

TOWN OF WINDHAM

LOCAL LAW # 2 of 2007

Subdivision Law of the Town of Windham

Adopted as Subdivision Rules & Regulations of 9/28/1990

adopted as Local Law: August 21, 2003
filed with State: September 4, 2003
amended and adopted as a Local Law: July 12, 2007
filed with State: July 23, 2007

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TOWN OF WINDHAM SUBDIVISION REGULATION LAW

ARTICLE I

GENERAL PROVISIONS

SECTION I. AUTHORITY

By authority of the Resolution of the Town of Windham adopted _____, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Windham is authorized and empowered to review and approve Plats for the subdivision of land in the Town of Windham.

SECTION 2. JURISDICTION

Land within the Town of Windham may be subdivided into lots, blocks, or sites, with or without roads or highways, only if approved by the Planning Board in accordance with the procedures and requirements as set forth in these Regulations, and only if the approved Plat is duly filed in the Office of the County Clerk of Greene County, New York. Construction, excavation, filling, regrading, clearing of vegetation or other similar activities shall not begin within any area proposed or intended for subdivision until said subdivision sketch plan shall have been approved by the Planning Board.

SECTION 3. POLICY

It is declared to be the policy of the Planning Board to consider land subdivisions as part of a plan for the orderly, efficient, and economical development of the Town. This means, among other things:

- A) That land to be subdivided shall be of such character that it can be used safely for building purposes without danger of health or peril from fire, flood, or other menace, and without resulting in significant and/or irreparable damage to the ecology of the area in which it is located;
- B) That proper provisions shall be made for surface drainage, water supply, sewage and other needed improvements;
- C) That all proposed lots shall be so laid out and of such size as to not cause any adverse effects, such as erosion, on neighboring properties or roadways;
- D) That roads shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to follow the natural contours of the land;
- E) That proper provisions shall be made for open spaces for parks and playgrounds.

SECTION 4. PURPOSE

These Regulations are adopted for the following purposes:

- A) To protect the public health, safety and general welfare of the Town by providing for adequate light and air, and security from fire, flood and other danger.
- B) To guide the future growth and development of the Town, in accordance with the Comprehensive Plan, when, and if adopted.
- C) To protect and conserve the value of the land throughout the Town.
- D) To insure that public and private utilities and facilities are of sufficient capacity to serve the proposed subdivision.
- E) To insure proper legal descriptions and monumenting of subdivided land.
- F) To establish reasonable design standards and procedures for subdivisions and resubdivisions.
- G) To prevent the pollution of air, water and land. To assure adequate drainage facilities; to safeguard water tables; and to encourage the preservation and management of natural resources in the Town.
- H) To encourage open space through the design and layout of the land.
- I) To insure that the natural contours of the land will be followed in the design and layout of subdivisions.

SECTION 5. AMENDMENTS

These regulations may be amended by the Planning Board after Public Hearing on such amendments and subject to approval, by Resolution of the Town Board. Any proposed preliminary subdivision Plat which has not received sketch plan approval prior to the effective date of an amendment to these Regulations, or any conditionally approved preliminary subdivision Plat where an application for Final Plat approval has not yet been received within six (6) months of the date of conditional approval, shall fully comply with any amendment to these regulations.

SECTION 6. WAIVERS OR MODIFICATIONS

Where the Planning Board finds that, due to the special circumstances of a particular Plat, the application of certain procedural or substantive requirements of these regulations, or 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, provided that such waiver will not have the

effect of nullifying the intent and purpose of the Master Plan or the Zoning Law, if such may exist. A waiver may only be granted by the affirmative vote of a majority of the then current members of the Planning Board plus one, and only after and upon the reasons for granting a waiver have been clearly stated in the record. In approving waivers, the Planning Board may require such conditions as will, in its judgment, secure substantially the objectives of the policy and standards of these Regulations. A petition for any such waiver shall be submitted in writing by the subdivider at the time when the sketch plan or preliminary Plat is filed for the consideration of the Planning Board wherever practical but in any event prior to the final approval. If deemed necessary due to a late request for a substantial waiver the Planning Board may require further consideration. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

SECTION 7. SEPARABILITY

Should any section or provision of the regulations contained herein or as amended hereafter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the regulations as a whole or any part thereof other than the part so declared to be invalid.

SECTION 8. COMPLIANCE WITH STATE ENVIRONMENTAL QUALITY REVIEW (SEQR)

Notwithstanding any provisions of these subdivision regulations or any other laws or regulations to the contrary, the provisions and requirements of Article 8 of the Environmental Conservation Law, Section 8-0113, Part 617, hereinafter referred to as "SEQR" regulations, shall be complied with.

SECTION 9. RESUBDIVISION

A resubdivision, as defined herein, is subject to the same procedures, rules and regulation applicable to an original subdivision. An abandonment of an existing subdivision must be filed prior to the filing of a map reflecting the approval of a subsequent subdivision.

SECTION 10. EFFECTIVE DATE

These Regulations take effect immediately upon their filing in the Office of the Secretary of State in the State of New York.

Subdivisions created prior to September 28, 1990 shall not be subject to the requirements of these Regulations provided that they fulfill one or more of the conditions of this Section in the Subdivision Regulations adopted in 1990 and re-enacted in 2003 as Local Law #12 enacted in 2003.

SECTION 11. ENFORCEMENT

A) General

1. It shall be the responsibility of the Town Board to bring to the

attention of the Town Attorney any violations or lack of compliance herewith.

2. No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a Plat of such subdivision has been approved by the Planning Board, in accordance with the provisions of these Regulations, and filed with the County Clerk.

3. The subdivision of any lot or any parcel of land, by the use of metes and bounds description for the purpose of sale, transfer, or lease with the intent of evading these Regulations, shall not be permitted. All such described subdivisions shall be subject to all of the requirements contained in these Regulations.

4. No building permit shall be issued for the construction of any building or structures located on a lot or Plat subdivided or sold in violation of the provisions of these Regulations.

B) Civil Enforcement

Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these Regulations, or prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building, structure or premises; and these remedies shall be in addition to the penalties described in a separate local law.

ARTICLE II

DEFINITIONS

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

BUILDING: As used in these Regulations, "Building" shall mean any structure having a roof supported by walls, columns or other means and intended for the shelter, protection, housing or enclosure of persons, animals or personal property. Measurements to the location of a Building shall refer to the exterior surface of the walls or supports of a Building including porches or balconies and not stoops, steps, the eaves of roofs or retaining walls.

CLERK OF THE PLANNING BOARD: The Town Clerk of the Town of Windham, or his designee.

DEAD-END ROAD OR CUL-DE-SAC: A road or a portion of a road with only one vehicular traffic outlet.

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

ENVIRONMENTAL ASSESSMENT FORM(EAF): A form used by the Planning Board for the State Environmental Quality Review process to assist in determining the environmental significance or nonsignificance of an action or project.

ENVIRONMENTAL IMPACT STATEMENT (EIS): A written document required for each Type I or Unlisted Action which the lead agency determines may have a significant effect on the environment.

ESCROW: A deposit of cash with the Town in lieu of an amount required on a performance or maintenance bond.

FORESTRY MANAGEMENT PLAN: A plan prepared by a professional forester which shows how the applicant will provide for the protection and conservation of trees and related vegetation on the site and which plan shall comply with the provisions and intent of General Municipal Law, Section 90-b (The Tree Conservation Law of 1978). Where removal of trees and vegetation is indicated, such plan shall show how the potential effects to the natural ecology will be minimized.

LEAD AGENCY: The agency or body principally responsible for carrying out, funding, or approving an action, as set forth in Part 616.6 of 617.7 of the SEQR Regulations.

TOWN ENGINEER: An Engineer who is licensed by the State of New York and is retained by the Town at the expense of the subdivider. Whenever appropriate, the Town Highway Superintendent, members of the Planning Board or another appropriate responsible individual

shall be designated to act as or substitute for the licensed engineer upon specific authorization by the Town Board.

LOT IMPROVEMENT: Any building, structure, place, work or art or other improvements to the land as may be required by the Planning Board, including clearing, final grading and drainage improvements that constitutes a physical betterment of real property. Certain lot improvements shall be properly bonded as provided in these Regulations.

LOT OR PARCEL: A tract, plot, or portion of a subdivision or other parcel of land intended, as a unit for the purpose, whether immediate or future, of sale, lease, donation or separate use.

MASTER OR COMPREHENSIVE PLAN: A comprehensive plan, prepared by the Planning Board pursuant to Article 16 of the Town Law which indicates the general locations recommended for various functional classes of public works, places and structures and for 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.

OWNER: the person or persons actually holding title of a parcel or tract of land.

PERFORMANCE BOND: A bond as required by Section 277 of the Town Law to assure the full and satisfactory completion of all required subdivision improvements as specified in the Planning Board Resolution.

PLANNING BOARD OR BOARD: The Planning Board of the Town of Windham.

PRELIMINARY PLAT: A drawing or drawings clearly marked "Preliminary Plat" showing the layout of a proposed subdivision, as specified in Article V, Section 3 of these Regulations, submitted to the Planning Board for approval 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.

PUBLIC IMPROVEMENTS: Any drainage ditch, road, sidewalk, pedestrianway, tree, off-road parking, recreation area, lot improvement, or other facility for which the Town may ultimately assume the responsibilities for maintenance and operation, or which may affect an improvement for which Town responsibility is established. All such improvements shall be properly bonded.

RESUBDIVISION: Means a change in a map of an approved or recorded subdivision Plat if such change affects any road layout on such map or any lot line or if it affects any map or plan legally recorded prior to the adoption of any regulation controlling subdivisions. Any resubdivision of a subdivision which will create a total of five (5) or more lots shall be classified as a major subdivision.

ROAD: Streets, roads, avenues, lanes or other traffic ways, between right of way lines or any surface made for vehicular traffic. The term "road" does not include driveways.

ROAD PAVEMENT: The wearing or exposed surface of the roadway used by vehicular traffic.

ROAD REVIEW COMMITTEE: A committee appointed by the Town Board to review plans and make periodic inspections during the construction phase of required improvements. The committee may consist of one (1) member of the Planning Board and one (1) member of the Town Board and must include the Town Highway Superintendent or his designee.

ROAD WIDTH: The width of right of way, measured at right angles to the center line of the road.

SKETCH PLAN: A sketch of a proposed subdivision showing the information specified in Article V, Section 1 of these Regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of these Regulations.

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQR): A process to help government and the public protect and improve the environment. SEQR requires that environmental factors be considered along with social and economic considerations in government decision making.

STREET: See ROAD.

SUBDIVISION: The division of any parcel of land into two or more lots, blocks or sites, with or without roads, including resubdivision.

MAJOR SUBDIVISION: Any subdivision not classified as a Minor Subdivision, including, but not limited to, subdivisions of five or more lots, or any size subdivision requiring any new public road or extension of municipal facilities.

MINOR SUBDIVISION: Any subdivision containing not more than four lots fronting on an existing road, not involving any new 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 Master Plan, Zoning Ordinance, if such exists, or these Regulations.

SUBDIVISION PLAT OR 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, may be duly filed and recorded by the applicant in the Office of the County Clerk.

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.

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

TYPE I ACTION: An action that is likely to have a significant effect on the environment as listed in Part 617.4 of the SEQR regulations, and requiring the submission of a Long Form EAF.

TYPE II ACTION: An action determined not to have a significant effect on the environment.

UNLISTED ACTION: An action that may have a significant effect on the environment as explained in Part 617.2 of the SEQR regulations, and requiring the submission of a Short Form EAF. A Long Form EAF may be required by the Planning Board.

Except where specifically defined, all words used in these standards shall carry their customary meaning. Words used in the present tense shall include the future; words used in the singular shall include the plural, unless the context clearly indicates otherwise.

The word "shall" is always mandatory. The word "may" and "should" are permissive. "Building" or "structure" includes any part thereof. The word "person" includes an individual person, a firm, a corporation, a co-partnership, and any other agency of voluntary action.

ARTICLE III

SUBDIVISION REVIEW PROCEDURES

GENERAL

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 any 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.

SECTION I: Sketch Plan

A) Submission of Sketch Plan

Any owner of lands shall, prior to subdividing or resubdividing land, submit to the Clerk of the Planning Board at least ten days prior to the regular meeting of the Board five (5) copies of a Sketch Plan of the proposed subdivision which shall comply with the requirements of Article V, Section I, accompanied by a completed short EAF form for the purposes of classification and preliminary discussion.

B) Discussion of Requirements and Classification

The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the requirements of these Regulations for road improvements, drainage, sewerage, water supply, fire protection and similar aspects, as well as the availability of the existing services and other pertinent information.

Classification of the Sketch Plan is to be made at this time by the Planning Board as to whether it is a Minor or Major Subdivision as defined in these Regulations. The Board may require, however, when it deems it necessary for protection of the public health, safety and welfare, that a Minor Subdivision comply with all or some of the requirements specified for Major Subdivisions. If the Sketch Plan is classified as a Minor Subdivision, the subdivider shall then comply with the procedure outlined in Article III, Sections 2 and 4 of these Regulations. If it is classified as a major Subdivision, the subdivider shall then comply with the procedures outlined in Article III, Sections 3 and 4.

C) Sketch Plan Review

The Planning Board shall determine whether the Sketch Plan meets the purposes of these regulations and shall, where it deems it necessary, make specific recommendations in writing to be incorporated by the applicant in the next submission to the Planning Board.

D) State Environmental Quality Review (SEQR) Determination

Any proposed subdivision of land must comply with all requirements as Found in the State Environmental Quality Review Act.

SECTION 2. APPROVAL OF MINOR SUBDIVISION PLAT

A) Application Requirements

Within six months after classification of the Sketch Plan as a Minor Subdivision by the Planning Board, the subdivider shall submit an application for approval of a Minor Subdivision Plat using the application available from the Clerk of the Planning Board. Failure to submit an application within this time period shall require resubmission of the Sketch Plan to the Planning Board for reclassification. The Plat shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Planning Board. Said application shall also conform to the requirements listed in Article V, Section 2 of these Regulations.

1. Fee – All applications for Plat approval for Minor Subdivisions shall be accompanied by a fee of twenty-five (\$25.00) Dollars per lot or parcel.
2. Number of Copies – Five (5) copies of the Minor Subdivision Plat, all of the same size, and not exceeding 24" x 36", shall be presented to the Clerk of the Planning Board.
3. Official Submission Date – The time of submission of the Subdivision Plat shall be considered to be the date on which the application for Plat approval, complete in all details, as determined by the Planning Board, and accompanied by the required fee and all data required by Article V, Section 2 of these Regulations has been filed with the Clerk of the Planning Board.
4. Planning Board Meeting – The subdivider, or his duly authorized representative, shall attend a meeting of the Planning Board to discuss the Minor Subdivision Plat.
5. When applicable, the Planning Board shall, upon initial review, refer the Preliminary Plat to the Greene County Planning Board for their review and recommendations as required by Section 239-n of Article 12-B of the General Municipal Law. If the proposed subdivision is within 500 feet of an adjoining Town the Planning Board shall notify said Town of the proposed subdivision, as required. In addition, the Planning Board shall refer the Preliminary Plat to other County or State agencies which have or may have jurisdiction of review or approval of the subdivision. If the subdivision meets any Type I SEQR process shall be determined according to procedures outlined in Section 617.6 of the SEQR Regulations.

B) Public Hearing

A Public Hearing shall be held by the Planning Board within sixty-two (62) days from the time of submission of the Minor Subdivision Plat, complete in all details, for approval. The Hearing must be advertised at least once in a newspaper of general circulation

in the Town at least five (5) days prior to the Hearing. The applicant shall notify by Certified Mail, at least five (5) days in advance, the owners of property abutting the proposed subdivision and directly across any adjoining road and shall furnish the Planning Board with Post Office receipts as proof of notification. The Planning Board may notify other persons as it deems necessary.

C) Action on Minor Subdivision Plat

The Planning Board shall, within sixty-two (62) days from the date of the close of the Public Hearing, act to conditionally approve, conditionally approve with modification, disapprove or grant final approval and authorize the signing of the Subdivision Plat. This time may be extended by mutual consent of the subdivider and the Planning Board. Failure of the Planning Board to act within such time shall constitute approval of the Plat.

Upon granting conditional approval with or without modification to the Plat, the Planning Board shall empower a duly authorized officer to sign the Plat upon compliance with such conditions and requirements as may be stated in its Resolution of conditional approval. Within five (5) days of the Resolution granting conditional approval, the Plat shall be certified by the Clerk of the Planning Board as conditionally approved, a copy shall be filed in his office, and a certified copy mailed to the subdivider. The copy mailed to the subdivider shall include a certified statement of such requirements which, when completed will authorize the signing of the conditionally approved Plat. Upon completion of such requirements, the Plat shall be signed by the duly designated officer of the Planning Board. Conditional approval of a Plat shall expire one hundred eighty (180) days after the date of the Resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved Plat may be submitted for signature if in its opinion such extension is warranted in the circumstances, for not to exceed two additional periods of ninety (90) days each. If disapproved, reason must be stated in record.

SECTION 3. APPROVAL OF MAJOR SUBDIVISION PLAT

A) Major Subdivision Preliminary Plat

1. Application Requirements

Prior to the filling of an application for final approval of a Major Subdivision Plat, the subdivider shall file an application for approval of a Major Subdivision Preliminary Plat using the application available from the Clerk of the Planning Board. Such Preliminary Plat shall be clearly marked "Preliminary Plat" and shall, in all respects, comply with the requirements set forth in the provisions of section 276 through 278 of the Town Law, and Article V., Section 3 of these regulations, except where a waiver may be specifically authorized by the Planning Board.

a) Fee – The application for approval of the Major Subdivision Preliminary Plat shall be accompanied by a fee of twenty-five (\$25.00) Dollars per lot.

b) Number of copies – Five (5) copies of the Major Subdivision Preliminary Plat shall be presented to the Clerk of the Planning Board at the time of submission.

c) Official Submission Date – The time of submission of the Major Subdivision Preliminary Plat shall be considered to be the date on which the application for approval, complete and accompanied by the required fee and all data required by Article V, Section 3A of these Regulations, has been filed with the Clerk of the Planning Board.

d) Planning Board Meeting – The subdivider or his duly authorized representative shall attend the Planning Board meeting to discuss the Major Subdivision Preliminary Plat.

e) Referrals – When applicable, the Planning Board shall, upon initial review, refer the Preliminary Plat to the Greene County Planning Board for their review and recommendation as required by Section 239-n of Article 12-B of the General Municipal Law. In addition, the Planning Board shall refer the Preliminary Plat to other County or State agencies which have or may have jurisdiction of review or approval of the subdivision. If the subdivision meets any Type I threshold listed in Part 617.4 of the SEQR regulations, lead agency for SEQR process shall be determined according to procedures outlined in section 617.6 of the SEQR Regulations.

2. Major Subdivision Preliminary Plat Review

The Planning Board shall study the practicability of the Major Subdivision 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, and width of roads, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes, arrangement, and the future development of adjoining lands as yet unsubdivided, and the requirements of the Master Plan and Zoning Ordinance, if they exist.

The Planning Board shall schedule a field trip to the proposed subdivision site accompanied by the applicant or his agent. In order to facilitate field inspection and review of the site, temporary staking along the centerline of all proposed roads at fifty (50) foot intervals on curves and at one hundred (100) foot intervals on tangents and proposed front lot corners is required.

Before the subdivision may be accepted as complete, the designated Lead Agency either shall make a determination of no significant environmental impact under SEQR or cause a Draft Environmental Impact Statement to be prepared. The Lead Agency shall notify other agencies who have authority to review the subdivision of this determination.

The Planning Board may require that other town officials including, but not limited to, the Public Works Superintendent, Fire Chief and Building Inspector, review and comment on the Major Subdivision Preliminary Plat. If other town officials are to participate in the review, the Clerk of the Planning Board will provide a copy of the Major Subdivision Preliminary Plat, immediately to such officials. Comments from any other town officials should be submitted to the Planning Board by the scheduled Public Hearing.

3. Public Hearing

Within sixty-two (62) days after the time of submission of a Preliminary Plat, Complete in all details, the Planning Board shall hold a Public Hearing on said Plat. The Hearing shall be advertised in a newspaper of general circulation in the Town at least five (5) days before such Hearing. The Public Hearing shall also be used to solicit comments on the Draft EIS under SEQR, if required. The applicant shall notify by Certified Mail all property owners within five hundred (500) feet of the outside perimeter of the proposed subdivision, at least five (5) days prior to the Public Hearing and shall furnish the Planning Board with Post office receipts as proof of notification. The Planning Board may notify other persons or agencies as it deems necessary.

4. Action on Major Subdivision Preliminary Plat

Within sixty-two (62) days after the close of the date of such Hearing, the Planning Board shall approve with or without modification or disapprove the Major Subdivision Preliminary Plat, and the grounds for modification, if any, or the ground for disapproval shall be stated upon the records of the Planning Board. The time in which the Planning Board must take action on the Plat may be extended by mutual consent of the subdivider and the Planning Board. When approving the Plat, the Planning Board shall state in writing, any modifications it deems necessary for submission of the Plat in final form. Within five (5) days of the approval of such Major Subdivision Preliminary Plat, the Clerk of the Planning Board shall certify that the Plat has been granted preliminary approval. A copy will be retained in the Clerk's Office, a certified copy will be mailed to the owner, Post Office receipts shall be kept as proof of notification, and a copy will be forwarded to the Town Board. Failure of the Planning Board to act within such sixty-two (62) day period shall constitute approval of the Major Subdivision Preliminary Plat.

When granting approval to a Major Subdivision Preliminary Plat, the Planning Board shall state the terms of such approval, if any, with respect to (1) modifications to the Major Subdivision Preliminary Plat, (2) the character and extent or waivers or required improvements which the Planning Board has agreed to waive without jeopardy to the public health, safety, morals, and general welfare, (3) the amount of improvement or the amount of all bonds therefore which will be required for approval of the Major Subdivision Plat. Approval of a Major Subdivision Preliminary Plat shall not constitute approval of the Major Subdivision Plat. Rather, it shall be deemed an expression of approval of the design submitted and as a guide to the preparation of the Final Plat. Prior to approval of the Major 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.

5. Model Homes

For the purpose of allowing the early construction of model homes in a Subdivision, the Planning Board, in its discretion, may permit a portion of a major Subdivision, involving no more than three (3) lots, to be created in accordance with the procedures for Minor Subdivisions, provided said portion derives access from existing State, County or Town

highway, and provided no future road or other improvement is anticipated where said lots are proposed. The Subdivision Plat for the "Minor" portion shall be submitted to the Planning Board simultaneously with the Preliminary Plat for the entire Major Subdivision. After preliminary approval, the model may be constructed, subject to such additional requirements that the Planning Board may require.

B) Major Subdivision Plat

1. Application Requirements

The subdivider shall, within six (6) months after the approval of the Major Subdivision Preliminary Plat, file with the Planning Board an application for approval of the Major Subdivision Plat in final form, using the application form available from the Clerk of the Planning Board. If the Major Subdivision Plat is not submitted within six (6) months after the approval of the Major Subdivision Preliminary Plat, the Planning Board may refuse to approve the Major Subdivision Plat and require re-submission of the Major Subdivision Preliminary Plat.

a) Fee – All applications for approval of Major Subdivision Plats shall be accompanied by a fee of One hundred (\$100.00) Dollars.

b) Number of Copies – Three (3) copies (one copy in ink on mylar) of the Major Subdivision Plat, the original and one true copy of all offers of cession, covenants, and agreements and two prints of all construction drawings shall be presented to the Clerk of the Planning Board at the time of submission of the Major Subdivision Plat.

c) Official Submission Date – The time of submission of the Major Subdivision Plat shall be considered to be the date on which the application for approval of the Plat, complete and accompanied by the required fee and all data required by Article V, Section 4 of these Regulations, has been filed with the Clerk of the Planning Board.

2. Endorsement of Other Agencies

Water and sewer facility proposals contained in the Major Subdivision Plat shall be properly endorsed and approved by the New York State Department of Health and the New York City Bureau of Water Supply if required, and by the Town Board if within the bounds of a special district. Applications for approval of plans for sewer or water facilities will be filed by the subdivider with all necessary Town, County and State Agencies. Endorsement and approval by the New York State Department of Health and the New York City Bureau of Water Supply, and Town Board, when necessary shall be secured by the subdivider before official submission of the Subdivision Plat.

3. Public Hearing (Optional)

Within sixty-two (62) days of the submission of a Major Subdivision Plat for approval a Hearing shall be held by the Planning Board. This Hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five (5) days before such Hearing. However, the Planning Board may waive the requirement for such Public Hearing

when the Planning Board deems the Major Subdivision Plat to be in substantial agreement with the Major Subdivision Preliminary Plat approved under Section 3A of this Article or, if such Major Subdivision Preliminary Plat has been approved with modification, when the Planning Board determines that the Plat has been modified in accordance with the requirements of such approval.

4. Action on Major Subdivision Plat

The Planning Board shall by Resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of the Major Subdivision Plat, within sixty-two (62) days of its receipt by the Clerk of the Planning Board if no Hearing is held, or if a Hearing is held, within sixty-two (62) days after the date of the close of such Hearing. This time may be extended by mutual consent of the subdivider and the Planning Board. Failure to take action of a Major Subdivision Plat within this time shall be deemed approval of the Plat.

Upon Resolution of conditional approval of such Major Subdivision Plat the Planning Board shall empower a duly authorized officer to sign the Plat upon completion of such requirements as may be stated in the Resolution. Within five (5) days of such Resolution that Plat shall be certified by the Clerk of the Planning Board as conditionally approved and a copy filed in his/her office and a certified copy mailed to the subdivider. The copy mailed to the subdivider shall include a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved Major Subdivision Plat. Upon completion of such requirements the Plat shall be signed by duly authorized officer of the Planning Board. Conditional approval of a Major Subdivision Plat shall expire one hundred eighty (180) days after the date of the Resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved Plat may be submitted for signature, if in its opinion such extension is warranted in the circumstances, for not to exceed two additional periods of ninety (90) days each.

5. Phasing of Major Subdivision Plats

Prior to granting conditional or final approval of a Plat, the Planning Board may permit the Plat to be divided into two or more phases and may impose such conditions upon the delineation and filing of each phase as it may deem necessary to assure the orderly development of the Plat. Approval of the sections of a Final Plat, subject to any conditions imposed by the Planning Board, shall be granted concurrently with the approval of the Plat. The Planning Board may deny approval of any section of a Plat if a prior section has not been completed satisfactorily.

SECTION 4. FILING OF APPROVED SUBDIVISION PLAT

A) Final Approval and Filing

Upon completion of the requirements in Section 3 above and notation to the

effect upon the Subdivision Plat, the Subdivision Plat shall be deemed to have final approval and shall be properly signed by the duly authorized officer of the Planning Board and shall be filed by the subdivider in the Office of the County Clerk. Any Subdivision Plat not so filed or recorded within thirty (30) days of the date upon which such Plat is approved (or considered approved by reasons of the failure of the Planning Board to act), shall become null and void.

B) Plat Void if Revised After Approval

No changes, erasures, modification or revisions shall be made in any Subdivision Plat after approval has been given by the Planning Board and endorsed in writing on the Plat, unless the said Plat is first resubmitted to the Planning Board and such Board approves any modifications. In the event that any such Subdivision Plat is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the Plat stricken from the records of the County Clerk.

C) Approval Denied if Subdivider is in Default

No Subdivision Plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved Plat.

SECTION 5. REQUIRED IMPROVEMENTS

A) Costs of Improvements

Before the Planning Board grants final approval of the Subdivision Plat, the subdivider shall follow the procedure set forth in either subparagraph (1) or subparagraph (2) below:

1. In an amount set by the Planning Board the subdivider shall either file with the Town Clerk a certified check or bond or bank letter of credit to cover the full cost of the required improvements or the subdivider shall file with the Town Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of Section 277 of the 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 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.

-OR-

2. The subdivider shall complete all required improvements to the satisfaction of the licensed engineer who shall be retained at the expense of the subdivider and who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Planning Board. For any required improvements not so completed, the subdivider shall file with the Town Clerk a certified check or bond or bank letter of credit covering the costs of such improvements and the cost of satisfactorily installing any improvement not approved by the licensed engineer. Any performance bond shall be