

TOWN OF VIENNA

SUBDIVISION LAW

LOCAL LAW NO. 2 OF 1993

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# Part A

## General Information

## **ARTICLE 1. INTRODUCTION**

### **Section 105. Title**

This law shall be known and may be cited as the “Town of Vienna Subdivision Law.”

### **Section 110. Authority**

By the authority of Article 2 and 3 of Municipal Home Rule Law and Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Vienna is authorized and empowered to approve preliminary and final plats of subdivisions showing lots, blocks or sites with or without streets or highways, within that part of the Town of Vienna outside the limits of any incorporated village, and to approve the development of plats entirely or partially undeveloped, which were filed in the office of the county clerk prior to the appointment of the planning board and the grant to the planning board of the power to approve plats.

### **Section 115. Declaration of Policy**

It is the policy of the Town of Vienna 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, access, and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties, and consistent with the purpose and intent of the Town of Vienna Zoning Law; that the proposed roads shall compose a convenient system properly related to the proposals shown on the master/comprehensive plan, 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; that proper provision shall be made for open spaces for parks and playgrounds; and that environmental conservation and agricultural district impacts are evaluated where applicable.

### **Section 120. Previous Regulations**

This law shall replace and supersede the Town of Vienna Subdivision Regulations adopted by the planning board on July 24, 1973 and approved by the town board on August 1, 1973.

### **Section 125. Definitions**

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

***Agricultural Data Statement:*** An identification of land used for agricultural purposes, such as land used in agricultural production, farm buildings, equipment and farm residential buildings which are within an agricultural district and which are also located within 500 feet of the boundary of property upon which a subdivision of land is proposed; pursuant to Town Law Section 283-a.

***Agricultural District:*** A district as established pursuant to the provisions of Agricultural and Markets Law Article 25-AA

***Cluster Development:*** A form of development for subdivisions that permits a reduction in lot area requirements for some or all lots in a tract, provided there is no increase in the number of lots permitted under a conventional subdivision, and where the resultant land is either:

1. Devoted to permanent open space, or
2. Is permanently combined with the remainder of the lots, where only some of the lots are reduced in area.

**Easement:** An authorization by a property owner for the use by another, and for a specific purpose, of any designated part of a property.

**Lot:** A designated parcel or tract of land established by plat, subdivision, or as otherwise permitted by law, to be developed or built upon as a unit.

**Parcel:** Any area of land established by plat, subdivision, or as otherwise permitted by law, regardless of whether it is defined as a “lot” or whether it is to be developed or built upon as a unit.

**Planning Board:** The Town of Vienna Planning Board.

**Plat:** A map of a subdivision.

**Plot Plan:** A surveyor’s plat constructed from deed descriptions and actual physical building or improvement measurements.

**Reallotment:** The relocation of lot lines of any lot or parcel, the deed to which was previously recorded in the office of the county clerk; but not including conveyances made so as to combine existing lots by deed or other instrument.

**Resubdivision:** The further division of lots or parcels.

**Road, Private:** Any driveway, right-of-way, or vehicular access which is not intended to be used by the public.

**Road, Public:** Any vehicular way which:

1. Is an existing state, county or town roadway; or
2. Is shown upon a plat approved pursuant to law as a public road; or
3. Is approved by other official action; or
4. Is shown on a plat duly filed in the office of the county clerk prior to the grant of plat approval authority to the planning board; and includes the land between the road lines, whether improved or unimproved.

**Subdivider:** Any person, firm, corporation, partnership or association, or their agent, who shall cause a parcel of land to be divided.

**Subdivision:** The division of any parcel of land into two or more lots or parcels, including any remainder of the original parcel, with or without roads, and including reallotment and resubdivision; except that the division of a parcel of land into two to six lots or parcels, none of which are smaller than 10 acres each and which does not involve any new public road or access easement shall not constitute a subdivision under the terms of this law.

**Subdivision, Major:** A subdivision not classified as a minor subdivision.

**Subdivision, Minor:** A subdivision containing two or to six lots or parcels, and not involving:

1. The creation of any new public road
2. The dedication of public lands
3. The extension of municipal facilities or other structural public improvements other than minor drainage facilities, or
4. The set-aside of public open space through cluster development.

**Substandard Lot / Parcel:** Any lot or parcel of land which does not meet the lot size or frontage requirements of the zoning law.

**Town Board:** The Town Board of the Town of Vienna.

**Undeveloped Plat:** A plat where 20 percent or more of the lots within the plat are unimproved unless existing conditions, such as poor drainage, have prevented their development.

**Zoning Law:** Zoning Law of the Town of Vienna adopted by Local Law No. 1 of 1991, effective January 1, 1992, as subsequently amended.

### **SECTION 130. FEES**

1. Fees for minor and major subdivision reviews shall be as established in the Town of Vienna Fee Schedule, adopted on 8 January, 1992, as amended and in effect at the time of application.
2. The planning board may retain consulting services from engineers, architects, landscape architects, lawyers, planners or other professional services during the course of subdivision plat reviews conducted pursuant to this law. The subdivider shall pay any actual costs attributable to a consultant's review of an application. The planning board may require a subdivider to deposit such funds as may be necessary to pay for these services with the town in advance.

### **SECTION 135. SEPARABILITY**

In any clause, sentence, subsection, section, article, or part of this law be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision section, article, or part thereof directly involved in the controversy in which said judgment shall have been rendered.

### **SECTION 140. VIOLATIONS AND PENALTIES**

1. Any violation of this law is an offense punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense of which were committed within a period of five years, punishable by a fine not less than \$750 nor more than \$1000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
2. The town board may institute any appropriate action or proceedings to prevent unlawful division of land, to restrain, correct or abate any violation of this law, or to prevent the use or occupancy of said land; and upon the refusal of the town board to institute any such appropriate action or proceeding for a period of ten days after written request by a resident taxpayer of the town so to proceed, any three taxpayers of the town residing in the zoning district wherein the violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as such town board is authorized to do.
3. Unlawful divisions of land are subject to the provisions of Section 1530 of the Town of Vienna Zoning Law, Local Law No. 2 of 1991, effective 1 January 1992.

### **SECTION 145. SUBDIVISION PROCESS**

Proposed subdivisions shall be determined by the planning board to be either minor or major as defined in Section 125 above, and shall comply with all applicable application requirements, review procedures and design standards contained herein. The subdivision review procedure shall be as defined herein, and consist of the following summary actions:

**MINOR SUBDIVISION:**

1. Sketch plan conference (optional, however recommended)
2. Submission of application for final plat approval.  
OR  
Optional reallocation procedure followed.
3. Planning board review.
4. Public hearing.
5. Planning board action on final plat.
6. Filing of plat in office of county clerk by subdivider.

**MAJOR SUBDIVISION:**

1. Sketch plan conference (optional, however recommended)
2. Submission of application for preliminary plat approval.
3. Planning board review.
4. Public hearing.
5. Planning board action on preliminary plat.
6. Submission of application for final plat approval.
7. Planning board review.
8. Public hearing (optional, based on preliminary plat action).
9. Planning board action on final plat.
10. Filing of plat in office of county clerk by subdivider.

**ARTICLE 21. EFFECTIVE DATE**

**Section 2110.**

This Local Law shall take effect upon filing in the Office of the Secretary of State and upon filing in the Office of the Town Clerk of the Town of Vienna.

**PART B**  
**MINOR SUBDIVISIONS**

**ARTICLE 2. MINOR SUBDIVISION REVIEW PROCEDURE**

**SECTION 210. REVIEW PROCEDURE**

All applicants for minor subdivision review and approval shall follow the procedures of this article in meeting the intent of Section 115.

**SECTION 220. SKETCH PLAN CONFERENCE**

All potential subdividers are encouraged to meet with the planning board prior to the submission of a formal application for a minor subdivision approval. Such a meeting may be used to expedite the review process by allowing the planning board and the applicant to be advised of the following:

1. The potential classification of the subdivision as minor or major,
2. The requirements under the State Environmental Quality Review Act,
3. The possibility of a need for county planning board review under General Municipal Law Section 239-n,
4. The possible involvement of other County or State agencies in the review process,
5. The determination of wetlands and floodplains, and
6. The need for an agricultural data statement.

**SECTION 230. APPLICATION PROCEDURE**

The review procedure for a minor subdivision shall consist of a final application approval.

**SECTION 235. REALLOTMENTS**

In cases of reallotments which involve less than four lots, and which are judged by the planning board to include no significant movement of lot lines, the planning board may waive the subdivision review process as contained in this law. Such realottment may be approved by the planning board as follows:

1. The applicant shall submit two copies of a plot plan, a completed application, and all application fees to the planning board.
2. The planning board may approve, approve with modifications, or disapprove the proposed reallotment.
3. The applicant shall record legal descriptions (deeds) in the Office of the County Clerk. The planning board shall additionally file any approved plot plan reallotment with the town clerk within 62 days of approval.
4. Parcel fragments created by this section shall be combined to form a more conforming lot prior to building, or to structural or sanitary improvements.

**ARTICLE 3. FINAL APPLICATION APPROVAL FOR MINOR SUBDIVISION**

**Section 305. Submission of Application**

All application and fees for minor subdivision final approval shall be submitted by the subdivider to the planning board at least 10 days prior to the meeting at which it is to be considered. The application shall contain all items as required in Article 4 of these regulations. The subdivider shall also bear the cost of mailing any agricultural data statements, if required.

**Section 310. Acceptance of Completed Application**

The planning board shall consider the application for completeness, and shall

- 1) Classify the subdivision as minor or major,

- 2) Make a State Environmental Quality Review declaration of environmental significance pursuant to 6 NYCRR Part 617.
- 3) submit the application, where necessary, to the Oneida County Planning Board for a recommendation thereon, pursuant to General Municipal Law Section 239-n, and
- 4) Determine if the agricultural data statement, if required, be submitted to adjacent land owners and other planning agencies.

#### **Section 315. Official Submission Date**

The planning board shall establish an official submission date for the application. Such date shall be the date that all of the following have occurred:

- 1) The application has been accepted as complete, including all information required in Article 4 of these regulations,
- 2) A draft environmental impact statement has been prepared, where necessary, and
- 3) The recommendation of the Oneida County Planning Board has been received, where necessary, or 30 days have lapsed since the submission of the application to the county planning board.

#### **Section 318. Alternative Planning Board Action**

Where the application shows lots which are not in compliance with the zoning law, the planning board may refer the application to the zoning board of appeals for an area variance review prior to the commencement of the planning board review.

#### **Section 320. Public Hearing**

Following the review of the application and supplementary material submitted for conformity to these regulations, and following negotiations with the subdivider on changes deemed advisable, the planning board shall hold a public hearing. This hearing shall be held within 62 days of the official submission date of the application, as established Section 315 above. The subdivider shall attend the hearing. This hearing may also fulfill the requirements of the State Environmental Quality Review Act for the draft environmental impact statement, where such hearing may be required. The hearing shall be advertised at least once in a newspaper of general circulation in the town at least five days before the hearing.

#### **Section 325. Action on Application**

The planning board shall be resolution:

- 1) Grant final approval by the signature of the planning board chairman on the plat,
- 2) Conditionally approve, with or without modifications (see Section 330 below), or
- 3) Disapprove the application; within 62 days of the public hearing.

The time in which the planning board must take action may be extended by mutual consent of the subdivider and the planning board. The subdivider shall be notified of the final action of the planning board. If disapproved, the grounds for disapproval shall be stated in the record of the planning board, including reference to the provisions violated by the application.

#### **Section 330. Conditional Approval of Application**

The application shall be certified by the planning board within five days of conditional approval. A copy shall be filed with the planning board, and a copy provided to the subdivider along with a statement of the requirements that shall accompany the application which, when completed, will authorize the signing of the conditionally approved plat. Conditional approval of an application shall expire 180 days after the date of the resolution granting conditional approval. The planning board may extend the expiration time, not to exceed two additional periods of 90 days each.

**Section 335. Acceptance of Conditional Approval**

Upon planning board acceptance of the completion of the conditional approval requirements as stated in the conditional approval resolution, the planning board chairman shall sign the plat, granting final approval.

**Section 340. Filing of Plat**

The subdivider shall file the plat, or section thereof, in the Office of the Clerk of Oneida County, N.Y. within 62 days after the date of final approval; otherwise the plat shall be considered void and must again be submitted along with complete application and appropriate fees to the planning board for approval before filing in the Office of the Clerk of Oneida County, N.Y.

**Section 345. Modification of Designs After Approval**

If at any time it is demonstrated that unforeseen conditions make it necessary to modify the location or design of improvements required by the planning board, the planning board chairman may authorize such modifications, provided these modifications are within the spirit and intent of the planning board's approval and do not substantially alter the function of any such improvement required by the board. Any such authorization issued under this section shall be in writing and shall be reported to the planning board at the next regular meeting.

**ARTICLE 4. MINOR SUBDIVISION APPLICATION REQUIREMENTS**

**Section 410. General Application Requirements**

1. Two copies of the application form.
2. The nonrefundable application fee.
3. A certificate issued by the authorized town and county officials to the effect that there are no unpaid taxes due and payable at the time of application approval and no unpaid special assessments, whether of not due and payable at the time of plat approval, on any of the lands included in the plat.
4. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
5. An agricultural data statement.
6. The application for a minor subdivision shall consist of a minimum of five copies of the plat prepared at a scale of not more than 100 feet to the inch including all plat requirements specified in Section 420 below.
7. When applicable, a statement of the nature and extent of the interest of any state employee, or officer or employee of the town in the applicant pursuant to General Municipal Law Section 809.
8. An Environmental Assessment Form.

**Section 420. Plat Requirements**

1. Plats shall be prepared and drawn in conformity with Appendix A of these regulations.
2. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, the location and type of all monuments, and including elevation contours at USGAS intervals, minimum; made and certified to by a licensed land surveyor. The corners of the tract shall be referenced and shown on the plat.

3. The proposed pattern of parcels and lots with boundaries, including parcel and lot widths, depths, and areas within the subdivided area. Calculations of lot areas shall exclude public road areas.
4. The locations of all zoning front, side and rear yard lines; zoning district lines and the names of all applicable zones; floodplains; wetlands; and easements.
5. The plat to be filed with the County Clerk shall be printed upon linen or acceptable equal or be clearly drawn in India ink upon tracing cloth as per Real Property Law Section 334.
6. The plat shall be marked "final plat."
7. Any other specifications required by the planning board.

#### **Section 430. Waiver of Application Requirements**

The planning board may waive any of the application requirements listed in Article 4 where it deems that the information is either not applicable or necessary for a particular review.

### **ARTICLE 5. MINOR SUBDIVISION DESIGN STANDARDS**

#### **Section 505. General**

Land to be subdivided into lots shall be of such character that it can be used safely for building purposes without danger to public health or safety and shall be in harmony with the master/comprehensive plan, and the zoning law of the town. Parcels not of a character to be used safely for building purposes shall have a designated benefit such as, but not limited to access, parks, or natural areas. All required improvements shall be constructed and installed in conformance with town specifications.

#### **Section 510. Future Resubdivision**

Where land is subdivided into lots substantially larger than the minimum size required in the zoning district in which the subdivision is located, the lots shall be laid out so as to permit future resubdivision in accordance with the requirements contained in these regulations.

#### **Section 515. Lot Design**

1. All side lines of lots shall be generally at right angles to straight road lines and radial to curved road lines.
2. All parcels shall comply with the provisions of the zoning law, except that the planning board may, in unique circumstances, approve substandard parcels in the following circumstances:
  - a. For road or access rights-of-ways,
  - b. Where the parcel is intended to be used permanently for non-structural recreational purposes,
  - c. Where land is intended to be conveyed to an adjacent landowner for purposes of combination with an adjacent parcel,
  - d. Where the land is intended to be left permanently undeveloped, or
  - e. Where land is to be used for essential facilities as defined by the zoning law.

3. The planning board should encourage 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.
4. The lot arrangement shall be such that in constructing a building in compliance with the zoning law there will be no foreseeable difficulties for reasons of topography or other natural conditions.
5. Land subject to flooding or uninhabitable due to other hazardous conditions known to the planning board 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. Subdivided areas in flood hazard areas shall be subject to "Flood Damage Prevention" Local Law No. 1 of 1987, as subsequently amended.

**Section 520. Lot Access**

1. All lots shall be designed so as to allow for safe access.
2. All lots shall be designed so as to allow for the construction of driveways within the road right-of-way not exceeding a 10 percent grade.
3. When a watercourse a road from abutting lots, provision shall be made for access to all lots by means of culverts or other structures.

**Section 525. Utility Easements**

Where topography is such as to make impractical the inclusion of utilities within the road rights-of-way, perpetual unobstructed easements shall be otherwise provided with satisfactory access to the road. Such easements shall be cleared and graded where required.

**Section 530. Monuments**

Permanent monuments shall be set at the subdivision boundaries at all corners, and at such other points as required by the planning board. Such monuments shall be of either iron rods or pipes, or concrete.

**Section 535. Sewage and Water Supply**

All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the Oneida County Health Department.

**Section 540. Storm Water Management**

1. Spring or surface water shall be carried away by pipe or open ditch where required by the planning board. Drainage facilities shall be located in the road right-of-way where feasible, or in perpetually unobstructed easements of appropriate width.
2. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, a storm water easement of appropriate width shall be provided.
3. Culverts or other drainage facilities shall be sized to accommodate potential run-off from the entire upstream drainage area, whether inside or outside the subdivision, and shall be sized to accommodate a ten-year storm under conditions of total potential development permitted by the zoning law in the watershed.

4. Water shall not be discharged, retained or detained in such a way so as to negatively impact abutting or adjacent property.

#### **Section 545. Road Names**

All private roads shall be named and the names placed on the plat. Road names shall not be numbers or letters, except where numbering is made consistent with the existing road numbering system in the Oneida Lake shore area. Road names shall be selected so as not to be confused in sound or spelling with existing road names. Roads that join or align with roads of an abutting or neighboring property shall bear the same name. Generally, no road should change direction by more than 90 degrees without a change in name. Signs bearing road names shall be erected by the subdivider at all intersections.

### **ARTICLE 6. PERMISSIBLE MODIFICATION OF ZONING REGULATIONS**

#### **Section 610. Authority**

The planning board is authorized and empowered pursuant to Section 278 of the Town Law to modify certain provisions of the zoning law as allowed in Section 620 below, simultaneously with the approval of any subdivision application within the town.

#### **Section 620. Applicable Provisions**

The planning board may consider or require applications for minor subdivisions which include the following deviations from the zoning law for the following purposes:

1. To eliminate side and rear yard requirements to allow for innovative attached housing types;
2. To reduce side and rear yard requirements for existing structures where, in unique and special circumstances, it will result in the more efficient use of land;
3. To reduce road frontages to allow cu-de-sacs and in cases of density transfers as outlined in subsection 4 below;
4. To allow for the transfer of the overall density of a subdivision through allowing some parcels or lots smaller than the minimum lot size requirements of the zoning law, where all such reductions are compensated for by a corresponding increase in the lot size of one or more parcels or lots in the subdivision above the minimum lot size of the requirements of the zoning law.

# PART C

## MAJOR SUBDIVISIONS

## **ARTICLE 10. MAJOR SUBDIVISION REVIEW PROCEDURE**

### **Section 1010. Review Procedure**

All applicants for major subdivision review and approval shall follow the procedures of this article in meeting the intent of Section 115.

### **Section 1020. Sketch Plan Conference**

All potential subdividers are encouraged to meet with the planning board prior to the submission of a formal application for a major subdivision approval. Such a meeting may be used to expedite the review process by allowing the planning board and the applicant to be advised of the following:

1. The potential classification of the subdivision as minor or major,
2. The requirements under the State Environmental Quality Review Act,
3. The possibility of a need for County Planning Board review under General Municipal Law Section 239-n,
4. The possible involvement of other County or State agencies in the review process,
5. The determination of wetlands / floodways,
6. The need for an agricultural data statement.

### **Section 1030. Application Procedure**

The review procedure for a major subdivision consists of a preliminary application approval and a final application approval.

## **ARTICLE 11. PRELIMINARY APPLICATION APPROVAL**

### **Section 1105. Submission of Application**

All applications and fees for preliminary application approval shall be submitted by the subdivider to the planning board at least 10 days prior to the meeting at which it is to be considered. The application shall contain all items as required in Article 13 of these regulations. The subdivider shall bear the cost of mailing any agricultural data statement, where required.

### **Section 1110. Acceptance of Completed Application**

The planning board shall consider the application for completeness, and shall

1. Classify the subdivision as minor or major
2. Make a State Environmental Quality Review declaration of environmental significance pursuant to 6 NYCRR Part 617
3. Shall submit the application, where necessary, to the Oneida County Planning Board for a recommendation thereon, pursuant to General Municipal Law Section 239-n
4. Determine if the agricultural data statement, if required, be submitted to adjacent land owners and other planning agencies.

### **Section 1115. Official Submission Date Preliminary Application**

The planning board shall establish an official submission date for the preliminary application. Such date shall be the date that all of the following have occurred:

1. The application has been accepted as complete, including all information required in Article 13 of these regulations,

2. A draft environmental impact statement has been prepared, where necessary, and
3. The recommendation of the Oneida County Planning Board has been received, where necessary, or 30 days have lapsed since the submission of the application to the County Planning Board.

#### **Section 1118. Alternative Planning Board Action**

Where the application shows lots which are not in compliance with the zoning law, the planning board may refer the application to the zoning board of appeals for an area variance review prior to the commencement of the planning board review.

#### **Section 1120. Public Hearing for Preliminary Application**

Following the review of the preliminary application and supplementary material submitted for conformity to these regulations, and following negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made, the planning board shall hold a public hearing. This hearing shall be held within 62 days of the official submission date of the application. The subdivider shall attend the hearing. This hearing may also fulfill the requirements of the State Environmental Quality Review Act for the draft environmental impact statement. The hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five days before the hearing.

#### **Section 1125. Action on Preliminary Application**

Within 62 days from the public hearing, the planning board shall approve, with or without modifications, or disapprove the preliminary application and state its reasons for disapproval. The time in which the planning board must take action may be extended by mutual consent of the subdivider and the planning board. Within five days of approval, the action of the planning board shall be noted on three copies of the preliminary plat and reference made to any modifications determined. One copy shall be returned to the subdivider and the other two copies retained by the planning board.

#### **Section 1130. Effect of Preliminary Application Approval**

Approval of a preliminary application shall not constitute approval of the final application, but shall be a guide to the preparation of the final plat. Before submission of the final plat or any portion thereof for formal approval, the subdivider shall comply with these regulations and all requirements set forth by the planning board in their review of the preliminary plat.

### **ARTICLE 12. FINAL APPLICATION APPROVAL**

#### **Section 1205. Application for Final Approval**

All major subdivisions shall require final application approval by the planning board. If the final application is not submitted for approval within six months of preliminary application approval, the planning board may revoke the preliminary application approval. The subdivider shall file an application with appropriate fees for final application approval, accompanied by documentation as specified in Article 14 of these regulations, with the planning board. Such application shall be submitted at least 10 days prior to the meeting at which it is to be considered by the planning board. The subdivider shall bear the cost of mailing any agricultural data statement, where required.

#### **Section 1210. Official Submission Date Final Application**

The planning board shall establish an official submission date for the major subdivision final application. Such date shall be the date that the planning board determines the application to be complete, including all information required in Article 14 of these regulations.

**Section 1215. Public Hearing for Final Application**

1. A public hearing may be held by the planning board after a complete application is filed and prior to rendering a decision. This hearing shall be held within 62 days of the official submission date of the application. The subdivider shall attend the hearing. The hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five days before the hearing.
2. The public hearing may be waived by the planning board if the final application is in substantial agreement with the preliminary application. If the final application is not in substantial agreement with the approved preliminary application, or further under the SEQR act is required, then the public hearing shall be conducted.

**Section 1220. Guarantees for Required Improvements**

In order that the Town has the assurance that construction and installation of public improvements will be guaranteed, the applicant shall enter into one of the following agreements with the Town:

1. The subdivider will construct all improvements as required by these regulations, and by the planning board, prior to final approval of this application, or
2. Furnish guarantee as provided in Article 8 of the Town Zoning Law.

**Section 1225. Action on Final Application**

The planning board shall by resolution:

1. Grant final approval by the signature of the planning board chairman on the plat
2. Conditionally approve, with or without modifications (see Section 1230 below), or
3. Disapprove the application; within 62 days of the public hearing. If the public hearing has been waived pursuant to Section 1215 above, the planning board shall act within 62 days of the final application official submission date. The time in which the planning board must take action may be extended by mutual consent of the subdivider and the planning board. The subdivider shall be notified of the final action of the planning board. If disapproved, the grounds for disapproval shall be stated in the record of the planning board, including reference to the provisions violated by the application.

**Section 1230. Conditional Approval of Final Plat**

The application shall be certified by the planning board within five days of conditional approval. A copy shall be filed with the planning board, and a copy provided to the subdivider along with a statement of the requirements that shall accompany the application which, when completed, will authorize the signing of the conditionally approved plat. Conditional approval of an application shall expire 180 days after the date of the resolution granting conditional approval. The planning board may extend the expiration time, not to exceed two additional periods of 90 days each.

**Section 1235. Approval of Plats in Sections**

Prior to granting conditional or final approval of a plat in final form, the planning board may permit the plat to be divided into two or more sections and may in its resolution granting conditional or final approval state such requirements as it deems necessary to insure the orderly development of the plat be completed before such sections may be signed by the planning board chairman. Conditional or final approval of the sections

of a final plat, subject to any conditions imposed by the planning board, shall be granted concurrently with conditional or final approval of the plat.

In the event the owner shall file only a section of such approved plat in the Office of the County Clerk, two copies of the entire approved plat shall be filed within 30 days of the filing of such section with the Town Clerk. Such section shall encompass at least ten percent of the total number of lots contained in the approved plat and the approval of the remaining sections of the approved plat shall expire unless said sections are filed in the Office of the County Clerk within three years of the filing of the first section with the County Clerk.

#### **Section 1240. Filing of Plat**

The subdivider shall file the plat, or section thereof, in the Office of the Clerk of Oneida County, N.Y. within 62 days after the date of final approval; otherwise the plat shall be considered void and must again be submitted along with complete application and appropriate fees to the planning board for approval before filing in the Office of the Clerk of Oneida County, NY.

#### **Section 1245. Modification of Designs After Approval**

If at any time it is demonstrated that unforeseen conditions make it necessary to modify the location or design of improvements required by the planning board, the planning board chairman may authorize such modifications, provided these modifications are within the spirit and intent of the planning board's approval and do not substantially alter the function of any such improvement required by the planning board. Any such authorization issued under this section shall be in writing and shall be reported to the planning board at the next regular meeting.

#### **Section 1250. Public Acceptance of Improvements**

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 road, park, playground, recreation area, easement, public utility, or any other improvement. The planning board shall require the plat to be endorsed with appropriate notes to this effect. The planning board may also require the filing of a written agreement between the applicant and the town board covering future deed and title, dedication, and provision for the costs of developing and maintaining any such improvements.

### **ARTICLE 13. MAJOR SUBDIVISION PRELIMINARY APPLICATION REQUIREMENTS**

#### **Section 1310. Preliminary Plat Application Requirements**

1. Ten copies of the application form.
2. The nonrefundable application fee.
3. If the application is for a subdivision in sections, covering only a part of the subdivider's entire holding, a map of the entire subdivision, drawn at a scale of not less than 300 feet to the inch showing an outline of the platted area with its proposed roads and indication to the inch showing an outline of the platted area with its proposed roads and indication of the probable future road system with its grades and drainage in the remaining portion of the subdivision and the probable future drainage layout of the entire subdivision shall be submitted. The section submitted shall be considered in the context of the entire subdivision.
4. A certificate issued by the authorized Town and County officials to the effect that there are no unpaid taxes due and payable at the time of plat approval and no unpaid special assessments, whether of not due and payable at the time of plat approval, on any of the lands included in the plat.

5. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
6. An agricultural data statement pursuant to Town Law Section 283-a, where required.
7. The application for a major subdivision preliminary plat approval shall consist of 10 copies of the plat prepared at a scale of not more than 100 feet to the inch including all plat requirements specified in Section 1320 below.
8. When applicable, a statement of the nature and extent of the interest of any state employee, or officer or employee of the town in the applicant pursuant to General Municipal Law Section 809.
9. An Environmental Assessment Form.

**Section 1320. Preliminary Plat Requirements**

1. Plats shall be prepared and drawn in conformity with Appendix A of these regulations.
2. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, the location and type of all monuments, and including elevation contours at USGS intervals, minimum, made and certified to by a licensed land surveyor. The corners of the tract shall be referenced and shown on the plat.
3. The proposed pattern of parcels and lots with boundaries, including parcel and lot widths, depths, and areas within the subdivided area. Calculations of lot areas shall exclude public road areas.
4. The locations of all zoning front, side and rear yard lines; zoning district lines and the names of all applicable zones; and easements.
5. The parcels of land proposed to be dedicated to public use and the conditions of such dedication.
6. The location of existing property lines, easements, buildings, water courses, wetlands, rock outcrops, wooded areas, floodplains, and other significant existing features for the proposed subdivision and adjacent property.
7. The location of existing wells, on-site sewage disposal systems, sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
8. Contours with intervals of 5 feet or less, or as required by the planning board, including elevations on existing roads. Grading plan, where natural contours are to be changed more than 2 feet.
9. The width and location of any roads or public ways or places shown on the comprehensive plan, within the area to be subdivided, and the width, location, grades and road profiles of all roads or public ways proposed by the developer.
10. 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 sewer disposal and treatment as provided in the Public Health Law. Profiles of all proposed water and sewer lines.
11. Storm drainage plan indicating the approximate location and size of proposed lines and their profiles. Connection to existing lines or alternate means of disposal.
12. Plans and cross-sections showing the proposed location and type of sidewalks, road lighting standards, road 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 conduits.

13. Preliminary designs of any bridges or culverts which may be required.
14. The plat shall be marked "preliminary plat."
15. Any other specifications required by the planning board.

#### **Section 1330. Waiver of Application Requirements**

The planning board may waive any of the application requirements in Article 13 where it deems that the information is either not applicable or necessary for a particular review.

### **ARTICLE 14. MAJOR SUBDIVISION FINAL APPLICATION REQUIREMENTS**

#### **Section 1410. Final Plat Application Requirements**

1. Ten copies of the application form.
2. The nonrefundable application fee.
3. Copies of agreements of other documents showing the manner in which public open space areas are to be maintained and the provisions made therefore.
4. All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
5. A map indicating the location of monuments marking all underground utilities as actually installed.
6. The application for a major subdivision final plat approval shall consist of 10 copies of the plat prepared at a scale of not more than 100 feet to the inch including all plat requirements specified in Section 1420 below.

#### **Section 1420. Final Plat Requirements**

1. Sufficient data from an actual field survey to determine readily the location, bearing and length of every road line, lot line, boundary line, and to reproduce such lines upon the ground.
2. The length and bearing of all straight lines, radii, length of curves and central angles of all curves, and cord bearings shall be given for each road. 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.
3. Road lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
4. The locations of all zoning front, side and rear yard lines; zoning district lines and the names of all applicable zones; floodplains; wetlands; and easements.
5. Public open spaces for which deeds are included and those spaces title to which is reserved by the developer.
6. Lots and blocks shall be numbered and lettered in alphabetical order in accordance with the prevailing Town practice.

7. Permanent reference monuments shall be shown.
8. The plat to be filed with the County Clerk shall be printed upon linen or acceptable equal or be clearly drawn in India ink upon tracing cloth, and shall comply with the requirements of Real Property Law Section 334.
9. The plat shall be marked "final plat."
10. Any other specifications required by the planning board.

**Section 1430. Waiver of Submission Requirements**

The planning board may waive any of the submission requirements listed above where it deems that the information is either not applicable or necessary for a particular review.

**ARTICLE 15. MAJOR SUBDIVISION DESIGN STANDARDS**

**Section 1505. General**

Land to be subdivided into lots shall be of such character that it can be used safely for building purposes without danger to public health or safety and shall be in harmony with the master/comprehensive plan, and the zoning law of the Town. Parcels not of a character to be used safely for building purposes shall have a designated benefit such as, but not limited to, access, parks, or natural areas. All required improvements shall be constructed and installed in conformance with Town specifications.

**Section 1510. Future Resubdivison**

Where land is subdivided into lots substantially larger than the minimum size required in the zoning district in which the subdivision is located, the lots shall be laid out so as to permit future resubdivision in accordance with the requirements contained tin these regulations.

**Section 1515. Approval of Substandard Parcels**

All parcels shall comply with the provisions of the zoning law, except that the planning board may, in unique circumstances, approve substandard parcels in the following circumstances:

1. For road or access rights-of-ways,
2. Where the parcel is intended to be used permanently for non-structural recreational purposes,
3. Where land is intended to be conveyed to an adjacent landowner for purposes of combination with an adjacent parcel.
4. Where the land is intended to be left permanently undeveloped, or
5. Where land is to be used for essential facilitates as defined by the zoning law.

**Section 1520. Sewage and Water Supply**

All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the N.Y.S. Health Department.

**Section 1525. Lots to be Buildable**

The lot arrangement shall be such that in constructing a building in compliance with the zoning law there will be no foreseeable difficulties for reasons of topography or other natural conditions.

**Section 1530. Side Lot Lines**

All side lines of lots shall be generally at right angles to straight road lines and radial to curved road lines.

**Section 1535. Lot Access**

1. All lots shall be designed so as to allow for safe access. Access from private roads shall be deemed acceptable only if such roads are designed and improved in accordance with the regulations set forth in Article 16 below.
2. All lots shall be designed so as to allow for the construction of driveways within the road right-of-way not exceeding a 10 percent grade.
3. When a watercourse separates a road from abutting property, provision shall be made for access to all lots by means of culverts or other structures.

**Section 1540. Monuments**

Permanent monuments shall be set at the subdivision boundaries at all corners, and at such other points as required by the planning board. Such monuments shall be of either iron rods or pipes, or concrete.

**Section 1545. Preservation of Natural Features**

The planning board should encourage 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.

**ARTICLE 16. ROAD LAYOUT AND DESIGN STANDARDS**

**Section 1605. General Requirements**

1. Public roads shall be of sufficient width, suitably located, and adequately constituted to conform to the comprehensive plan, and to accommodate the prospective traffic and afford access for fire fighting, snow removal and other road maintenance equipment. The arrangement of roads shall be such as to cause no undue hardship to adjoining properties, and shall be coordinated so as to compose a convenient system.
2. Public roads shall be graded and improved in accordance with the Oneida County Highway Specifications. Storm drainage facilities, water mains, sewers, lights, signs, trees and fire hydrants shall be provided as required.

**Section 1610. Relationship with Topography**

The road plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all roads shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the roads.

**Section 1615. Road Grades**

1. Road grades shall conform in general to the terrain, and shall not be less than .5 percent nor more than 6 percent for major or collector roads, or 10 percent for minor roads. No grade shall be more than 3 percent within 50 feet of any intersection.
2. All changes in grade shall be connected by vertical curves of length and radius such that clear visibility shall be provided for a safe distance.
3. A combination of steep grades and curves shall be avoided.

**Section 1620. Road Continuations**

The arrangement of roads in subdivisions shall provide for the continuation of principal roads of adjoining subdivisions, and for proper projection of principal roads into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water and drainage facilities. Where, in the opinion of the planning board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.

**Section 1625. Major Arterial Roads**

When a subdivision abuts or contains an existing or proposed major arterial road, the planning board may require marginal access roads, reverse lot frontage with a screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

**Section 1630. Minor Roads**

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

**Section 1635. Dead – End Roads**

1. The creation of dead-end or loop residential roads will be encouraged whenever such type of development will not interfere with normal traffic circulation in the area.
2. An 20 foot wide easement may be required to provide for continuation of pedestrian traffic and utilities to the next road.
3. Subdivisions containing 20 lots or more should have at least two road outlets.
4. Roads designed to be permanently dead-ended shall not generally exceed 500 feet in length. Such roads shall be terminated in a circular turn-around having a minimum right-of-way radius of 60 feet and a pavement radius of 50 feet.
5. Roads designed to be temporarily dead-ended shall terminate in a circular turn-around having a minimum pavement radius of 50 feet.

**Section 1640. Road Widths**

1. Roads shall have the following widths:

Major Roads:	66 feet r.o.w., 40 feet minimum improved surface
Collector Roads:	60 feet r.o.w., 28 feet minimum improved surface

Local Roads: 50 feet r.o.w., 22 feet minimum improved surface

2. Road right-of-way and pavement widths may be increased as deemed necessary by the planning board to accommodate on-road parking in commercial zones or for commercial uses.

#### **Section 1645. Intersections**

1. In general, all roads shall join each other so that for a distance of at least 100 feet the road is approximately at right angles to the road it joins.
2. Intersections of minor roads with collector or major roads shall, in general, be at least 500 feet apart.
3. Road jogs with centerline offsets of less than 125 feet shall be avoided.
4. All road rights-of-ways at intersections shall be rounded by curves of at least 20 feet radius and curbs shall be adjusted accordingly.
5. All corner lots shall be cleared of all growth and other obstructions, except for isolated trees, a level of three feet or higher above the centerline of the road, so as to achieve safe visibility for traffic entering the intersection.

#### **Section 1650. Curve Radii**

In general, road lines shall be connected with a curve, the radius of which for the centerline of road shall not be less than 400 feet on major roads, 200 feet on collector roads, and 100 feet on minor roads.

#### **Section 1655. Commercial Service Roads**

Paved rear service roads of not less than 20 feet in width, or in lieu thereof, adequate off-road loading space, suitably surfaced, shall be provided in connection with lot designed for commercial use.

#### **Section 1660. Road Names**

All public and private roads shall be named and the names placed on the plat. Road names shall not be numbers or letters, except where numbering is made consistent with the existing road numbering system in the Oneida Lake shore area. Road names shall be selected so as not to be confused in sound or spelling with existing road names. Roads that join or align with roads of an abutting or neighboring property shall bear the same name. Generally, no road should change direction by more than 90 degrees without a change in name. Signs bearing road names shall be erected by the subdivider at all intersections.

#### **Section 1665. Utilities in Roadways**

1. Underground utilities shall be placed, wherever possible, in the road right-of-way between the paved roadway and the road line to simplify location and repair of utilities. Underground service connections shall be installed to the lot line of each lot for all required utilities prior to road pavement.
2. Where topography is such as to make impractical the inclusion of utilities within road rights-of-way, perpetual unobstructed easements at least 20 feet in width shall be provided with satisfactory access to the road. Wherever possible, easements shall be continued from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required.

3. Fire hydrants shall be spaced and installed in conformity with all requirements of the Insurance Services Organization.
4. Road lighting shall be in conformance with the lighting system of the Town.

## **ARTICLE 17. DRAINAGE IMPROVEMENTS**

### **Section 1710. Removal of Spring and Surface Water**

Spring or surface water shall be carried away by pipe or open ditch where required by the planning board. Drainage facilities shall be located in the road right-of-way where feasible, or in perpetually unobstructed easements of appropriate width.

### **Section 1720. Storm Water Easements**

Where a subdivision is traversed by a watercourse, drainage way, channel or stream, a storm water easement of appropriate width shall be provided.

### **Section 1730. Drainage Facilities Size**

Culverts or other drainage facilities shall be sized to accommodate potential run-off from the entire upstream drainage area, whether inside or outside the subdivision, and shall be sized to accommodate a ten-year storm under conditions of total potential development permitted by the zoning law in the watershed.

### **Section 1740. Downstream Drainage**

Where it is anticipated that the additional run-off incident to the development of the subdivision will adversely impact downstream lands or overload an existing downstream drainage facility during a five-year storm or greater, the planning board shall not approve the subdivision until provision has been made by the developer for the mitigation of said condition.

### **Section 1750. Land Subject to Flooding**

Land subject to flooding or uninhabitable due to other hazardous conditions known to the planning board 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. Subdivided areas in flood hazard areas shall be subject to "Flood Damage Prevention" Local Law No. 1 of 1987, as subsequently amended.

## **ARTICLE 18. PARKS, PLAYGROUNDS AND OPEN SPACES**

### **Section 1810. Recreation Areas on Town Plan**

Where a proposed park, playground or open space shown on the Town Plan is located in whole or in part in a major subdivision, the planning board shall require that such area or areas be shown on the plat in accordance with the requirements specified in Section 1830 below.

### **Section 1820. Parks and Playgrounds**

Upon a finding by the planning board that a proper case exists for requiring that park or recreational space be suitably located on the plat for playgrounds or other recreational purposes, the planning board may require that the developer satisfactorily develop any such area shown on the plat. Any such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the town based on projected population growth to which the particular subdivision plat will contribute.

Upon such finding, the planning board shall require that not less than 5% nor more than 10% of the total area of the subdivision be allocated for park or recreational use. Such area may be dedicated to the town by the subdivider if the town board approves such dedication. Alternatively, park or recreational space may be turned over to a homeowners association for control and joint private ownership and maintenance.

**Section 1830. Information to be Submitted**

In the event that an area to be used for a park or playground is required to be so shown, the subdivider shall submit a site plan to the planning board, prior to final approval, including four prints of the park drawn as a scale of not less than 30 feet to the inch, showing 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 cord 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 areas immediately adjacent.

**Section 1840. Waiver of Plat Designation of Area for Parks and Playgrounds**

In the event that the planning board makes a finding pursuant to Section 1820 above that the proposed subdivision plat presents a proper case for requiring a park or recreational area, but that a suitable area of adequate size to meet the requirement cannot be properly located on such plat, the planning board may require a sum of money in lieu thereof in the amount of \$500 per acre.

In making a determination of suitability, the planning board shall assess the size and suitability of lands shown on the plat which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood.

Any monies required by the planning board pursuant to this section shall be deposited into a trust fund to be used by the town exclusively for park playground or other recreational purposes, including the acquisition of property.

**Section 1850. 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.

**ARTICLE 19. PERMISSIBLE MODIFICATION OF ZONING REGULATIONS**

**Section 1910. Authority**

The planning board is authorized and empowered pursuant to Section 278 of the Town Law to modify certain provisions of the zoning law as allowed in Section 1920 below, simultaneously with the approval of any subdivision application within the town.

**Section 1920. Applicable Provisions**

The planning board may consider or require applications for major subdivisions which include the following deviations from the zoning law for the following purposes:

1. To eliminate side and rear yard requirements to allow for innovative attached housing types;
2. To reduce side and rear yard requirements for existing structures on the site of a plat where, in unique and special circumstances, it will result in the more efficient use of land;

3. To reduce road frontages to allow cul-de-sacs;
4. To reduce lot areas, widths, depths, yard sizes, lot coverage, and road frontages to accomplish cluster development.

### **Section 1930. General Criteria for Cluster Development**

The planning board may allow or require cluster development under the following circumstances:

1. The proposed development will be in harmony with the general purpose, goals, objectives, and standards of the comprehensive plan and these regulations.
2. The proposed use of the land complies with all applicable provisions of the zoning law, except as modified pursuant to the authority of these regulations.
3. The proposed use of the land will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety, and general welfare.
4. The proposed development will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property.
5. The proposed development will be served adequately by essential public facilities and services such as roads, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools.
6. The proposed development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.

### **Section 1940. Required Clustering**

Cluster development may be required by the planning board to meet anyone of the following objectives:

1. The clustering of development will reserve open space, recreational areas, large groves of trees, water courses and falls, beaches, historic spots, vistas and other similar assets, in furtherance of the comprehensive plan for the community;
2. The clustering of development will aid in the provision of road right-of-ways or for the protection of future road right-of-ways in furtherance of the comprehensive plan of the community;
3. The clustering of development will provide for the more economical and efficient provision of municipal utilities and road services.

### **Section 1950. Cluster Development Review Procedure**

1. All cluster development applications either proposed by the applicant for consideration by the planning board, or required by the planning board pursuant to these regulations, shall include the submission of a sketch plat. Such sketch plat shall show a conventional subdivision which complies with all regulations of the zoning district in which it is located without a cluster configuration. The purpose of this plat shall be to determine the maximum number of dwelling units permissible in the parcel under the zoning law. All lots in the sketch plat shall be buildable lots.
2. The planning board shall make a determination of the maximum permissible number of dwelling units prior to the acceptance of an application for a cluster development proposal.

3. After a determination of the density of the plat has been established by the planning board, the plat shall be reviewed pursuant to the review and approval procedure of these regulations.

#### **Section 1960. Cluster Common Space**

1. The area, configuration, location ownership use and maintenance of residual open spaces created by clustering shall be subject to review and approval of the planning board.
2. Cluster open space may be made accessible to all residents of the subdivision or available for the use of the general public unless the planning board finds that the size, location, type of development, or cost of development or maintenance of such cluster open space, or the availability of public open space, would make public use undesirable or unnecessary.
3. If cluster open space is not dedicated to public use, it shall be protected by legal arrangements, satisfactory to the planning board, sufficient to assure its maintenance and preservation for whatever purpose it is intended. Covenants or other legal arrangements shall specify ownership of the cluster open space; method of maintenance; responsibility for maintenance; maintenance taxes and insurance; compulsory membership and compulsory assessment provisions; guarantees that any association formed to own and maintain cluster open space will not be dissolved without the consent of the planning board; and any other specifications deemed necessary by the planning board.

### **ARTICLE 20. WAIVERS**

#### **Section 2010. Waivers of Required Improvements**

1. 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, provided that such waiver will not have the effect of nullifying the intent and purpose of the zoning law.
2. In granting waivers, the planning board shall require such conditions as will, in its judgment, secure, substantially the objectives of the standards or requirements so waived.

**APPENDIX A  
TOWN OF VIENNA  
SUBDIVISION LAW**

I. **PURPOSE:** The purpose of this appendix is to set forth the plat requirements for both minor and major subdivisions, and shall be provided by the subdivider, to the surveyor performing the plat effort.

II. **PLAT REQUIREMENTS:** The plat shall contain the following information:

A. A **title block** containing subdivision name, name of town and county, date (different for each revision), scale, surveyor's name/company.

B. A **certification block** with the following statement:

As owner I hereby certify that I have caused the land described by this plat to be surveyed, divided, mapped, dedicated, and access rights reserved as represented on the plat.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
OWNER SIGNATURE

C. A **stamp or seal** from the surveyor (and engineer if appropriate) showing license number.

D. The following **statement** for signature by the planning board chairman:

Plat Approved: \_\_\_\_\_

E. **Notes** containing any covenant and deed restrictions.

F. The plat itself should cover all of the land being subdivided, including any residual land retained by the owner, and shall meet the following requirements:

1. Scale should be not more than 100 feet per inch and not less than 50 feet per inch.
2. Plat should list the name of all subdivisions and owners of record for lots immediately adjacent to the parcel being subdivided.
3. Plat should show the following boundaries, if they exist, in the area adjacent to the subdivision or on the parcel: zoning boundaries, municipal boundaries, flood hazard areas, all wetlands (not just DEC designated wetlands), property boundaries, easements, rights-of-way.
4. Plat should show parcels to be dedicated to public use and conditions.
5. Plat should show buildings, water courses, wells, septic systems and sewer lines, wooded areas, and other significant features on the parcel and adjacent parcels.
6. Plat should show contour intervals of five feet (or two feet when required by the Board).

7. Plat should show width and location of streets and roads, and shall indicate the names of all existing and proposed streets and roads.
8. Plat should show location of all proposed facilities.
9. Plat should include details such as cross-section, plans, drains, etc.
10. Plat should include details such as cross-sections, plans, drains, etc.
11. Plat should show lot lines of all proposed lots, including bearings, distances, corners, and monuments (with descriptions).
12. Plat should indicate area of each lot (not to include area inside public rights-of-way).
13. North point shall be prominently indicated on the plat and oriented to coincide with the locator map.

**G. Additional Markings Required to be Displayed on the Plat.** One or more may be selected as determined by the planning board.

1. WETLANDS RESTRICTIONS APPLY  
 Lot(s) \_\_\_\_\_ subject to any development, housing, building and use restrictions under Article 24, State of New York Environmental Conservation Law.
2. FLOODPLAIN RESTRICTIONS APPLY  
 Lot(s) \_\_\_\_\_ subject to any development, housing, building and use restrictions under National Flood Insurance Program.
3. SUBDIVISOIN RESTRICTIONS APPLY  
 Further Subdivision of Lot(s) \_\_\_\_\_ prohibited as an agreed-on-condition for approval of this plat.
4. BUILDING RESTRICTIONS APPLY  
 Lot(s) \_\_\_\_\_ subject to building restrictions as an agreed-on-condition for approval of this plat. Restriction is as follows:
5. WATER SUPPLY / SANITATION CERTIFICATION  
 All sanitation and water supply facilities are designed to meet the minimum specifications of the Oneida County Department of Health.  
 Licensed Engineer Name \_\_\_\_\_  
 License Number \_\_\_\_\_  
 Date \_\_\_\_\_
6. CERTIFICATION OF MONUMENTATION  
 Surveyor certifies that monuments have been set as shown on the plat.

**H. Special Marking Required.** Refer to Section 1250 of the Subdivision Law.

Where applicable, a note, duly acknowledged by signature of the subdivider, stating:  
 Approval of this plat does not constitute town acceptance  
 Of the indicated, stated, or referenced improvements.

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Owner

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Date

- I. **Locator Maps:** One or more locator maps shall be included on the plat to clearly locate the subdivision of interest. As a minimum, the Town of Vienna map shall be used in all cases (see example in Figure 1). If additional detail is required, then a secondary locator map may be required (see example in Figure 2).
  
- J. **Conflicts of Requirements:** If conflicts between this Appendix A and the primary Subdivision Law occur, the planning board shall be contacted for resolution.
  
- K. **Waiver of Plat Requirements:** The planning board may waive any of the requirements in this Appendix A in the event that the information is not applicable or necessary.