

# **TOWN OF CLERMONT, NY**

# **SUBDIVISION**

# **REGULATIONS**

Chapter 130 of the Town of Clermont Code

Revised and Adopted: May 5, 2025

# Table of Contents

<b>ARTICLE I</b>	<b>AUTHORITY</b>	<b>3</b>
<b>ARTICLE II</b>	<b>DECLARATION OF POLICY</b>	<b>3</b>
<b>ARTICLE III</b>	<b>DEFINITIONS</b>	<b>3</b>
<b>ARTICLE IV</b>	<b>PROCEDURE FOR FILING SUBDIVISION APPLICATIONS</b>	<b>7</b>
Section 1	Sketch Plan	7
Section 2	Approval of Minor Subdivisions	8
Section 3	Preliminary Plat for Major Subdivisions	10
Section 4	Plat for Major Subdivisions	13
Section 5	Required Improvements	15
Section 6	Filing Approved Subdivision Plat	17
Section 7	Public Streets, Recreation Areas	17
<b>ARTICLE V</b>	<b>GENERAL REQUIREMENTS AND DESIGN STANDARDS</b>	<b>18</b>
Section 1	General	18
Section 2	Street Layout	18
Section 3	Street Design	21
Section 4	Street Names	23
Section 5	Lots	23
Section 6	Drainage Improvements	24
Section 7	Parks, Open Spaces, School Sites and Natural Features	25
<b>ARTICLE VI</b>	<b>DOCUMENTS TO BE SUBMITTED</b>	<b>27</b>
Section 1	Sketch Plan	27
Section 2	Minor Subdivision Plat	27
Section 3	Major Subdivision Preliminary Plat	28
Section 4	Major Subdivision Plat	29
<b>ARTICLE VII</b>	<b>COMPLIANCE WITH OTHER LAWS AND REGULATIONS</b>	<b>31</b>
Section 1	State Environmental Quality Review Act (SEQRA)	31
Section 2	Agriculture and Markets Law	31
Section 3	Compliance with Other Laws and Regulations	34
<b>ARTICLE VIII</b>	<b>VARIANCES AND WAIVERS</b>	<b>35</b>
Section 1		35
Section 2		35
Section 3		35
<b>ARTICLE IX</b>	<b>SEPARABILITY</b>	<b>35</b>
Section 1		35

## TOWN OF CLERMONT SUBDIVISION REGULATIONS

### **ARTICLE I      AUTHORITY**

By the authority of the resolution of the Town Board of the Town of Clermont, adopted August 5, 1985, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Clermont is authorized and empowered to approve Plats showing lots, blocks or sites, with or without streets or highways or other improvements, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the County and to conditionally approve preliminary plats within the Town of Clermont.

### **ARTICLE II      DECLARATION OF POLICY**

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, or peril from fire, flood or other menace; that proper provision shall be made for drainage, water supply, sewerage and other needed improvements; that all proposed lots shall be 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, if such exists and shall be properly related to the proposals shown on the Comprehensive Plan, if such exists, and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of fire-fighting equipment to buildings; and that proper provision shall be made for open spaces for parks and playgrounds. 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 Clermont Land Subdivision Regulations" have been approved by the Town Board on May 15, 1995 and updated on March 3, 2025.

### **ARTICLE III      DEFINITIONS**

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

**COMPREHENSIVE PLAN** - A comprehensive plan, adopted by the Town Board pursuant to Section 272-a of the Town Law which indicates the general locations recommended for various functional classes of public works, places and structures and for 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.

**CONSERVATION SUBDIVISION** - A residential subdivision where the dwelling units that would result on a given parcel under a conventional subdivision plan are allowed to be placed on the parcel in a flexible manner; where lot sizes, road frontages, and other bulk dimensions are allowed to be relaxed; and where a majority of the remaining land is left in its natural open space condition in perpetuity. Conservation development results in a flexibility of design and development to promote the most appropriate use of land, to facilitate the adequate and economical provisions of streets and utilities, and to preserve the natural and scenic qualities of open lands.

**DAY OR DAYS** - For purposes of these Regulations, the term "day" or "days" shall refer to the consecutive calendar days.

**DEAD-END STREET or CUL-DE-SAC** - A street or a portion of a street with only one vehicular traffic outlet.

**DESIGNATED TOWN ENGINEER** - That licensed professional engineer, either employee or consultant, who shall be chosen by the Town Board upon recommendation of the Planning Board to perform the duties of the Designated Town Engineer for purposes of these Regulations.

**DEIS** – Draft Environmental Impact Study, as required under the New York State Environmental Quality Review Act.

**DRIVEWAY** - A private way situate within a lot for vehicular traffic providing access from a street to a single dwelling or commercial premises. "Common driveway" is the term employed to identify a like facility which provides shared access to two (2) or more such dwellings or commercial premises.

**EAF** – Environmental Assessment Form, as required under the New York State Environmental Quality Review Act.

**EASEMENT** - An acquired right of use on the property of another, for a specified purpose on a designated part of that property.

**ENGINEER OR LICENSED PROFESSIONAL ENGINEER** - A person licensed as a Professional Civil Engineer by the State of New York.

**ENVIRONMENTAL CONSERVATION LAW**- The Environmental Conservation Law of the State of New York, Chapter 43-8 of the Consolidated Laws.

**EIS** – Environmental Impact Study, as required under the New York State Environmental Quality Review Act.

**FOOTCANDLE** - The basic unit of measurement to determine the amount of light falling on a surface (illuminance). One footcandle is equivalent to the illuminance produced on one square foot of surface area by a source of one candle at a distance of one foot.

**IMPROVEMENTS** - A physical change to the land or installation of certain services necessary to produce useable and desirable lots or sites from raw acreage, including, but not limited to, water and sewer facilities, recreation and open space areas, grading, pavement, curbs, gutters, storm sewers and drains and betterments to existing water courses, sidewalks or other pedestrian ways, street signs, shade trees, sodding or seeding and monuments and buffer plantings, whether such improvement is intended to be dedicated and maintained by the public, or held in private ownership.

**LOT**: A lot is a parcel of land occupied or intended to be occupied by a principal building or use and the accessory buildings or uses customarily incidental to it. A lot shall be of sufficient size to meet the minimum requirements for use, coverage, and area, and to provide such yards and other open spaces as herein required. Such lot shall have frontage on a public street. In no case of division or combination shall any residual lot or parcel be created which reduces the size of the lot so that it is below minimum requirements of this Local Law. Also referred to as "Parcel" or "Plot".

**OFFICIAL MAP** - The map which may be designated by the Town Board under Section 270 of the Town Law showing streets, highways and parks and drainage theretofore laid out, adopted and established by law, and any amendments thereto adopted by the Town Board or additions thereto resulting from the approval of subdivision plats by the Planning Board and the subsequent filing of such approved plats.

**PARCEL** – See "Lot"

**PLANNING BOARD OR BOARD** - The Planning Board of the Town of Clermont, Columbia County, New York.

**PLAT** - The map of a subdivision showing the location, boundaries and proposed ownership of individual properties and associated improvements.

**PRELIMINARY PLAT** - The maps, drawings and other data clearly marked "preliminary plat" showing the salient features of a proposed subdivision, as specified in Article VI, 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 and improvements within such proposed subdivision.

**PUBLIC HEALTH LAW** - The Public Health Law of the State of New York, Chapter 45 of the Consolidated Laws.

**RESUBDIVISION** - Any change in the plat of a subdivision which has previously been filed in the Office of the Columbia County Clerk, which change affects any street layout shown on such plat, affects any area reserved thereon for public use or diminishes the size of any lot shown thereon.

**REVERSE FRONTAGE LOT** – A parcel of land which has frontage on public roads along both the front and rear property lines at the same time, creating a situation where the rear yard is facing a public street on one side. Also known as “Double Frontage Lot”.

**SECRETARY OF THE PLANNING BOARD** - That representative or those representatives of the Planning Board, either member, employee or consultant, who shall be designated to perform the duties of the Clerk of the Planning Board for the purposes of these regulations.

**SIGHT DISTANCE** - The distance an object 18" above the pavement (e.g. a tail light) is visible from a driver's eye level 54" above the pavement (i.e. an average seated driver's eye).

**SKETCH PLAN** - A sketch of a proposed subdivision showing the information specified in Article VI, 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.

**STREET** - A way for vehicular traffic, designed to provide access to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, artery, avenue, boulevard, lane. Place, drive or however otherwise designated, which is either (1) an existing public way, i.e. a State, County or Town road or highway, (2) a street shown upon a Subdivision Plat approved by the Town Planning Board as provided by these regulations, or (3) a street shown on a plat duly filed and recorded in the office of the Clerk of Columbia County prior to the date authority was granted to the Planning Board to approve such plats.

- A. **Collector Street.** A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.
- B. **Cul-de-Sac or Dead End Street.** A street with only one (1) means of vehicular ingress and egress and with a turnaround at its terminus.
- C. **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.
- D. **Minor Street.** A street intended to serve primarily as an access to abutting properties.

**STREET PAVEMENT** - The wearing or exposed surface of the roadway used by vehicular traffic as required by the Town specifications for roads.

**STREET WIDTH** - The width of the right-of-way or the distance between property lines on opposite sides of a street, measured at right angles to the center line of the street.

**STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)** – A law adopted by New York State which requires all local, regional, and state government agencies to examine and consider the potential environmental, social and economic impacts resulting from a project or action under the jurisdiction of their review for its approval.

**SUBDIVIDER** - Any person, firm, corporation, partnership or association which shall layout any subdivision or part

thereof as defined herein, either for himself, itself, or for others.

**SUBDIVISION** - The division of any parcel of land into two (2) or more lots, plots, sites or other division of land for the purpose, whether immediate or future, of adjustment of lot line, transfer of ownership, lease for other than agricultural or conservation purposes or building development, in conformance with the Zoning Law and which does not contravene any goals of the Comprehensive Plan. Such division shall include both the resubdivision of parcels of land for which an approved plat has already been filed in the Office of the County Clerk and which is entirely or partially undeveloped, and the replatting of plats filed prior to compulsory subdivision plat review and approval by the Town Planning Board. For the purposes of these Land Subdivision Regulations, a parcel shall be considered already to have been divided into two (2) or more lots by one (1) or more public streets or railroad or utility rights-of-way held in fee simple.

- A. **Lot Line Alteration.** A type of minor subdivision resulting in a modification in the boundary of an existing, legally-established lot which does not result in the creation of any new lot nor create any nonconformity with respect to any area or bulk requirement established by the Town Zoning Law, the Columbia County Health Department, the New York State Uniform Fire Prevention and Building Code or other law, rule or regulation.
- B. **Minor Subdivision.** Any subdivision containing not more than four (4) lots, each of at least the minimum lot area and dimension permitted by the Zoning Law, each fronting on an existing street, not involving any new public or private street or road, or the extension of town or other municipal facilities.
- C. **Major Subdivision.** Any subdivision not classified as a Minor Subdivision, including, but not limited to, subdivisions of five (5) or more lots, or any size subdivision requiring any new street or any extension of Town or other municipal facilities.

**SUBDIVISION PLAT OR FINAL PLAT** - A drawing, in final form, showing a proposed subdivision containing all information or detail required by law and these regulations to be presented to the Planning Board for approval, and which, if approved, shall be duly filed or recorded by the applicant in the office of the County Clerk or Register within sixty (60) days of signing by the designated officer of the Planning Board.

**SUPERINTENDENT OF HIGHWAYS** - The duly elected Town Superintendent of Highways of the Town of Clermont.

**SURVEYOR** - A person licensed as a professional land surveyor by the State of New York.

**TOWN BOARD** - The Town Board of the Town of Clermont, Columbia County, New York.

**TOWN STREET AND HIGHWAY SPECIFICATIONS** - The standards and specifications adopted by the Town Board for the construction of streets and related to subdivision improvements.

**TOWN LAW** - The Town Law of the State of New York, Chapter 62 of the Consolidated Laws.

**ZONING LAW** - The officially adopted Zoning Law or Zoning Ordinance of the Town of Clermont, together with any and all amendments thereto, in accordance with Article 16 of the Town Law and Articles 2 and 3 of the Municipal Home Rule Law.

## **ARTICLE IV      PROCEDURE FOR FILING SUBDIVISION APPLICATIONS**

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 1      Sketch Plan**

#### **A.      Submission of Sketch Plan**

Any owner of land shall, prior to subdividing or resubdividing land, submit to the Secretary of the Planning Board at least ten (10) days prior to the regular meeting of the Board two (2) copies of a Sketch Plan of the proposed subdivision, which shall comply with the requirements of Article VI, Section 1, for the purposes of classification and preliminary discussion.

#### **B.      Discussion of Requirements and Classification**

The subdivider, or their duly authorized representative, shall attend the meeting of the Planning Board to discuss the requirements of these regulations for street improvements, drainage, sewerage, water supply, fire protection and similar aspects, the requirements of the Town Zoning Law, any other applicable rules or regulations, as well as the availability of 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 IV, Section 2 of these regulations. If it is classified as a Major Subdivision, the subdivider shall then comply with the procedures outlined in Article IV, Sections 3, 4 and 5.

#### **C.      Study of Sketch Plan**

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

#### **D.      Conservation Subdivisions**

In lieu of a conventional subdivision as specified in this Chapter, a conservation subdivision as specified in Chapter 131 Conservation Subdivisions may be voluntarily pursued by the applicant in the event they wish to conserve open space or have more flexibility in lot design and arrangement.

#### **E.      Escrow Account**

Applications for approval of minor and major subdivisions may be referred by the Planning Board to its private consultants for review. Such consultants may include an engineer, planning consultant, attorney or other specialist necessary for the Board to make an informed decision regarding the application. Expenses incurred by the Town for this purpose shall be fair and reasonable and shall be reimbursed to the Town by the Applicant in the amount of the actual expense incurred.

An escrow account shall be established by the Applicant following sketch plan review and prior to further consideration of the application. The amount of the initial escrow deposit shall be determined by the Planning Board in accordance with the schedule of fees established by the Town Board. The Planning Board may request an amount larger than that required by the schedule of fees if, in the opinion of the Board following consultation with their consultant(s), the application will require professional review efforts that may exceed the specified sum.

Should the balance of the required escrow account fall below twenty percent (20%) of its original balance at any time before final approval, the applicant will be required by the Planning Board to deposit additional monies with the Town to cover the costs of review. These monies must be deposited with the Town before review will continue. Failure to deposit monies within ten (10) days of notification of escrow account balance will result in a stop work order being issued. Monies in this account will also be applied toward the costs for inspection of the improvements required for the approval. Any monies not expended for the review of the application will be returned to the applicant.

## **Section 2      Approval of Minor Subdivisions**

### **A.      Application and Fee**

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 Subdivision Plat. Failure to do so within the specified time frame shall require resubmission of the Sketch Plan to the Planning Board for classification. The plat shall conform to the layout on the Sketch Plan plus any recommendations made by the Planning Board. Said application shall also conform to the requirements listed in Article VI, Section 2-A and shall include the appropriate environmental assessment form.

All applications for plat approval shall be accompanied by an application fee, as per the schedule of fees established by the Town Board.

### **B.      Number of Copies**

Five copies of the subdivision plat and the environmental assessment form shall be presented to the Secretary of the Planning Board at least ten (10) days prior to a scheduled monthly meeting of the Planning Board.

### **C.      Subdivider to Attend Planning Board Meeting**

The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the subdivision plat.

### **D.      When Officially Submitted**

The time of submission of the subdivision plat shall be considered to be the date of the regular monthly meeting of the Planning Board at least ten days prior to which the application for plat approval, complete and accompanied by the required fee and all data required by Article VI, Section 2 of these regulations, and the appropriate Environmental Assessment Form, has been filed with the Secretary of the Planning Board.

### **E.      When Deemed Complete**

The final plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the DEIS has been filed in accordance with the SEQRA. The time periods for review of such plat shall begin upon filing of such negative declaration or such notice of completion.



**F. Public Hearing, Notice, and Decision with Planning Board as Lead Agency**

When a final plat clearly marked "final plat" is submitted conforming to the definition provided in this section, the following shall apply:

- (1) **Public hearing on final plats.** The time within which the Planning Board shall hold a public hearing on such final plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the SEQRA, as follows:
  - (a) if such board determines that the preparation of an EIS is not required, the public hearing on the final plat shall be held within sixty-two (62) days after the receipt of a complete final plat by the Secretary of the Planning Board; or
  - (b) if such board determines that an EIS is required, and a public hearing on the DEIS is held, the public hearing on the final plat shall be held jointly within sixty-two (62) days after the filing of the notice of completion of such DEIS in accordance with the provisions of the SEQRA. If no public hearing is held on the DEIS, the public hearing on the final plat shall be held within sixty-two (62) days following filing of the notice of completion.
- (2) **Public Hearing, Notice and Length.** The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing if no hearing is held on the DEIS, or fourteen days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Planning Board within one hundred twenty (120) days after it has been opened.
- (3) **Decision.** The Planning Board shall make its decision on the final plat as follows:
  - (a) if such board determines that the preparation of an EIS is not required, 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; or
  - (b) if such board determines that an EIS is required, and a public hearing is held on the DEIS, the FEIS shall be filed within forty-five (45) days following the close of such public hearing in accordance with the provisions of the SEQRA. If no public hearing is held on the DEIS, the FEIS shall be filed within forty-five (45) days following the close of the public hearing on the final plat. Within thirty (30) days of the filing of the FEIS, the Planning Board shall issue findings on such FEIS and shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat.
- (4) **Grounds for Decision.** The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

**G. Public Hearing, Notice, and Decision when Planning Board is not Lead Agency**

- (1) **Public hearing.** The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the final plat jointly with the lead agency's hearing on the DEIS. Failing such agreement, the Planning Board shall hold the public hearing on the final plat within sixty-two (62) days after the receipt of a complete final plat by the secretary of the Planning Board.
- (2) **Public hearing notice and length.** The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the town at least five (5) days before such hearing if held independently of the hearing

on the DEIS, or fourteen (14) days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Planning Board within one hundred twenty (120) days after it has been opened.

- (3) **Decision.** The Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize signing of such plat within sixty-two (62) days after the close of the public hearing on such final plat.
- (4) The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

#### **H. Lot Line Alterations**

- (1) An application for approval of a lot line alteration shall include a plat conforming to the requirements listed in Article VI, the appropriate environmental assessment form, and any additional information recommended by the Planning Board.
- (2) A lot line alteration application involving a prior non-conforming lot shall be permitted, provided the lot line alteration does not decrease the acreage of said prior non-conforming lot or otherwise make the prior non-conforming lot more non-conforming.
- (3) When the plat is deemed complete, the Planning Board, in its sole discretion, may waive the requirement of a public hearing and notice to adjoining landowners and proceed to make a decision on the lot line alteration application.
- (4) **Decision.** The Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant approval of the lot line alteration application and authorize the signing of the plat, within sixty-two (62) days of the Planning Board's SEQR determination on the environmental assessment form.

### **Section 3 Preliminary Plat for Major Subdivisions**

#### **A. Application and Fee**

Prior to the filing of an application for the approval of a major subdivision plat, the subdivider shall file an application for the consideration of a Preliminary Plat of the proposed subdivision, in the form described in Article VI, Section 3, hereof. The Preliminary Plat shall, in all respects, comply with the requirements set forth in the provisions of Sections 276 and 277 of New York State Town Law, and Article VI, Section 3 of these regulations, except where a waiver may be specifically authorized by the Planning Board. All applications shall include an appropriate environmental assessment form.

All applications for preliminary plat approval shall be accompanied by an application fee, as per the schedule of fees established by the Town Board.

#### **B. Number of Copies**

Five copies of the Preliminary Plat and the environmental assessment form shall be presented to the Secretary of the Planning Board at least ten (10) days prior to a regular monthly meeting of the Planning Board.

**C. Subdivider to Attend Planning Board Meeting**

The subdivider, or their duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plat.

**D. Study of the Preliminary Plat**

The Planning Board shall study the practicability of 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 and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet undeveloped, and the requirements of the Zoning Ordinance.

**E. When Officially Submitted**

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 ten days prior to which the application for conditional approval of the preliminary plat, complete and accompanied by the required fee and all data required by Article VI, Section 3 of these regulations, and the appropriate Environmental Assessment Form, has been filed with the Secretary of the Planning Board.

**F. When Deemed Complete**

A preliminary plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of a draft environmental impact statement has been filed in accordance with the provisions of the State Environmental Quality Review Act (SEQRA). The time periods for review of the preliminary plat shall begin upon filing of such negative declaration or such notice of completion.

**G. Public Hearing, Notice, and Decision with Planning Board as Lead Agency**

- (1) **Public Hearing.** The time within which the Planning Board shall hold a public hearing on the preliminary plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act, as follows:
  - (a) If such board determines that the preparation of an environmental impact statement on the preliminary plat is not required, the public hearing on such plat shall be held within ~~sixty~~ sixty-two (62) days after the receipt of a complete preliminary plat by the secretary of the Planning Board; or
  - (b) If such board determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the public hearing on the preliminary plat and the draft environmental impact statement shall be held jointly within sixty-two (62) days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of the SEQRA. If no public hearing is held on the DEIS, the public hearing on the preliminary plat shall be held within sixty-two (62) days of filing of the notice of completion.
- (2) **Public Hearing, Notice and Length.** The hearing on the preliminary plat shall be directly noticed by the applicant via Registered U.S. Mail to the owners of all property within 500 feet of the application parcel, and advertised at least once in a newspaper of general circulation in the town at least five (5) days before such hearing if no hearing is held on the DEIS, or fourteen (14) days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within one hundred twenty (120) days after it has been opened.

- (3) **Decision.** The planning board shall approve, with or without modifications, or disapprove such preliminary plat as follows:
  - (a) If the planning board determines that the preparation of an EIS on the preliminary plat is not required such board shall make its decision within sixty-two (62) days after the close of the public hearing; or
  - (b) If the Planning Board determines that an EIS is required, and a public hearing is held on the DEIS, the FEIS shall be filed within forty-five (45) days following the close of such public hearing in accordance with the provisions of the SEQRA. If no public hearing is held on the DEIS, the FEIS shall be filed within forty-five (45) days following the close of the public hearing on the preliminary plat. Within thirty (30) days of the filing of such FEIS, the Planning Board shall issue findings on the FEIS and make its decision on the preliminary plat.
- (4) **Grounds for Decision.** The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the plat in final form.

#### H. **Public Hearing, Notice, and Decision when Planning Board is not Lead Agency.**

- (1) **Public hearing on preliminary plats.** The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the preliminary plat jointly with the lead agency's hearing on the DEIS. Failing such agreement, the Planning Board shall hold the public hearing on the preliminary plat within sixty-two (62) days after the receipt of a complete preliminary plat by the Secretary of the Planning Board.
- (2) **Public hearing notice and length.** The hearing on the preliminary plat shall be directly noticed by the applicant via Registered U.S. Mail to the owners of all property within 500 feet of the application parcel, and advertised at least once in a newspaper of general circulation in the town at least five (5) days before such hearing if held independently of the hearing on the draft environmental impact statement, or fourteen (14) days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within one hundred twenty (120) days after it has been opened.
- (3) **Decision.** The Planning Board shall by resolution approve, with or without modification, or disapprove the preliminary plat within sixty-two (62) days after the close of the public hearing on such preliminary plat. Failure of the Planning Board to act within such sixty-two (62) day period shall constitute a conditional approval of the preliminary plat.
- (4) **Grounds for Decision.** The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the plat in final form.

#### I. **Preliminary Plat Approval**

When granting approval to a preliminary plat, the Planning Board shall state the conditions of such approval, if any, with respect to (1) the specific changes which it will require in the Preliminary Plat, (2) 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, (3) the amount of improvement or the amount of all bonds therefore which it will require as prerequisite to the approval of the Subdivision Plat as described in Section 5 – Required Improvements of this Article. The action of the Planning Board plus any conditions attached thereto shall be noted on three copies of the Preliminary Plat. One copy shall be returned to the subdivider, one retained by the Planning Board, and one forwarded to the Town Board.

Approval 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 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 Conditional Approval, 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.

## **Section 4     Plat for Major Subdivisions**

### **A.     Application for Approval and Fee**

The subdivider shall, within six months after approval of the Preliminary Plat, file with the Planning Board an application for approval of the subdivision plat in final form, using the approved application forms available from the Secretary of the Planning Board. All applications for Plat approval shall be accompanied by a fee, in accordance with the fee schedule adopted by the Town Board. If the final plat is not submitted within six (6) months after the conditional approval of the Preliminary Plat, the Planning Board may refuse to approve the final plat and require resubmission of the Preliminary Plat.

### **B.     Number of Copies**

A subdivider intending to submit a proposed subdivision plat for the approval of the Planning Board shall provide the Secretary of the Board with a copy of the application and five (5) copies of the Plat, the original and one true copy of all offers of cession, covenants and agreements, and two (2) prints of all construction drawings, at least ten (10) days in advance of the regular monthly Planning Board meeting at which it is to officially submitted. The Planning Board may require the submission of an electronic file copy (e.g. pdf) to scale of such preliminary plat and application materials in a file format to be determined by the Planning Board.

### **C.     When Officially Submitted**

The time of submission of the Subdivision Plat shall be considered to be the date of the regular monthly meeting of the Planning Board at least ten (10) days prior to which the application for approval of the subdivision plat, complete and accompanied by the required fee and all data required by Article VI, Section 4 of these regulations, has been filed with the Secretary of the Planning Board.

### **D.     Endorsement of State and County Agencies**

Water and sewer facility proposals contained in the Subdivision Plat shall be properly endorsed and approved by the Columbia County Department of Health. 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 Columbia County Department of Health shall be secured by the subdivider before official submission of the Subdivision Plat.

### **E.     Conformance with SEQRA**

Final plats may require further review under the State Environmental Quality Review Act when they are not in substantial agreement with the approved preliminary plat.

F. **Public Hearing**

A public hearing shall be held by the Planning Board within thirty (30) days after the submission of the 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.

G. **Action on Proposed Subdivision Plat - Final Plats which are In Substantial Agreement with Approved Preliminary Plats**

When a final plat is submitted which the Planning Board deems to be in substantial agreement with a preliminary plat approved pursuant to this regulation, 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 of its receipt by the Secretary of the Planning Board. However, the Subdivision Plat shall not be signed by the authorized officers of the Planning Board for recording until the subdivider has complied with the provisions of Section 5 of this Article.

H. **Action on Proposed Subdivision Plat - Final Plats which are Not In Substantial Agreement with Approved Preliminary Plats**

When a final plat is submitted which the Planning Board deems not to be in substantial agreement with the preliminary plat approved pursuant to this section, and the final plat clearly marked "Final Plat" is submitted conforming to the definition provided in this section, the following shall apply:

(1) Planning Board as Lead Agency

- (a) **Public hearing on final plats.** The time within which the Planning Board shall hold a public hearing on such final plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the SEQRA, as follows:
  - i. if such board determines that the preparation of an EIS is not required, the public hearing on a final plat not in substantial agreement with the approved preliminary plat shall be held within sixty-two (62) days after the receipt of a complete final plat by the Secretary of the Planning Board; or
  - ii. if such board determines that an EIS is required, and a public hearing on the DEIS is held, the public hearing on the final plat shall be held jointly within sixty-two (62) days after the filing of the notice of completion of such DEIS in accordance with the provisions of the SEQRA. If no public hearing is held on the DEIS, the public hearing on the final plat shall be held within sixty-two (62) days following filing of the notice of completion.
- (b) **Public hearing, notice and length.** The hearing on the final plat shall be directly noticed by the applicant via Registered U.S. Mail to the owners of all property within 500 feet of the application parcel, and advertised at least once in a newspaper of general circulation in the town at least five (5) days before such hearing if no hearing is held on the DEIS, or fourteen (14) days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Planning Board within one hundred twenty (120) days after it has been opened.
- (c) **Decision.** The Planning Board shall make its decision on the final plat as follows:
  - i. if such board determines that the preparation of an EIS is not required, 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; or

- ii. if such board determines that an EIS is required, and a public hearing is held on the DEIS, the FEIS shall be filed within forty-five (45) days following the close of such public hearing in accordance with the provisions of the SEQRA. If no public hearing is held on the DEIS, the FEIS shall be filed within forty-five (45) days following the close of the public hearing on the final plat. Within thirty (30) days of the filing of the FEIS, the Planning Board shall issue findings on such FEIS and shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat.

- (d) **Grounds for Decision.** The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

(2) Planning Board Not as Lead Agency

- (a) **Public hearing.** The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the final plat jointly with the lead agency's hearing on the DEIS. Failing such agreement, the Planning Board shall hold the public hearing on the final plat within sixty-two (62) days after the receipt of a complete final plat by the Secretary of the Planning Board.
- (b) **Public hearing notice and length.** The hearing on the final plat shall be directly noticed by the applicant via Registered U.S. Mail to the owners of all property within 500 feet of the application parcel, and advertised at least once in a newspaper of general circulation in the town at least five (5) days before such hearing if held independently of the hearing on the DEIS, or fourteen (14) days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Planning Board within one hundred twenty (120) days after it has been opened.
- (c) **Decision.** The Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize signing of such plat within sixty-two (62) days after the close of the public hearing on such final plat. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. However, the Subdivision Plat shall not be signed by the authorized officers of the Planning Board for recording until the subdivider has complied with the provisions of Section 5 of this Article.

## Section 5 Required Improvements

### A. Improvements

The Planning Board, at its discretion, may require applicants to provide site improvements which are a prerequisite to the subdivision approval, including but not limited to the construction of, or bonding for, roads, foundations, water systems, sewer systems, drainage systems, utilities, maintenance guarantees or other required improvements based on the particular needs of the project. Before the Planning Board grants final approval of the Subdivision Plat, the subdivider shall follow the procedure set forth in either Subsection (1) or (2) below:

- (1) The subdivider shall complete all required improvements to the satisfaction of the Town Engineer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Board; or,

- (2) The subdivider shall file with the Town Clerk a certified check, or performance bond, to cover the full cost of the required improvements, in conformance with New York State Town Law §277.
  - (a) The amount of the required bond shall be as determined and set by the Planning Board, referencing construction cost estimates provided by the owner and as reviewed by the Town Engineer or Designated Town Engineer. Such estimate shall be based upon standard unit costs which include considerations for prevailing wage rates. Any such bond must be satisfactory to the Town Board and Town Engineer as to form, sufficiency, manner of execution and surety. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed three years) shall be set forth in the bond within which required improvements must be completed.
  - (b) The bond shall be released only by resolution of the Town Board when all requirements and completion of improvements have been satisfactorily met by the applicant.

**B. Phased Developments – Completion of Improvements**

In the case of a planned phased development, the Planning Board shall require the completion of all improvements for each phase of development prior to the initiation of any subsequent phases. Each phase shall meet the requirements of paragraph A above and all other requirements of this regulation and any other applicable codes, rules or regulations.

**C. Modification of Design and Improvements**

If at any time during the construction of the required improvements it is demonstrated to the satisfaction of the Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Engineer may, upon approval by a previously delegated member of the Town Board and the Town Highway Superintendent, 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 Town Engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at their next regular meeting.

**D. Inspection of Improvements**

At least five (5) days prior to commencing construction of any required improvements the subdivider shall pay to the Town Clerk the inspection fee required by the Town Board and shall notify the Town Board in writing of the time they propose 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. The subdivider shall conform to the schedule of required inspections, which is available from the Town Highway Superintendent. The subdivider shall not continue from one stage of construction to the next until the first has been inspected and the improvements have been deemed satisfactory by the Town Engineer and Town Highway Superintendent (as specified in the schedule of inspections) and such has been provided in writing. It is the responsibility of the subdivider to schedule the appropriate inspections in advance so as not to interfere with construction. No improvements will be accepted without the written statement of the Town Engineer and Town Highway Superintendent. This statement shall in no way guarantee the Town's acceptance of the roadway upon completion.

**E. Proper Installation of Improvements**

If the Town Engineer shall find, upon inspection of the improvements, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, they shall so report to the



Town Board, Building Inspector and Planning Board. The Town Board shall then notify the subdivider that the deficiencies must be corrected within forty-eight (48) hours of notice. No plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved Plat.

**F. Posting of Maintenance Bond**

Before the Planning Board grants final approval of the Subdivision plat, the subdivider shall file with the Town Clerk either a certified check or a maintenance bond to cover the costs of any required repairs to the improvements installed for a period of two (2) years. Any such bond shall be satisfactory to the Town Board, Town Engineer and Town Attorney as to form, sufficiency, manner of execution and surety. The amount of the maintenance bond shall be determined by the Town Board in consultation with the Town Engineer and shall reflect approximately twenty percent (20%) of the cost of the improvements as estimated by the Town Engineer. Such estimate shall be based upon standard unit costs which include considerations for prevailing wage rates.

## **Section 6 Filing Approved Subdivision Plat**

**A. Final Approval and Filing**

Upon completion of the requirements in Sections 4 and 5 above and notation to that effect upon the Subdivision Plat, it shall be deemed to have final approval and shall be properly signed by the appropriate officer of the Planning Board (Chairman or Acting Chairman) and may be filed by the applicant in the Office of the County Clerk. Any Subdivision Plat not so filed or recorded within ninety (90) 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, unless the particular circumstances of said applicant warrant the Planning Board to grant an extension which shall not exceed two additional periods of ninety (90) days.

**B. Plat Void if Revised After Approval**

No changes, erasures, modifications 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 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.

## **Section 7 Public 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 the 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**

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter. The said standards shall be considered to be minimum requirements and shall be waived by the Board only under circumstances set forth in Article V herein.

### **Section 1      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 flood, fire or other menace.

#### **B.      Conformity to Official Map and 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 the Town specifications, which may be obtained from the Town Engineer.

### **Section 2      Street Layout**

#### **A.      Width, Location and Construction**

Streets shall be of sufficient width, suitably located and adequately constructed to conform with the Comprehensive Plan, and to accommodate the prospective traffic and afford access for firefighting, 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.

#### **B.      Arrangement**

The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions, and for proper 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, topography or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.

#### **C.      Minor Streets**

Minor streets shall be so laid out that their use by through traffic will be discouraged.

#### **D.      Special Treatment Along Major Arterial Streets**

When a subdivision abuts or contains an existing or proposed major arterial street, the Board may require marginal access streets, vegetative screening along any reverse frontage or double frontage lots, vegetative screening along rear property lines, deep lots with rear service alleys, or such other treatment as may be necessary at the discretion of

the Planning Board for adequate protection of residential properties and to afford separation of through and local traffic.

**E. Provision for Future Resubdivision**

Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which the subdivision is located, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements in these regulations.

In order to protect the town from applicants circumventing regulations for major subdivisions through the piecemeal, incremental approach of smaller subdivisions over time, a 5-year look-back period shall be applied to all subdivision applications by the Planning Board. In determining whether a proposed subdivision qualifies as a major or minor subdivision, the Planning Board shall count the number of lots created from a single, parent parcel within the previous five years prior to the date an application for subdivision approval has been submitted to the Planning Board. The Planning Board may expand the look-back period to up to 10 years where, as explained in writing by the Planning Board, circumstances of the particular subdivision proposal warrant.

**F. Dead-End Streets**

Dead end streets shall not be created to provide access to residential lots except in situations where, in the view of the Planning Board, a through street cannot reasonably be provided due to the physical characteristics of the subdivision and surrounding lands, or where a feasible future planned connection to adjoining properties can be shown. Dead-end streets are discouraged because they can create unsafe conditions where emergency responders are unable to access a property because there is no alternative route in cases where the road may be blocked or impassable. Through streets are strongly encouraged because they allow alternative access for emergency vehicles and provide route options which generally reduce the amount of traffic exiting onto a collector street from the same intersection.

- (1) Where a dead-end street is authorized, either as a permanent dead-end street or as a temporary dead-end street pending future completion of a through road network, such road segment shall not exceed 500 linear feet or serve as access to more than twelve (12) residential lots.
- (2) Where needed or desirable, the Planning Board may require the reservation of an easement to provide for the future continuation of the road and/or pedestrian traffic and utilities to the next street.
- (3) Where dead-end streets are designed to remain permanently unconnected, they shall terminate in a circular turn-around having a minimum right-of-way radius of sixty (60) feet and pavement radius of fifty (50) feet. The number of driveways gaining access from the circular turn-around area shall be limited to no more than three. Easement(s) shall be provided along the circular turn-around area for snow removal purposes. The Planning Board shall obtain the recommendation of the Town Highway Superintendent with regard to the size and placement of the snow easements.
- (4) Where dead-end streets are designed to remain temporarily unconnected, a temporary turn-around with a pavement radius of fifty (50) feet shall be provided, unless the Planning Board approves an alternate agreement. The Plat shall show provisions for reversion of the area outside of the required right-of-way to the adjacent landowners when the cul-de-sac is eliminated.

**G. Block Size**

The Planning Board should consider the general size, scale and character of a subdivision when considering the arrangement of parcels into different blocks separated by local streets. Neighborhood blocks in some communities can sometimes vary between 400 to 1200 feet in length, with block widths typically formed by the depth of two back-to-back lots. However, such rigid structure may not always be appropriate within the more rural and casual environment of Clermont. The Planning Board is encouraged to seek flexibility in lot arrangement which is in keeping with the scale and character of the proposed development, especially within Conservation Subdivisions, and may require the reservation of a twenty (20) foot wide easement through 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 (4) foot wide paved foot path be included.

**H. Intersections with Collector and Major Arterial Roads**

Minor or secondary street openings into such roads shall, in general, be at least 500 feet apart.

**I. Street Jogs**

Street jogs with center line offsets of less than 125 feet shall be avoided.

**J. Angle of Intersection**

In general, all streets shall join each other so that for a distance of at least 100 feet the street is approximately at right angles to the street it joins.

**K. 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.

**L. Other Required Streets**

Where a subdivision borders on or contains a railroad right-of-way or 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, at a distance suitable for the appropriate use of the intervening land (as for park purposes in residential district, or for commercial or industrial purposes in appropriate districts). Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

## Section 3 Street Design

### A. Widths of Rights-of-Way

Streets shall have the following widths. (When not indicated on the Official Map, if such exists, the classification of streets shall be determined by the Planning Board.):

	Minimum Right-of-Way Width	Minimum Pavement Width
Major Streets	66 feet	44 feet
Collector Streets	60 feet	30 feet
Local Streets	50 feet	22 feet

### B. Improvements

Streets should be graded and improved with pavements, curbs and gutters, sidewalks, storm drainage facilities, water mains, sewers, street lights and signs, street trees and fire hydrants except where waivers may be requested, and the Planning Board may waive, subject to appropriate conditions, such improvements 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 Planning Board. The Town Engineer shall review and give recommendations with regard to design and specifications for such grading and improvements.

- (1) Fire Hydrants and Stand Pipes. Installation of fire hydrants and stand pipes shall be in conformance with all requirements of standard thread and nut as specified by the New York Fire Insurance Rating Organization and the Division of Fire Safety of the State of New York.
- (2) Street & Pedestrian Lighting Facilities. Lighting facilities, if provided, shall be in conformance with the lighting system of the Town and are encouraged to meet the International Dark Sky Association (IDA) guidelines of utilizing fully-shielded or full cutoff fixtures to reduce light trespass, glare and skyglow; utilizing appropriate lighting levels only as needed for conditions; and utilizing lighting color temperature which is approximately 3,000 Kelvin.

Recommended Illumination Levels - (Measured in footcandles (fc) at ground level)		
	Average	Maximum
Sidewalks	0.2 fc	3 fc
Local Street	0.4 fc	5 fc

Such lighting standards and fixtures shall be installed after approval by the appropriate power company and the authorized Town electrical inspector.

- (3) Street Trees. Trees shall not be permitted to be planted within the right-of-way of any town road where they would interfere with current or future underground or overhead utilities.

### C. 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.

**D. Utility Easements**

Where topography is such 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 by the Planning Board.

**E. Grades**

Grades of all streets shall conform in general to the terrain, and shall not be less than one-half (1/2) nor more than six (6) percent grade for major or collector streets, or ten (10) percent grade for minor streets in residential zones, but in no case more than three (3) percent grade within fifty (50) feet of any intersection.

**F. Changes in Grade**

All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the Town Engineer so that clear visibility shall be provided for a safe distance.

**G. 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.

**H. Steep Grades and Curves; Visibility at Intersections**

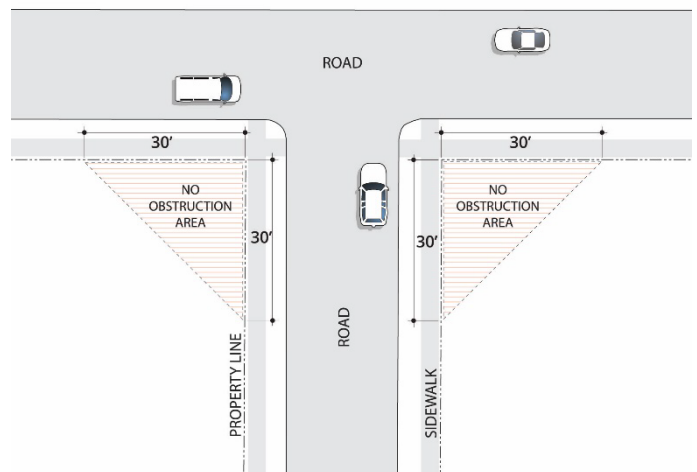
A combination of steep grades and curves shall be avoided. In order to provide visibility for traffic safety, no fences, vegetation (except isolated trees) or other obstructions over three (3) feet in height are permitted at corner intersections within a triangular area measuring thirty (30) feet from the corner lot line along either road, as illustrated in Sketch 'A'. If directed by the Planning Board with recommendation from the Town Engineer, ground shall be excavated to achieve visibility.

**I. 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 Engineer. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way as recommended by the Town Engineer and required by the Planning Board, and in no case less than twenty (20) feet wide.

**J. Curve Radii**

In general, street lines within a block, deflecting from each other at any one point by more than ten (10)



*Sketch A - Corner Visibility Clearances*

degrees, shall be connected with a curve, the radius of which for the centerline of street shall not be less than 400 feet on major streets, 200 feet on collector streets and 100 feet on minor streets.

**K. 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, suitably surfaced, shall be provided in connection with lots designed for commercial use.

**L. 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 traffic without interference by parked or parking vehicles, and to provide adequate and safe parking space for such commercial or business district.

## **Section 4 Street Names**

**A. Type of Name**

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. All street names and numbering shall also conform to the County 911 system. This shall be verified by the local Fire Department prior to approval by the Planning Board. Generally, no street should change direction by more than ninety (90) degrees without a change in street name. Street signs shall be installed by the developer as part of the required improvements.

## **Section 5 Lots**

**A. Lots to be Buildable**

The lot arrangement shall be such that in constructing a building in compliance with the Zoning Ordinance, there will be no foreseeable prohibitions to development for reasons of soils, topography or other natural conditions, including the presence of wetlands and flood plain areas. Lots should not be of such depth as to encourage the later creation of a second building lot at the front or the rear.

**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 grade lines shall conform to specifications of the Town driveway ordinance, if one exists. Driveway grades between the street and the setback line shall not exceed ten (10) percent.

Developer shall so design, layout and construct all driveways both within and without the limits of the rights-of-way without difficulty. Where a driveway is to be constructed as part of a new or recently developed subdivision, the driveway shall be constructed in full conformance with the approved subdivision plans upon obtaining a driveway permit from the Superintendent of Highways. For existing approved lots, or for improvements to any existing driveway, the driveway shall be constructed in accordance with these specifications. Any improvements such as regrading or paving of an existing driveway within the Town R-O-W shall also require a driveway permit. All new driveways or improvements to existing driveways which can be directly accessed from a State or County road shall require approval by the appropriate State or County agency prior to any construction or improvement.

#### **E. Monuments and Lot Corner Markers**

Permanent monuments meeting specifications approved by the Town Engineer as to size, type and installation, shall be set at every property corner as it intersects the right-of-way or at intervals of two hundred feet (200'), whichever is less. Iron pins, one-half inch in diameter and twenty-four (24) inches long, with no more than six inches exposed above grade, shall be installed at all other angle points, corners and points along the individual property boundaries as required by the Planning Board based upon the recommendation of the Town Engineer. The location of all pins and monuments shall be shown on the Subdivision Plat.

### **Section 6 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 run-off from its entire upstream drainage area, whether inside or outside the subdivision. The Town Engineer shall approve the design and size of facility based on anticipated run-off from a "twenty-five (25) year" storm under conditions of total potential development permitted by the Zoning Ordinance in the watershed.

#### **C. Responsibility from Drainage Downstream**

The subdivider's engineer shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; this study shall be reviewed by the Town Engineer. Where it is anticipated that the additional run-off incident to the development of the subdivision will overload an existing downstream drainage facility during a twenty-five (25) 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.

## **Section 7     Parks, Open Spaces, School Sites and Natural Features**

### **A.     Recreation Areas Shown on Town Plan**

Where a proposed park, playground or open space shown on the Town Plan, if such exists, is located in whole or in part in a subdivision, the Board shall require that such area or areas be shown on the Plat in accordance with the requirements specified in paragraph (8) below. Such area or areas may be dedicated to the Town or County by the subdivider if the Town Board approves such dedication.

### **B.     Parks and Playgrounds Not Shown on Town Plan**

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.

The Board shall require that not less than three (3) acres of recreation space be provided per 100 dwelling units shown on the Plat. However, in no case shall the amount be more than ten (10) percent of the total area of the subdivision. Such area or areas may be dedicated to the Town or County by the subdivider if the Town Board approves such dedication.

### **C.     Information to be Submitted**

In the event that an area to be used for a park or playground is required to be shown, the subdivider shall submit, prior to final approval, to the Board, three prints (one on mylar) drawn in ink showing, at a scale of not less than fifty (50) feet to the inch, 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 and structures.
- (3) Existing, and, if applicable, proposed changes in grade and contours of the said area and of area immediately adjacent.

### **D.     Waiver of Plat Designation of Areas 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 recreational 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 Board shall then require as a condition to approval of the Plat a payment to the Town for a set fee per lot, as per the schedule of fees determined by the Town Board. 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 Article V, Section 7.B.

Such amount shall be paid to the Town Board at the time of final Plat approval, and no Plat shall be signed by the authorized officer of the Planning Board until such payment is made. All such payments shall be held by the Town

in a special Town Recreation Site Acquisition and Improvement Trust .Fund to be used for the acquisition of land that (a) is suitable for permanent park, playground or other recreational purposes, and (b) is so located that it will serve primarily the general neighborhood in which the land covered by the Plat lies, and (c) shall be used only for park, playground or other recreational land acquisition or improvement. Such money may also be used for the physical improvement of existing parks or recreation areas serving the general neighborhood in which the land shown on the Plat is situated, providing the Planning Board finds there is a need for such improvements.

**E. School Sites**

Upon receipt from the School Board of a letter declaring their interest in a school site of a specific size and location within a proposed subdivision, the Planning Board may require a subdivider to set aside such area. Upon the failure of the proper authorities to purchase such school site within thirty-six (36) months after the date of the approval of the Plat. the subdivider, upon application to the Planning Board and approval of such application, shall be relieved of the responsibility of showing such land for public purposes.

**F. 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.

**G. Preservation of Natural Features**

The Planning Board shall, whenever possible, establish the preservation of all natural features which add value to residential developments and to the community, such as large trees or groves, water courses 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      DOCUMENTS TO BE SUBMITTED**

### **Section 1      Sketch Plan**

- A. The Sketch Plan initially submitted to the Planning Board shall be based on tax map information or some other similarly accurate base map at a scale (preferably not less than 200 feet to the inch) to enable the entire tract to be shown on one sheet. In addition to the required Environmental Assessment Form (EAF) and appropriate application forms, the Sketch Plan shall be submitted, showing the following information:
- (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, sewage disposal systems, wells, wooded areas, streams and other significant physical features, within the subject property. If topographical conditions are significant, contours shall also be indicated at intervals of not more than ten (10) feet.
  - (3) All existing structures, sewage disposal systems, wells, wooded areas, streams and other significant physical features on adjacent parcels within 200 feet of the subject property.
  - (4) The name of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records.
  - (5) The tax map sheet, block and lot numbers, if available.
  - (6) All the utilities available, and all streets which are either proposed, mapped or built.
  - (7) The proposed pattern of lots (including lot width and depth), street layout, recreation areas, systems of drainage, sewerage, and water supply (See Section 2-A) within the subdivided area. The required setback lines shall also be shown and the potential house location, driveway and turn-around shall be indicated.
  - (8) All existing restrictions on the use of land including easements, covenants, or zoning lines. Copies of deeds shall be submitted for information.

### **Section 2      Minor Subdivision Plat**

- A. In the case of Minor Subdivision ONLY, the Subdivision Plat application shall include the following information:
- (1) A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
  - (2) 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 the tract shall also be located on the ground and marked by monuments as approved by the Town Engineer, and shall be referenced and shown on the Plat.
  - (3) All on-site sanitation and water supply facilities shall be meet the requirements of and be approved by the Columbia County Department of Health. The seal and signature of the County Health Department representative shall be provided on the plans.
  - (4) Proposed subdivision name, name of the Town and County in which it is located.

- (5) The date, north point, map scale, name and address of record owner and subdivider.
- (6) The Plat to be filed with the County Clerk shall be printed upon mylar or acceptable substitute. The size of the sheet shall be 22 by 34 inches.
- (7) The approval of the Town Highway Superintendent for all driveways and/or roads gaining access on an existing or proposed town road shall be obtained prior to approval.

### **Section 3 Major Subdivision Preliminary Plat**

The following documents shall be submitted for Conditional Approval:

- A. Five copies of the preliminary plat prepared at a scale of not more than one hundred (100) but preferably not less than (50) feet to the inch, showing:
  - (1) Proposed subdivision name, name of Town and County in which it is located, date, true north point, 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 district, and any proposed changes in the zoning district lines and/or the zoning ordinance text applicable to the area to be subdivided.
  - (4) All the parcels of land proposed to be dedicated to public use and the conditions of such dedication.
  - (5) Location of existing property lines, easements, buildings, water courses, marshes, rock outcrops, wooded areas, single trees with a diameter of eight (8) inches or more as measured three (3) feet above the base of the trunk, and other significant existing features for the proposed subdivision and all adjacent property.
  - (6) Location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
  - (7) Contours with intervals of five (5) feet or less as required by the Board, including elevations on 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, if such exists, 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, 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 proposed 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 sub-base, the location of manholes, basins and underground conduit.

- (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 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 which shall provide satisfactory access to an existing public highway or public open space shown on the subdivision 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 the tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the Town Engineer, and shall be referenced and shown on the Plat.
- B. If the application covers only part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than 400 feet to the inch showing an outline of the platted area with its proposed streets and indication of the probable future street system with its grades and drainage in the remaining portion of the tract and the probable future drainage layout of the entire tract shall be submitted. The part of the subdivider's entire holding submitted shall be considered in the light of the entire holdings.
- C. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.

#### **Section 4 Major Subdivision Plat**

The following documents shall be submitted for Plat approval:

- A. The Plat to be filed with the County Clerk shall be printed to scale on sheets 22 by 34 inches in size, including a margin for binding of two inches, outside of the border, along the left side and a margin of one inch outside of the border along the remaining sides. The Plat shall be drawn at a scale of no more than 100 feet to the inch and oriented with the north point at the top of the map. When more than one sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible. The Plat shall show the following:
- (1) Proposed subdivision name or identifying title and the name of the Town and County in which the subdivision is located. the name and address of record owner and subdivider, name, license number and seal of the licensed land surveyor.
  - (2) Street lines, pedestrian ways, lots reservations, easements and areas to be dedicated to public use.
  - (3) Sufficient data acceptable to the Town Engineer to determine readily the location, bearing and length of every street line, lot line and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the State system of plane coordinates, and in any event should be tied to reference points previously established by a public authority.
  - (4) The length and bearing of all straight lines, radii, length of curves and central angles of all curves, tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The Plat will show the boundaries of the property, location, graphic scale and the true north point.

- (5) The Plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the Subdivision Plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefor.
- (6) All offers of cessation and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
- (7) Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing Town practice.
- (8) Permanent reference monuments shall be shown, and be constructed in accordance with specifications of the Town Engineer. When referenced to the State system of plane coordinates, they shall also conform to the requirements of the State Department of Transportation. They shall be placed as required by the Town Engineer and their location noted and referenced upon the Plat.
- (9) All lot corner markers shall be permanently located satisfactorily to the Town Engineer, at least three-quarters (3/4) inches (if metal) in diameter and at least 24 inches in length, and located in the ground to existing grade.
- (10) Monuments of a type approved by the Town Engineer shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Town Engineer .
- (11) An as-built plan shall be submitted to the satisfaction of the Planning Board, indicating the location of all improvements, including monuments marking all underground utilities as actually installed. Said map shall be submitted prior to final approval of the Subdivision Plat.

## **ARTICLE VII COMPLIANCE WITH OTHER LAWS AND REGULATIONS**

### **Section 1 State Environmental Quality Review Act (SEQRA)**

All applications must comply with the regulations for the State Environmental Quality Review Act (SEQRA), Title 6 NYCRR Part 617, or any regulations adopted by the Town pursuant thereto.

### **Section 2 Agriculture and Markets Law**

Any application for subdivision approval must comply with the provisions of the Agriculture and Markets Law. The following shall apply:

A. Any application for subdivision approval that would occur on property within an agricultural district containing a farm operation or on property within five hundred (500) feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The planning board shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district. The agricultural data statement shall be completed on forms supplied by the planning board and shall be submitted with the subdivision application.

B. Upon receipt of such application by the planning board, the clerk of such board shall mail written notice of such application to the owners of land identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notices required for the application. The cost of mailing said notice shall be borne by the applicant.

C. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within five hundred (500) feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified within the agricultural data statement.

D. For the purposes of this article, the following definitions are provided, but shall be superseded by any more recent Agriculture and Markets Law definitions (AGM Chapter 69, Article 25-AA, Section 301):

"Commercial horse boarding operation" means an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

"Crops, livestock and livestock products" shall include but not be limited to the following:

- a. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
- b. Fruits, including apples, peaches, grapes, cherries, berries and tree nuts.
- c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.

- e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, wool bearing animals, such as alpacas and llamas, milk, eggs and furs.
- f. Maple sap.
- g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
- h. Aquaculture products, including fish, fish products, water plants and shellfish.
- i. Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.
- j. Apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs and queens. For the purposes of this paragraph, "nucs" shall mean small honey bee colonies created from larger colonies including the nuc box, which is a smaller version of a beehive, designed to hold up to five frames from an existing colony.
- k. Actively managed log-grown woodland mushrooms.
- l. Industrial hemp as defined in section five hundred five of this [Ag & Markets] chapter.

"Farm operation" means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of this section [of Ag & Market Law], a "timber operation" as defined in subdivision fourteen of this section [of Ag & Market Law], "compost, mulch or other biomass crops" as defined in subdivision seventeen of this section [of Ag & Market Law] and "commercial equine operation" as defined in subdivision eighteen of this section [of Ag & Market Law]. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

"Farm woodland" means land used for the production of woodland products intended for sale, including but not limited to logs, lumber, posts and firewood. Farm woodland shall not include land used to produce Christmas trees or land used for the processing or retail merchandising of woodland products.

"Land used in agricultural production" means not less than seven acres of land used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more; or, not less than seven acres of land used in the preceding two years to support a commercial horse boarding operation or a commercial equine operation with annual gross receipts of ten thousand dollars or more.

Land used in agricultural production shall not include land or portions thereof used for processing or retail merchandising of such crops, livestock or livestock products. Land used in agricultural production shall also include:

- a. Rented land which otherwise satisfies the requirements for eligibility for an agricultural assessment.
- b. Land used by a not-for-profit institution for the purposes of agricultural research that is intended to improve the quality or quantity of crops, livestock or livestock products. Such land shall qualify for an agricultural assessment upon application made pursuant to paragraph (a) of subdivision one of section three hundred five of this [Ag & Markets] article, except that no minimum gross sales value shall be required.
- c. Land of not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products, exclusive of woodland products, which does not independently satisfy the gross sales value requirement, where such land was used in such production for the preceding two years and currently is being so used under a written rental arrangement of five or more years in conjunction with land which is eligible for an agricultural assessment.



- d. Land used in support of a farm operation or land used in agricultural production, constituting a portion of a parcel, as identified on the assessment roll, which also contains land qualified for an agricultural assessment. Such land shall include land used for agricultural amusements which are produced from crops grown or produced on the farm, provided that such crops are harvested and marketed in the same manner as other crops produced on such farm. Such agricultural amusements shall include, but not be limited to, so-called "corn mazes" or "hay bale mazes".
- e. Farm woodland which is part of land which is qualified for an agricultural assessment, provided, however, that such farm woodland attributable to any separately described and assessed parcel shall not exceed fifty acres.
- f. Land set aside through participation in a federal conservation program pursuant to title one of the federal food security act of nineteen hundred eighty-five or any subsequent federal programs established for the purposes of replenishing highly erodible land which has been depleted by continuous tilling or reducing national surpluses of agricultural commodities and such land shall qualify for agricultural assessment upon application made pursuant to paragraph a of subdivision one of section three hundred five of this article, except that no minimum gross sales value shall be required.
- g. Land of not less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more, or land of less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more.
- h. Land under a structure within which crops, livestock or livestock products are produced, provided that the sales of such crops, livestock or livestock products meet the gross sales requirements of paragraph g of this subdivision.
- i. Land that is owned or rented by a farm operation in its first or second year of agricultural production, or, in the case of a commercial horse boarding operation in its first or second year of operation, that consists of (1) not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more; or (2) less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of fifty thousand dollars or more; or (3) land situated under a structure within which crops, livestock or livestock products are produced, provided that such crops, livestock or livestock products have an annual gross sales value of (i) ten thousand dollars or more, if the farm operation uses seven or more acres in agricultural production, or (ii) fifty thousand dollars or more, if the farm operation uses less than seven acres in agricultural production; or (4) not less than seven acres used as a single operation to support a commercial horse boarding operation with annual gross receipts of ten thousand dollars or more.
- j. Land of not less than seven acres used as a single operation for the production for sale of orchard or vineyard crops when such land is used solely for the purpose of planting a new orchard or vineyard and when such land is also owned or rented by a newly established farm operation in its first, second, third or fourth year of agricultural production.
- k. Land of not less than seven acres used as a single operation for the production and sale of Christmas trees when such land is used solely for the purpose of planting Christmas trees that will be made available for sale, whether dug for transplanting or cut from the stump and when such land is owned or rented by a newly established farm operation in its first, second, third, fourth or fifth year of agricultural production.
- l. Land used to support an apiary products operation which is owned by the operation and consists of (i) not less than seven acres nor more than ten acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more or (ii) less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more. The land used to support an apiary products operation shall include, but not be limited to, the land under a structure within which apiary products are produced, harvested and stored for sale; and a buffer area maintained by the operation between the operation and adjacent landowners. Notwithstanding any other provision of this subdivision, rented land associated with an apiary products operation is not eligible for an agricultural

assessment based on this paragraph.

- m. Land that is owned or rented by a farm operation in its first or second year of agricultural production or in the case of a commercial equine operation, in its first or second year of operation, that consists of not less than seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing.
- n. Land used in silvopasturing shall be limited to up to ten fenced acres per large livestock, including cattle, horses and camelids, and up to five fenced acres per small livestock, such as sheep, hogs, goats and poultry. For the purposes of this subdivision, "silvopasturing" shall mean the intentional combination of trees, forages and livestock managed as a single integrated practice for the collective benefit of each, including the planting of appropriate grasses and legume forages among trees for sound grazing and livestock husbandry.
- o. Land of not less than seven acres used as a single operation for the production for sale of hops when such land is used solely for the purpose of planting a new hopyard and when such land is also owned or rented by a newly established farm operation in its first, second, third or fourth year of agricultural production.
- p. Land of not less than seven acres used as a single operation for the production for sale of tree nuts when such land is used solely for the purpose of planting a new tree nut orchard and when such land is also owned or rented by a newly established farm operation in its first, second, third, fourth, fifth or sixth year of agricultural production.

### **Section 3 Compliance with Other Laws and Regulations**

All subdivision plats shall conform to all other applicable laws, codes and regulations whether or not specifically referenced herein.

## **ARTICLE VIII    VARIANCES AND WAIVERS**

### **Section 1**

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 Ordinance, if such exist.

### **Section 2**

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.

### **Section 3**

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

## **ARTICLE IX    SEPARABILITY**

### **Section 1**

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.