet the current town sub-base road requirements. Once more than four houses are located on a private road, the road must comply with the current town road specifications.
- C. Arrangement. The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions and for property projection of principal streets into adjoining properties which are not yet subdivided in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water and drainage facilities. Where, in the opinion of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.
- D. Minor streets. Minor streets shall be so laid out that their use by through traffic will be discouraged.
- E. Special treatment along major arterial streets. When a subdivision abuts or contains an existing or proposed major arterial street, the Planning Board may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- F. Provision for future resubdivision. Where a tract is subdivided into lots substantially larger than the minimum size required in a zoning district in which a subdivision is located, the Planning Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these regulations.
- G. Dead-end streets. In the case of dead-end streets, where needed or desirable, the Planning Board may require the reservation of a twenty-foot-wide easement to provide for continuation of pedestrian traffic and utilities to the next street. Subdivisions containing twenty (20) lots or more shall have at least two (2) street connections with existing public streets or streets shown on the Official Map or streets on an approved subdivision plat for which a bond has been filed.
- H. Block size. Blocks generally shall not be less than four hundred (400) feet nor more than one thousand eight hundred (1,800) feet in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding eight hundred (800) feet in length, the Planning Board may require the reservation of a twenty-foot-wide easement throughout the block to provide for the crossing of underground utilities and pedestrian traffic, where needed or desirable, and may further specify, at its discretion, that a four-foot-wide paved footpath be included.
- I. Intersections with collector or major arterial roads. Minor or secondary street openings in such roads shall in general, be at least five hundred (500) feet apart.
- J. Street jogs. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.
- K. Angle of intersection. In general, all streets shall join each other so that for a distance of at least one hundred (100) feet the street is approximately at right angles to the street it joins.
- L. Relation to topography. The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.
- M. Other required streets. Where a subdivision borders on or contains a railroad right-of-way or a limited access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way. This street will be at a distance suitable for the

appropriate use of the intervening land. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

5.4 Street Design

- A. All streets, public and private, should be constructed according to the current town road specifications. These are minimum specifications which can be upgraded by the Town Highway Superintendent whenever deemed necessary depending upon topographical conditions.
- B. Improvements. Streets shall be graded and improved with pavements, storm drainage facilities, sewers, street lights and signs, street trees except where waivers may be requested, and the Planning Board may waive, subject to appropriate conditions, such as it considers may be omitted without jeopardy to the public health, safety, and general welfare. Pedestrian easements shall be improved as required by the Code Enforcement Officer. Such grading and improvements shall be approved as to design and specifications by the Code Enforcement Officer.
- C. Streetlighting facilities. Lighting facilities shall be in conformance with the lighting system of the town. Such lighting standards and fixtures shall be installed after approval by the appropriate power company and the Code Enforcement Officer.
- D. Utilities in streets. The Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and street line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.
- E. Utility easements. Where topography is such as to make impractical the inclusion of utilities within the street rights-of-way, perpetual unobstructed easements at least twenty (20) feet in width shall be otherwise provided with satisfactory access to the street. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required.
- F. Grades. Grades of all streets conform in general to the terrain and shall not be less than one-half percent (1/2%) nor more than six percent (6%) for major collector streets or ten percent (10%) for minor streets in residential zones, but in no case more than three percent (3%) within fifty (50) feet of any intersection
- G. Changes in grade. All changes in grade shall be connected by vertical curves of such length and radius to meet with the approval of the Code Enforcement Officer so that clear visibility shall be provided for a safe distance.
- H. Curve radii at street intersections. All street right-of-way lines at intersections shall be rounded by curves of at least twenty (20) feet radius and curbs shall be adjusted accordingly. The center point of this radius shall be located five (5) feet back from the edge of the sixty-foot right-of-way and five (5) feet back on either side of the seventy-foot width at the intersection.
- I. Steep grades and curves: visibility at intersections. A combination of steep grades and curves shall be avoided. In order to provide visibility for traffic safety, that portion of any corner lot (whether at an intersection entirely within the subdivision or of a new street with an existing street) shall be cleared of all growth (except isolated trees) and obstructions above the level three (3) feet higher than the center line of the street. If directed, ground shall be excavated to achieve visibility.
- J. Dead-end street (cul-de-sac). Where dead-end streets are designed to be so permanently, they should, in general, not exceed one thousand eight hundred (1,800) and not less than four hundred (400) feet in length and shall terminate in a circular turn as specified in the current town road specifications.

- K. Watercourses. Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Town Highway Superintendent.
- L. Curve radii. In general, street lines within a block deflecting from each other at any one point by more than ten degrees shall be connected with a curve, the radius of which for the center line of street shall not be less than four hundred (400) feet on major streets, two hundred (200) feet on collector streets and one hundred (100) feet on minor streets.
- M. Service streets or loading space in commercial development. Paved rear service streets of not less than twenty (20) feet in width, or in lieu thereof, adequate off-street loading space shall be provided in connection with lots designed for commercial use.
- N. Free flow of vehicular traffic abutting commercial developments. In front of areas zoned and designed for commercial use or where a change of zoning to a zone which permits commercial use is contemplated, the street width shall be increased by such amount on each side as may be deemed necessary by the Planning Board to assure the free flow of through traffic without interference by parked or parking vehicles and to provide adequate and safe parking spaces for such commercial or business district.

5.5 Street Names

- A. Type of names. All street names shown on a preliminary plat or subdivision plat shall be approved by the Planning Board. In general, streets shall have names and not numbers or letters.
- B. Names to be substantially different. Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names, except that streets that join or are in alignment with streets of an abutting or neighboring property shall bear the same name. Generally, no street should change direction by more than ninety degrees without a change in street name.

5.6 Lots

- A. Lots to be buildable. The lot arrangement shall be such that in constructing a building in compliance with the Zoning Law, there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots should not be of such depth as to encourage the later creation of a second building lot at the rear. Dwellings on lots in excess of the density standard cannot be further subdivided so that the existing dwelling will be situated on a parcel that does not conform to the current density standard.
- B. Side lines. All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.
- C. Corner lots. In general, corner lots should be larger than interior lots to provide for proper building setback from each street and provide a desirable building site.
- D. Driveway access. Driveway access and grades shall conform to specifications of the Zoning Law. Driveway grades between the street and the setback line shall not exceed ten percent.
- E. Access from private streets. Access from private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these regulations.
- F. Monuments and lot corner markers. Permanent monuments meeting specifications approved by the Code Enforcement Officer as to size, type, and installation shall be set at such block corners, angle points, points of curves in streets and other points as the Code Enforcement Officer may require, and their location shall be shown on the subdivision plat.

5.7 Drainage improvements

- A. Removal of spring and surface water. The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist either previous to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way, where feasible, or in perpetual unobstructed easements of appropriate width.
- B. Drainage structure to accommodate potential development upstream. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Code Enforcement Officer shall approve the design and size of facility based on anticipated runoff from a ten-year storm under conditions of total potential development permitted by the Zoning Law in the watershed.
- C. Responsibility for drainage downstream. The subdivider's engineer shall also study the effect of such subdivision on the existing downstream drainage facilities outside the area of the subdivision; this study shall be reviewed by the Code Enforcement Officer. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a ten-year storm, the Planning Board shall notify the Town Board of such potential condition. In such case, the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.
- D. Land subject to flooding. Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous conditions.

5.8 Parks, open spaces and natural features

- A. Where a park, playground or open space is proposed, the Board shall require that such area or areas be shown on the plat in accordance with the requirements specified in Subsection B below. Such area or areas may be dedicated to the Town or County by the subdivider if the Town Board approves such dedication. If the dedication is declined, the cost of maintenance and upkeep will be borne by the property owner.
- B. Parks and playgrounds not shown on Town Plan.
 - 1. The Planning Board shall require that the plat show sites of a character, extent and location suitable for the development of a park, playground or other recreation purpose. The Planning Board may require that the developer satisfactorily grade any such recreation areas shown on the plat.
 - 2. The Board shall require that not less than three (3) acres of recreation space be provided per one hundred (100) dwelling units shown on the plat. However, in no case shall the amount be more than ten percent of the total area of the subdivision. Such area or areas may be dedicated to the town by the subdivider if the Town Board approves such dedication. Appropriate legal measures should be taken to assure that such land can never be developed for other than recreational purposes.
- C. Information to be submitted. In the event that an area to be used for a park or playground is required to be so shown, the subdivider shall submit, prior to final approval, to the Board, ten (10) prints drawn in ink showing, at a scale of not less than one inch equals thirty (30) feet, such area and the following features thereof
 - 1. The boundaries of the said area, giving lengths and bearings of all straight lines, radii, lengths, central angles and tangent distances of all curves.
 - 2. Existing features such as brooks, ponds, clusters of trees, rock outcrops, structures.

3. Existing and, if applicable, proposed changes in grade and contours of the said area and of the area immediately adjacent.
- D. Waiver of plat designation of area for parks and playgrounds. In cases where the Planning Board finds that due to the size, topography or location of the subdivision, land for park, playground or other recreation purpose cannot be properly located therein, or if in the opinion of the Board it is not desirable, the Board may waive the requirement that the plat show land for such purposes. The amount of land which otherwise would have been acceptable as a recreation site shall be determined in accordance with the standards set forth in Subsection B.
- E. Reserve strips prohibited. Reserve strips of land, which might be used to control access from the proposed subdivision to any neighboring property or to any land within the subdivision itself, shall be prohibited.
- F. Preservation of natural features within parks and open spaces. The Planning Board shall, wherever possible, establish the preservation of all natural features which add value to residential developments and to the community, such as large trees or groves, watercourses and falls, beaches, historic spots, vistas and similar irreplaceable assets. No tree with a diameter of eight (8) inches or more as measured three (3) feet above the base of the trunk shall be removed unless such tree is within the right-of-way of a street as shown on the final subdivision plat. Removal of additional trees shall be subject to the approval of the Planning Board. In no case, however, shall a tree with a diameter of eight (8) inches or more as measured three (3) feet above the base of the trunk be removed without prior approval by the Planning Board.

ARTICLE VI **VARIANCES AND WAIVERS**

6.1 Variances to avoid unnecessary hardships

Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, or the Zoning Law.

6.2 Waivers because of special circumstances

Where the Planning Board finds that due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of the public health, safety, and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.

6.3 Conditions for variances and modifications

In granting variances and modifications, the Planning Board shall require that such conditions will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.