

SUBDIVISION REGULATIONS

CHAPTER 200

Town of NEW LISBON

Code Edited by:



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FOREWORD

When a tract of land is divided into smaller parts, the process is known as "subdivision". It could be one small parcel being split into two parcels or a large tract of land being divided into many parcels. In some cases, the subdivision of land requires the laying out of one or more new streets to serve some or all of the new parcels created. Since the rate at which land is subdivided and the manner in which new lots are laid out have a direct effect not only on the land directly involved, but also on adjoining or nearby properties and the entire surrounding community, there is a community interest in the design of each new subdivision.

New lots with new land uses and new streets can change or intensify the traffic on existing roads or streets; they can increase the storm water drainage from an area; they can create a need for more public water supply and more public sewage disposal facilities; they can adversely effect nearby private wells; and they may enlarge the need for a whole series of public facilities and services, and in this way directly affect the public affairs of the community. Too much or too rapid subdivision in a particular section, coupled with inadequate provision of street improvements or other public facilities and services, can cause serious long term problems such as substandard development, wasted land and even "dead" subdivisions if there proves to be no market for the new lots created. From another and more positive viewpoint, a new subdivision can take into consideration all the opportunities presented to obtain the best possible design.

Since the residential subdivision is the most common method of adding to the housing supply of the average community, and the need for new housing will undoubtedly continue far into the future, the subdivisions that are mapped and created will largely shape the character of the future community. It therefore obligates local officials and all others interested or involved in land development to make sure that each new addition to the community is the best that today's design can provide.

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[HISTORY: Adopted by the Town Board of the Town of New Lisbon on 10-13-09 by Local Law No. 1-2009. Amendments noted where applicable].

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ARTICLE I General Provisions

§ 200-1. Authority.

This Law has been adopted by the Town Board of the Town of New Lisbon as a local law pursuant to the authority granted by § 276 of the NYS Town Law and New York State Municipal Home Rule Law. It repeals subdivision regulations enacted by the Town Board on December 13, 1989 and as amended on January 14, 1992 and March 10, 1992.

§ 200-2. Title.

These regulations shall be known and may be cited as the "Subdivision of Land Regulations of the Town of New Lisbon, New York."

§ 200-3. Policy.

It is declared to be the policy of the Planning Board and Town Board to consider land subdivisions as part of a plan for the orderly, efficient and economical development of the town. This shall be interpreted to include the following objectives that shall guide the Planning Board's and Town Board's decisions:

- A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood or other menace.
- B. Improvements. Proper provision shall be made for drainage, water supply, sewerage and other needed improvements.
- C. Natural resources. The natural terrain, vegetation and soil shall be conserved wherever possible.
- D. Design compatibility. All proposed lots shall be laid out and of such size as to be in harmony with the development pattern of the neighboring properties.
- E. Street design. Streets 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.

§ 200-4. Jurisdiction.

- A. Regardless of whether or not any formal conveyance shall be made, when any Subdivision of land is proposed and before any offer is made to sell any part or all of a Subdivision and before any permit for the erection of any structure in such Subdivision shall be issued or any grading, clearing, construction or other improvements shall be undertaken, the Subdivider or his authorized agent shall first obtain the appropriate approval of the proposed Subdivision in accordance with the requirements of this chapter.

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- B. It shall further be the obligation of each prospective purchaser or Developer of a Lot that forms any part of a Subdivision to ensure that appropriate Subdivision approval has been obtained. In the absence of such Subdivision approval, a prospective purchaser shall not commence the erection of any structure on such Lot, nor commence any grading, clearing, construction or other improvements.

§ 200-5. Resubdivision.

For a resubdivision, the same procedure, rules and regulations shall apply as for a subdivision.

§ 200-6. Building permits.

Pursuant to the provisions of § 280-a of the Town Law, no permit for the erection of any building or structure on any lot in a proposed subdivision shall be issued unless the subdivision has been duly approved and endorsed by the Planning Board, the plat has been duly filed in the office of the County Clerk and the street or highway giving access to said lot has been suitably improved to the satisfaction of the Planning Board, or a performance bond or letter of credit, as required by the Planning Board, has been duly filed with the town to cover the cost of such improvement.

§ 200-7. Reserved.

§ 200-8. Reserved.

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ARTICLE II Definitions

§ 200-9. Word usage and interpretation.

As used in this chapter, words in the singular include the plural and those in the plural include the singular. The words "shall" and "will" for the purpose of this chapter are defined as mandatory.

- A. For the purpose of this chapter, the following terms shall be considered interchangeable:
- (1) The terms "Town" and "Town of New Lisbon."
 - (2) The terms "Subdivider" and "Developer" and the terms "Subdivision" and "Development."
 - (3) The terms "State Environmental Quality Review Act" and "SEQRA."
- B. Unless otherwise expressly stated, the following definitions shall, for the purpose of this chapter, have the meaning herein indicated. Any pertinent word or term not a part of this listing shall be construed to have its legal definition.
- C. For the purpose of these subdivision regulations, words used in the present tense include the future tense, the plural includes the singular, the word "lot" includes the words "plot" and "parcel", the word "building" includes the word "structure", the word "shall" is intended to be mandatory, the word "occupied" includes the words "designed for occupancy" or "intended to be occupied".

§ 200-10. Glossary of terms.

The following is a list of specific terms, found elsewhere in this chapter, along with definitions of their intended meaning:

Applicant: The owner of the land proposed to be subdivided or his duly appointed representative. Consent shall be required from the legal owner when a representative makes application.

Boundary Line Adjustment. A transfer of property between two adjoining landowners where no new separate lot is created.

Building: Any structure covered by a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or chattels.

Certificate of Occupancy: A certificate signifying that the holder has completed a construction activity in a manner compliant with the terms of a building permit. Upon receipt of a certificate of occupancy, a person may then occupy the structure (or establish a use) for which the building permit was issued.

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Cluster Development: A planned development in which lots are platted with less than the minimum lot size and dimension requirements, but which have access to common open space that is a part of the overall development plan approved by the Planning Board.

Code Enforcement Officer: The Code Enforcement Officer of Otsego County, New York or duly authorized representative.

Consolidation: The combining or merger of adjoining, but separate, individually recorded lots and parcels into a single tract of land in single ownership.

Comprehensive Plan: The Town of New Lisbon Comprehensive Plan prepared in accordance with § 272-a of the New York State Town Law and adopted by the Town Board on September 30, 2008.

Common Open Space: An area reserved for use by patrons, customers, residents or general public, suitably landscaped and exclusive of building coverage, parking areas or driveways.

Crosswalk or Walkway: An accessway designated for pedestrian traffic and dedicated to public use.

Cul-De-Sac: A designated turn-around area for vehicles at the dead end of a street.

Land Use Enforcement Officer: The representative designated by the Town Board to oversee the completion of required improvements in subdivisions including consulting engineers.

Driveway: A private roadway providing access for vehicles to a parking space, garage, dwelling or other structure on one lot.

Easement: Any authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his or her property.

Engineer: An individual duly qualified and licensed by the State of New York to perform engineering work, or other person deemed qualified by the Planning Board to make certain specific recommendations.

Environmental Assessment Form (EAF): A form used by the Planning Board to assist it in determining the environmental significance or nonsignificance of a proposed subdivision. A properly completed EAF should contain information to describe the proposed subdivision, the environmental setting and the potential impacts of the proposed subdivision upon the environment. There are two types of Environmental Assessment Forms:

- A. **FULL EAF** — This is a detailed EAF that must be used by the Planning Board to determine the environmental significance or nonsignificance of a proposed subdivision that meets or exceeds the thresholds for a Type 1 action, as established in the State Environmental Quality Review Act (SEQRA) procedures. The Planning Board may also consider, and require submission of a full EAF for a proposed subdivision that is classified as an unlisted action, as established in the State Environmental Quality Review Act (SEQRA) procedures, but poses possible environmental impacts that the Planning Board may consider to be possibly significant or potentially adverse.

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- B. **SHORT EAF** — This is a simplified EAF that may be used by the Planning Board to determine the environmental significance or nonsignificance of an unlisted action.

Environmental Impact Statement (EIS): A report containing the description of a proposed subdivision, its environmental setting, potential environmental impacts, ways to minimize the impacts, and reasonable alternatives. It serves as a public disclosure of the record used by the Planning Board in its environmental decision-making. There are two stages in an environmental impact statement:

- A. **DRAFT EIS** — This is a preliminary statement that is used for public review and comment.
- B. **FINAL EIS** — This is the completed document consisting of the draft EIS, plus any revision, public comments and lead agency responses to the substantive comments.

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

Frontage: The part of a lot that is coincident with a street line.

Front Yard: The area lying between a road or street and the closest point of any building, and extending from one side lot line to the other. The minimum front yard required by this Subdivision of Land regulation shall be defined by a line parallel to a street or road at a distance of seventy-five (75) feet from the center line of the road. This requirement shall not be construed to limit the use of agricultural property for location of crops, fences, or pasture.

Improvement: A physical change to the land (or absence thereof) necessary to produce usable and desirable lots from raw acreage including, but not limited to, grading, pavement, curb, gutter, storm sewers and drains, and betterments to existing watercourses, sidewalks, street signs, cross walks, shade trees, sodding or seeding, street name signs and monuments.

Landscaping: The act of altering or changing the natural features of a plot of ground (usually around a building), as by adding lawns, trees, bushes, etc. This term does not include such things as maintenance or replacements.

Land Use Enforcement Officer: The representative designated by the Town Board to conduct inspections as necessary to enforce the Town of New Lisbon's land use regulations including, but not limited to, its Site Plan Review and Subdivision Regulations.

Lot: A parcel of land having a distinct and defined boundary as described in a separate deed and/or subdivision plat occupied or capable of being occupied by a building or buildings and for accessory buildings and/or uses, including such open spaces as are required by this ordinance and having frontage on an existing or proposed road.

Negative Declaration. A negative declaration is a SEQRA determination, which identifies no adverse environmental impacts or that the identified adverse environmental impacts will not be significant.

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Official Map: The map established by the Town Board pursuant to Section 270 of the Town Law, showing streets, highways, parks and drainage, both existing and proposed.

Parcel: Any area of land as described by a deed or other written indenture capable of being recorded pursuant to the law of the State of New York. Should such deed or written indenture contain descriptions of more than one area of land, whether they be adjoining or separate, each such separately defined area of land shall be a parcel of land.

Performance Guarantee: The financial security that may be accepted by the municipality in lieu of the requirement that certain improvements be made and maintained before the Planning Board gives final approval to a subdivision plan. This security may take the form of a bond, letter of credit, cash deposit or other form of financial surety, as set forth in § 277, Subdivision 9, of New York State Town Law, which is satisfactory to and approved by the Town Board.

Planning Board: The Planning Board of the Town of New Lisbon, functioning under limited delegation by and reporting to the New Lisbon Town Board, and interacting with the Town Board. All references to the Town, Town Board or Planning Board shall be construed as subject to Town Board authority. Notices required of applicants must be submitted to the person or agency specified herein.

Plat: A plan for developing a piece of undeveloped property.

Positive Declaration: A positive declaration is a SEQRA determination, which identifies an action may include the potential for at least one significant adverse environmental impact and will require the applicant to complete a full Environmental Impact Statement.

Preliminary Plat: A drawing prepared in a manner prescribed by these regulations showing the salient features of the proposed subdivision, as specified by these regulations, submitted to the Planning Board for purposes of consideration prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

Resubdivision: A change in map of an approved or recorded subdivision plat if such change affects any street layout on such map or any lot line or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

Road or Street: An existing State, County or Town road or highway, or other private roadway shown on a plat approved by the Planning Board or shown on a plat duly filed and recorded in the Office of the County Clerk prior to the effective date of these regulations.

Road, Arterial: A street or road designated for the high speed movement of large volumes of traffic.

Road, Collector: A street or road designated for the movement of traffic between arterial roads and local roads as well as for serving adjacent land users.

Road, Local: A street or road designated to provide access to abutting property (not intended for through traffic movement).

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Road or Street Width: The width of rights-of-way measured at right angles to the centerline of the street.

Sketch Plan: A sketch of a proposed subdivision showing the information specified in these regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of these regulations.

State Environmental Quality Review Act (SEQRA): A process to help government and the public protect and improve the environment. SEQRA requires that environmental factors be considered along with social and economic considerations in government decision making.

SPDES: State Pollutant Discharge Elimination System.

Subdivider: The developer or contractor who will subdivide, the owner of the land to be subdivided, or any authorized agent of the developer, contractor or owner.

Subdivision: The division of a parcel of land into two (2) or more lots, plots, sites or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. Such division shall include resubdivision of plats already filed in the office of the County Clerk if such plats are entirely or partially undeveloped.

Subdivision, Major: Any subdivision not classified as a Simple or Minor Subdivision, including, but not limited to, subdivisions of five (5) or more lots, or any size subdivision requiring any new road/street or extension of municipal facilities or an existing street.

Subdivision, Minor: Any subdivision containing three (3) to four (4) lots and which does not require the construction of a new road/street or the extension of any existing street or municipal facility.

Subdivision, Realty: Any tract of land which is divided into five (5) or more parcels of five (5) acres or less regardless of whether the lots or plots to be sold or offered for sale, or leased for any period of time, are described by metes and bounds or by reference to a map or survey of the property or by any other method of description and regardless of whether the lots or plots are contiguous. A tract of land shall constitute a subdivision upon the sale, rental or offer for sale or lease of the fifth residential lot or residential building plot therefrom within any consecutive three year period, and at this time the provisions of section eleven hundred sixteen of the public health law shall apply to all such parcels thereof, including the first four parcels, regardless of whether said parcels have been sold, rented or offered for sale or lease singly or collectively.

Subdivision, Simple: Any case in which a single lot is to be created within an existing parcel, and which does not require the construction or the extension of any existing road/street or municipal facility.

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

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Stormwater Pollution Prevention Plan (SWPPP): A SWPPP contains a Water Quality and Quantity Control plan in addition to Erosion and Sediment Control (E&SC) plan. All sites with greater than a one (1) acre disturbance are required to prepare and implement an Erosion and Sediment (E&SC) Control Plan. Any construction activity that disturbs between 1 and 5 acres and is planned for *single-family residential homes* needs an E&SC Plan only. If the proposed action disturbs more than five (5) acres, a Water Quality and Quantity Control plan components must be prepared in addition to Erosion and Sediment Control plan (i.e. SWPPP). Furthermore, small construction activity that disturbs between 1 and 5 acres and is planned for land uses such as: townhouses, apartment complexes, institutional (places of worship, schools, hospital, government offices, police and fire stations), industrial or commercial development, must prepare Water Quality and Quantity Control plan components in addition to E&SC plan. The SWPPP must be prepared and certified by a licensed/certified professional. A “licensed / certified professional” is a professional engineer or a landscape architect, licensed to practice in New York State, or is a Certified Professional in Erosion and Sediment Control (CPESC).

Tract: Any body of land, including contiguous parcels of land, under one ownership or under common control of any group of persons acting in concert as part of a common scheme or plan.

Town: The Town of New Lisbon. Any reference to the Town herein shall include the Town Board, Planning Board, Town Clerk, Planning Board Clerk or other applicable delegation by the Town Board.

Type I Action: An action that meets or exceeds a threshold contained on the list in Section 617.4 of the SEQRA. Type I actions are more likely to have a significant adverse impact on the environment than Unlisted actions and may require the preparation of a draft EIS.

Type II Action: Type II actions are by regulation those actions, which never require further SEQR review. The fact that an action is identified as a Type II action in any agency's procedures does not mean that it must be treated as a Type II action by any other involved agency not identifying it as a Type II action in its procedures.

Unlisted Action: An Unlisted action means all actions not identified as a Type I or Type II action in Section 617.4 of SEQRA Law. An Unlisted action is one that may have a significant effect on the environment as explained in Part 617.2 of SEQRA Law.

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ARTICLE III

Procedure For Filing Subdivision Applications

§ 200-11. General procedure.

Whenever any subdivision of land is proposed to be made, and before any contract for the transfer of, or any offer to transfer 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 to the Planning Board for approval of such proposed subdivision in accordance with the following procedures.

A. Sketch Plan Review.

- (1) Presubmission conference with Planning Board.
- (2) Sketch plan submission and review.
- (3) Field trip by Planning Board.
- (4) Classification of subdivision by Planning Board.
- (5) Determination if action is subject to SEQRA and classify action as Type I, Type II or and Unlisted Action (see Article II Definitions).
- (6) If subject to SEQRA, notify other involved agencies to establish Lead Agency.
- (7) Planning Board action on sketch plan.

B. Preliminary plat (major subdivision only).

- (1) Preliminary plat submission and review by Planning Board.
- (2) Review by involved agencies and Planning Board recommendation to Town Board.
- (3) Review of Full or Short Environmental Assessment Form (EAF).
- (4) Town Board public hearing on preliminary plat.
- (5) Determination of environmental significance (i.e. Positive or Negative Declaration).
- (6) Town Board action on preliminary plat.

C. Final plat.

- (1) Final plat submission and review.
- (2) Town Board public hearing on final plat.
- (3) Determination of environmental significance.
- (4) Town Board prepares Findings on Environmental Impact Statement, if applicable.
- (5) Town Board action on final plat.
- (6) Completion and maintenance of improvements or posting of bond, letter of credit or suitable alternative surety.
- (7) Planning Board Chairman signing of final plat at direction of Town Board.
- (8) Filing of final plat with County Clerk.

§ 200-12. General conditions.

- A. Site alterations. During the procedure of subdivision review in the above three steps, the construction of new roads shall not be started, nor shall any activities, except those directly related to obtaining any required approvals (e.g. surveying and the location of stakes), be undertaken that would disturb, remove or relocate any existing features, including but not limited to stone walls, steep slopes, rock outcroppings, trees, general vegetation, streams or watercourses.

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- B. State Environmental Quality Review Act (SEQRA) procedures. The procedure for subdivision review and approval shall run concurrently with the State Environmental Quality Review Act process. The Planning Board shall have the discretion to make adjustments to the time periods specified in these regulations in order to provide reasonable time for the preparation, review and public hearings with respect to any required draft environmental impact statement. The Planning Board shall carry out the terms and requirements of 6 NYCRR Part 617 implementing the State Environmental Quality Review Act with minimum procedural delay, shall avoid unnecessary duplication of reporting and review requirements by providing, where feasible, for combined or consolidated proceedings, and shall expedite all proceedings under the State Environmental Quality Review Act in the interest of prompt review.

§ 200-13. Sketch plan review.

- A. Pre-application Conference. Before preparing a sketch plan, the applicant should make an appointment at a regular meeting of the Planning Board to discuss the procedure for approval of a subdivision and to discuss the requirements of these regulations for lot size and arrangement, street improvements, drainage, sewerage, water supply, fire protection, and similar aspects, as well as the availability of existing services and other pertinent information.
- B. 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, for the purposes of classification and preliminary discussion.
- (1) Documentation. Maps showing the property boundaries, general topographic information, approximate location of wetlands and the proposed lot arrangement and locations of new streets must be submitted but need not be in final form. All surveys shall bear the signature and seal of a licensed professional engineer or land surveyor. An environmental assessment form must also be submitted.
- (2) Application fee. A processing fee (per Town Fee Schedule) shall accompany the submission.
- D. Field trip. After the regular Planning Board meeting at which the sketch plan is discussed and reviewed, the Planning Board may schedule a field trip to the site of the proposed subdivision, accompanied by the applicant or his or her agent. Prior to this field trip, the Planning Board may require that the center line of any proposed road and specific lot locations be staked.
- E. Planning Board action on sketch plan. Within 62 days of such meeting, the Planning Board shall inform the subdivider in writing that the plans and data as submitted at this stage do or do not meet the objectives of these regulations. When the Planning Board finds the plans and data submitted do not meet the objectives of these regulations, it shall express its reasons therefore to the subdivider, in writing. At the same time, the Board shall classify the proposal as either a Simple, Minor or Major Subdivision, and shall so advise the applicant, and shall make the appropriate notation on the sketch plan.

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F. Consultation with other government agencies.

- (1) Town agencies. Prior to formally submitting a preliminary plat, the subdivider, or his or her duly authorized representative, should request that the Chairperson or other authorized official of the Planning Board contact the Town Highway Superintendent, on the subdivider's behalf to discuss the proposed subdivision layout and its potential environmental effects.
- (2) County, state and other agencies. The subdivider should also be prepared to discuss the sketch plat with other agencies from whom approvals may be required. The subdivider should consult with the New York State Health Department, which is responsible for the adequacy of lots sizes and facilities for water supply and sewage disposal. Under certain conditions, the subdivider may also need to consult with the State Departments of Transportation and Environmental Conservation, the Otsego County Department of Public Works and the Otsego County Planning Board.

§ 200-14. Simple subdivision procedure (Town Board Authority to Approve).

- A. Application. Within six (6) months after classification of the sketch plan as a simple subdivision by the Planning Board, the applicant shall submit an application in duplicate for approval thereof. The application shall conform to the layout shown on the sketch plan, plus any recommendations made by the Planning Board.

Four (4) copies of an environmental assessment form for the proposed subdivision shall also be submitted for review. The statement should consider potential impacts of the development as anticipated by the developer. The time of submission of an application 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, complete and accompanied by the required fee and all required data, has been submitted to the Planning Board by delivery to the Town Clerk.

- B. Submission and Fee. The applicant, or his duly authorized representative, shall submit two (2) copies of the proposed application for review by the Planning Board at least ten (10) days prior to the Planning Board meeting at which it is to be considered. The applicant, or his duly authorized representative, shall attend the Planning Board meeting to discuss the application. A processing fee (per Town Fee Schedule) shall accompany the submission.
- C. Action on Simple Subdivision. If the Planning Board considers a recommendation for approval or disapproval to be in order, it shall refer the matter to the Town Board. Upon receipt of the referral from the Planning Board, the Town Board shall obtain and communicate a decision on the simple subdivision proposal within sixty-two (62) days after the date of any public hearing or within a period extended by mutual agreement. Failure of the Town Board to respond in person or by a mailing postmarked within sixty-two (62) days or within any mutually agreed to time period, shall be considered an approval of the application by the Town. The Town Board, in the case of a simple subdivision, may recommend approval of the application upon submission, waiving any requirement it deems appropriate including the requirement to hold a public hearing.

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The action of the Town, plus any conditions attached thereto, shall be noted on, or attached to, certified copies of the subdivision plat. One (1) copy shall be returned to the applicant and one retained by the Planning Board within five (5) days of the approval. If the final plat is approved subject to conditions set forth by the Town Board, upon satisfaction of the conditions, the final plat must be signed by the Planning Board Chairman before it may be filed. The applicant shall have one hundred eighty (180) days to meet the conditions set forth by the Town Board for final approval. The Town Board may extend this time for up to one hundred eighty (180) additional days.

- D. Limitation on Use of Simple Subdivisions. The purpose of the Simple Subdivision procedure is to allow convenience to property owners in the Town but shall be limited to one (1) per year from each existing parcel. Persons who wish to have more than one (1) Simple Subdivision over a period of years will be looked upon favorably in the Town when the applicant prepares a long-term plan for their future Simple Subdivisions. Where the Town considers the Simple Subdivision procedure is pursued repeatedly with inadequate planning, the Town may, in its sole discretion, on a case-by-case basis, require the owner to apply under appropriate major or minor subdivision regulations.

§ 200-15. Minor subdivision procedure (Planning Board advisory recommendation to TB).

- A. Application. Within six (6) months after classification of the sketch plan as a minor subdivision by the Planning Board, the subdivider shall submit an application in duplicate for approval thereof. Failure to do so shall require resubmission of the sketch plan for reclassification. The plat shall conform to the layout shown on the sketch plan, plus any recommendations made by the Planning Board.

Four (4) copies of an environmental assessment form for the proposed subdivision shall also be submitted for review. The statement should consider potential impacts of the development as anticipated by the developer.

The time of submission of the Minor 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 Final Application for plat approval, complete and accompanied by the required fee and all required data, has been submitted to the Planning Board by delivery to the Town Clerk.

- B. Submission and Fee. The applicant, or his duly authorized representative, shall submit four (4) copies of the proposed subdivision plat for review by the Planning Board at least ten (10) days prior to the Planning Board meeting at which it is to be considered. The subdivider, or his duly authorized representative, shall attend the Planning Board meeting to discuss the subdivision plat. A processing fee (per Town Fee Schedule) shall accompany the final plat submission.
- C. Public Hearing. The Planning Board shall review the subdivision plat as submitted by the subdivider at its meeting on which the application was filed. If the Planning Board considers a recommendation for approval or disapproval to be in order, it shall refer the matter to the Town Board. The Town Board will have up to sixty-two (62) days from the date the plat was referred to it by the Planning Board to hold a public hearing. The public hearing must be advertised at least once in a newspaper of general circulation in the town at least five (5) days before it is held.

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- D. Action on Minor Subdivision Plat. The Town Board shall obtain and communicate a decision on the subdivision proposal within sixty-two (62) days after the date of any public hearing or within a period extended by mutual agreement. Failure of the Town Board to respond in person or by a mailing postmarked within sixty-two (62) days or within any mutually agreed to time period, shall be considered an approval of the application by the Town. The action of the Town Board, plus any conditions attached thereto, shall be noted on, or attached to, certified copies of the final plat. One (1) copy shall be returned to the subdivider and one retained by the Town Board within five (5) days of the approval.

If the final plat is approved subject to conditions set forth by the Town Board, upon satisfaction of the conditions, it shall direct the Planning Board chairman to sign the final plat. The subdivider shall have one hundred eighty (180) days to meet the conditions set forth by the Town Board for final plat approval. The Town Board may extend this time for up to one hundred eighty (180) additional days.

- E. Filing of Minor Subdivision Plat. The approval of a minor subdivision plat by the Town Board, either by a direct statement of approval or by approval due to failure to respond within the specified time, shall expire within sixty-two (62) days if the subdivider fails to record the approved subdivision with the Otsego County Clerk. The Town Board may grant an additional sixty-two (62) days extension if requested by the applicant. No local building permits may be issued prior to the time that such a filing is made with the Otsego County Clerk.

§ 200-16. Major subdivision procedure (Planning Board advisory recommendation to TB).

- A. Application. Prior to the filing of an application for the approval of a major subdivision plat, the subdivider shall file two (2) copies of the application for the approval of a preliminary plat of the proposed subdivision. Such preliminary plat shall be clearly marked "Preliminary Plat" and shall be in the form described in these regulations. The preliminary plat shall, in all respects, comply with the requirements set forth in the provision of these regulations, except where a waiver may be specifically authorized by the Town Board.

Four (4) copies of an environmental assessment form for the proposed subdivision shall also be submitted for review. The statement should consider potential impacts of the development as anticipated by the developer.

The time of submission of the Major 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 Preliminary Application for plat approval, complete and accompanied by the required fee and all required data, has been submitted to the Planning Board.

- B. Submission and Fee. Four (4) copies of the preliminary plat shall be submitted for review by the Planning Board at least ten (10) days prior to the Planning Board meeting at which it is to be considered. The processing fee (per Town Fee Schedule) shall accompany all preliminary submissions.

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- C. Meeting with the Planning Board. The subdivider, or his authorized representative, shall attend the meeting of the Planning Board to discuss the preliminary plat. At the meeting, 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 unsubdivided, and the requirements of the Master Plan, the Official Map and Zoning Regulations, if such exist.
- D. Notifications. All applicants, at least ten (10) working days, but not more than fifteen (15) working days, prior to attending each public hearing by the New Lisbon Town Board, shall send written notice by certified mail, return receipt requested, to all contiguous landowners and landowners on the opposite side of the highways or rights-of-way on which the applicant's property has frontage, or property owners within one half (1/7) mile of the proposed subdivision boundaries. Property owners entitled to notice shall be those listed as owners on the records of the New Lisbon Tax Assessor's office as of the date of the mailing. The written notice shall contain information equal to the notice published in the newspaper. Proof of mailing receipts must be furnished to the Town Clerk prior to the public hearing.
- E. Public Hearing. The Town Board shall have up to sixty-two (62) days from the time that the preliminary subdivision plat is referred to it by the Planning Board to hold a public hearing on the proposal. The public hearing shall be advertised in the official town newspaper at least five (5) days in advance of the meeting date. Failure of the Town Board to hold a public meeting within the required time period or to provide a rejection notice shall be deemed to be the equivalent to Town Board approval of the preliminary plat.
- F. Action on Preliminary Plat. The Planning Board shall make recommendations to the Town Board for approval, with or without modifications, or disapproval of such preliminary plat within sixty-two (62) days from the date a complete application is filed. The Planning Board shall state the grounds upon the records for approval or disapproval. The Town Board shall then have up to sixty-two (62) days from receipt of the referral from the Planning Board to hold a public hearing. Following the close of the public hearing, the Town Board shall have sixty-two (62) days to take action on the preliminary plat. The time in which the Town Board must take action on such preliminary plat may be extended by mutual consent of the subdivider and the Town Board.

If the Town Board disapproves the preliminary plat, it shall notify the applicant, in writing of the specific reasons for disapproval.

When granting approval to a preliminary subdivision plat, the Town Board shall state the conditions of such approval, if any, with respect to:

- (1) The specific changes that will be required in the final subdivision plat.
- (2) The character and extent of the required improvements for which waivers may have been requested and which, in the Town Board's opinion, may be waived without jeopardy to the public health, safety, morals and general welfare.

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- (3) The amount of the improvement or the amount of all bonds thereof that will be required as a prerequisite to the approval of the final subdivision plat.

The action of the Town Board, plus any conditions attached thereto, shall be noted on, or attached to, certified copies of the preliminary subdivision plat. One (1) copy shall be returned to the subdivider and one (1) retained by the Planning Board within five (5) days of the approval. Approval of a preliminary plat shall not be construed as approval of a final plat. Such acceptance shall merely express the acceptance of the subdivision layout as a guide for the development of the final plat. Failure of the Town Board to act on the proposal within sixty-two (62) days after the public hearing or within any period mutually agreed upon by the owner and the Town Board shall be equivalent to the Town having given its approval to the preliminary subdivision.

- G. Application for Final Plat Approval. The subdivider shall, within six (6) months after the approval of the preliminary plat, file with the Town Board an application in duplicate for approval of the subdivision plat in final form. If the final plat is not submitted within six (6) months after the approval of the preliminary plat, the Town may refuse to approve the final plat and require resubmission of the preliminary plat. Four (4) copies of the final subdivision plat shall be submitted for review by the Town Board, together with all construction drawings, any required fees, and the original and two (2) copies of all offers of cession, covenants and agreements. A processing fee (per Town Fee Schedule) shall accompany the final submission.
- H. The time of submission of the final plat. Shall be considered to be the date of the regular meeting of the Town Board, at least ten (10) days prior to which the Final Application for plat approval, complete and accompanied by all required data, has been submitted to the Town Board.
- I. Public Hearing. The Town Board may waive holding a public hearing on a final plat, if it finds that the final plat is in substantial agreement with the preliminary plat. If the hearing is waived, the Town Board shall act within sixty-two (62) days from the date that the final plat was filed.

If the Town Board does not wish to waive the public hearing, such a hearing shall be held within sixty-two (62) days of the date of receipt of the final plat. This hearing shall be advertised at least once in a newspaper of general circulation in the town at least five (5) days before such hearing.

- J. Review of Final Plat. Unless extended by the mutual consent of the Town Board and the subdivider, the Town Board must act on the final subdivision plat within sixty-two (62) days of the receipt of the application if the public hearing is waived or within sixty-two (62) days after the date of the public hearing. Failure of the Town Board to take action within either of these required periods will be deemed an act of approval by the Town Board granting to the subdivider all of the rights and privileges which such approval conveys.

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K. Action on Final Plat.

The Planning Board shall review the final subdivision plat in accordance with the guidelines of these regulations. It shall examine the final plat to see that it is consistent with the concept presented in the preliminary subdivision plat and all of the required elements of submission have been placed on file with the Planning Board.

After the public hearing has been held on the final plat, if one is held or within sixty-two (62) days of receipt as specified above, the Planning Board shall meet, make recommendations to the Town Board, and the Town Board take action on the final plat submission. If the Town Board moves to approve the final plat, as submitted, it shall direct the Planning Board chairman to sign the final plat. The chairman is required to sign the plat subject to the following conditions:

- (1) All of the requirements for final subdivision plat submission have been met.
- (2) All required corrections and modifications have been made or a sufficient guarantee has been accepted by the Town for such corrections and modifications. All such conditions must be met before the plat is signed by the chairman of the Planning Board.
- (3) Any performance bonds requested by the Planning Board have been obtained by the subdivider and are in a form as approved by the Town Attorney.
- (4) A statement by the Town Attorney approving as to the legal sufficiency of all offers of cession or covenants governing the maintenance of unceded public open space.

The Town Board may, by resolution, conditionally recommend approval, with or without modifications, of the final plat. Upon resolution of conditional approval of such final plat by the Town Board, the Planning Board Chairman shall sign the plat upon completion of such requirements as may be stated in the resolution.

Within five (5) days of such resolution, the plat shall be certified by the clerk of the Planning Board as conditionally approved and a copy retained by the Planning board and a copy mailed to the subdivider. The copy mailed to the subdivider shall include a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved final plat.

Upon completion of such requirements, the plat shall be signed by the Planning Board Chairman. Conditional approval of a final plat shall expire one hundred eighty (180) days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Town Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted in the circumstances, for not to exceed two (2) additional period of ninety (90) days each.

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§ 200-17. Review by County Planning Board.

A. Plats Requiring County Review.

Plats of real property lying within a distance of five hundred (500) feet from any municipal boundary or from the boundary of any existing or proposed County or State park or other recreation area or from the right-of-way of any existing or proposed County or State parkway, expressway, road or highway or from the existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines or from the existing or proposed boundary of any County or state owned land on which a public building or institution is situated shall be reviewed by the Otsego County Planning Board.

B. Notification of County Planning Board.

The Town Planning Board, upon receipt of any application for final approval of any such subdivision plat, shall notify the Otsego County Planning Board of said application and submit one (1) copy of any plans, plats or other accompanying documents for review.

C. County Planning Board Report.

Within thirty (30) days, the Otsego County Planning Board will report to the municipality its approval, disapproval or approval subject to conditions pursuant to Sections 239-1 and 239-n of Article 12B of the General Municipal Law. The Town Planning Board shall not act contrary to the recommendations of the Otsego County Planning Board except by a vote of a majority plus one of all of the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary actions.

D. County Planning Board Review.

In the event Otsego County Planning Board Review is mandatory due to the location of the proposed site, appropriate schedule time must be added to any Town response time of thirty (30) days to enable these additional procedures.

§ 200-18. Endorsement of State and County agencies.

Whenever the design standards of these regulations require any approval or endorsement of any State or County agency, no subdivision plat shall be approved without having said approval or endorsement. Where unreasonable delay would result in obtaining said approval or endorsement, the Town may make its approval of subdivision plat conditional upon said approval or endorsement by State or County agencies.

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§ 200-19. Filing of approved subdivision.

A. Filing with County Clerk.

Upon satisfaction of the requirements and procedures specified in this article, a subdivision plat shall be deemed to have final approval and shall be properly signed by the duly designated officer of the Planning Board and shall be filed by the applicant in the office of the Otsego County Clerk. Any subdivision plat not so filed or recorded within sixty-two (62) days of the date upon which such plat is approved or considered approved by reason of the failure of the Planning Board to act shall become null and void.

B. Modifications of Approved Subdivision.

No changes, erasures, modifications or revisions shall be made on any subdivision plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless the said plat is first resubmitted to the Planning Board, and such Planning 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 Planning Board shall institute proceedings to have the plat stricken from the records of the Otsego County Clerk.

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ARTICLE IV Documents to be Submitted

§ 200-20. Sketch plan.

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. A key map, which shall show location of the proposed subdivision within the town, shall accompany the sketch plan. The sketch plan shall be submitted showing the following information.

- A. Name and address of subdivision, north arrow, scale and date.
- B. Name of the owner of the subdivision and of all adjoining property owners.
- C. The specific boundary of the area to be subdivided.
- D. The tax map sheet, block and lot numbers.
- E. All existing structures, wooded areas, State and federal wetlands, streams and other significant physical features, within the portion to be subdivided and within 200 feet thereof. If topographic conditions are significant, contour shall be indicated at intervals of not more than 20 feet, based upon available U.S. Geological Survey data.
- F. All the utilities, streets, and rights-of-way that are existing.
- G. All existing restrictions on the use of the land including easements, covenants and/or utility rights-of-way.
- H. The proposed pattern of lots, street layout, recreation areas and systems of drainage, sewerage and water supply within the *subdivided* area.
- I. Existing platting, if a resubdivision.
- J. If property is within 500 feet of a NYS Ag & Markets District, an Ag Data Statement.

§ 200-21. Minor subdivision plat.

Subdivision plats for properties greater than 10 acres shall be drawn at a scale of not less than one hundred (100) feet to the inch. Subdivision plats for properties less than 10 acres shall be drawn at a scale of not less than fifty (50) feet to the inch. All maps shall be oriented with the north point at the top of the map and the sheet size shall not be greater than 34 x 44 inches. When more than one sheet is required, an additional index sheet shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible. Also, all subdivision plats shall be accompanied by a key map which shall show the location of the subdivision within the town and the distance to the nearest existing street intersection. Said subdivision plats shall be prepared by a land surveyor licensed by New York State and show the following information:

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- A. The proposed subdivision name, the name of the town and county, the date the plat was prepared or revised, true North arrow and scale.
- B. The name and address of the owner of the property being subdivided and the subdivider, if different from the owner.
- C. The name, address, license number, signature and seal of the surveyor preparing the plat.
- D. The name and owner of ail adjoining property and any adjacent subdivision.
- E. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances made and certified by a licensed land surveyor.
- F. The deed book and page numbers on which the tract being subdivided is recorded.
- G. The tax map sheet, block and lot numbers.
- H. All existing structures that are to remain, wooded areas, streams and other significant physical features within the tract and within two-hundred (200) feet of the boundaries thereof.
- I. All existing or proposed utilities and streets, all mapped but undeveloped streets or roads and all easements or rights-of-way across any parts of the tract.
- J. The proposed lot lines, dimensions and area of each lot being created by the subdivision. References shall be made to indicate the corners of each lot.
- K. All restrictions upon the use of land, including covenants.
- L. Evidence that all on-site sanitation and water supply facilities are designed to meet the minimum specifications of the New York State Health Department.
- M. Copy of driveway permit approval from NYSDOT, County Highway Department or Town Highway Superintendent must be provided prior to public hearing.
- N. Sediment & Erosion Control Plan, Stormwater Pollution Prevention Plan or State Pollutant Elimination System if required pursuant to NYSDEC regulations.
- O. If property is within 500 feet of a NYS Ag & Markets District, an Ag Data Statement.
- P. Any additional information required by the Planning Board or Town Board to assure compliance with these regulations.

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§ 200-22. Major subdivision preliminary plat.

In addition to the information required under Section § 200-21 subdivision plats submitted for major subdivision preliminary plat approval shall show the following:

- A. The location and dimensions of all parcels of land proposed to be dedicated to the public use and the conditions of such dedication.
- B. The location of existing buildings, rock out-croppings, wooded areas, single trees with a circumference of greater than twenty-four (24) inches measured at chest height.
- C. The location of existing wells, septic systems, storm drains, culverts and drains on the tract with pipe sizes, grades and direction flow; the approximate location and size of all proposed waterlines, valves, fire hydrants, fire ponds, storm drains, and sewer lines; profiles of all proposed water and sewer lines and storm drains; capacity of any storage or treatment facilities.
- D. The area and dimensions of each proposed lot along with the names of adjoining property owners and Tax Map parcel numbers of adjoining lots.
- E. Topographic contours at vertical intervals of not more than five (5) feet; approximate grading plan if natural contours are to be changed more than two (2) feet.
- F. The width and location of any streets, or public ways or places within or adjoining the subdivision; the width, location, grades and profiles of all streets or public ways proposed within the subdivision.
- G. Plans and cross sections showing construction details of all streets, sidewalks, curbs, water mains, sanitary sewers, storm drains, manholes, basins and underground facilities, necessary to demonstrate compliance with the design standards of these regulations.
- H. Preliminary designs of any bridges or culverts required in the subdivision.
- I. All lands falling within the 100-year flood limit as depicted on the latest federal Flood Hazard Boundary Maps or Flood Insurance Rate Maps.
- J. If septic systems are proposed, the location of septic percolation and deep hole tests sites, results of percolation and deep hole tests and date tests were taken shall accompany the Preliminary Plat.
- K. Where on-site water supply systems are proposed, the quality and quantity of water available shall be indicated.
- L. Copy of driveway permit approval from NYSDOT, County Highway Department or Town Highway Superintendent must be provided prior to public hearing.
- M. Sediment & Erosion Control Plan, Stormwater Pollution Prevention Plan or State Pollutant Elimination System, if required pursuant to NYSDEC regulations.

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§ 200-23. Major subdivision final plat.

In addition to the information required under Sections § 200-21 & 22, subdivision plats submitted for final major subdivision plat approval by the Planning board shall show the following:

- A. Sufficient data, acceptable to the Land Use Enforcement Officer to determine readily the location bearing and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the New York State system of plane coordinates and in any event should be tied to reference points previously established by a public authority.
- B. The length and bearing of all straight lines, radii, length of curves and central angles of all curves, tangent bearings for each street; all dimensions and angles of the lines of each lot.
- C. All public open spaces for which deeds are included and those spaces title to which is reverted 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 therefore; required.
- D. Construction drawings including plans, profiles and typical cross sections of disposal systems, storm streets, sidewalks, curbs, water supply and sewage drains, manholes, catch basins and other facilities as are available from the Town Planning Board.
- E. Where these regulations require the submission of multiple copies of any plans or plats, these may be paper prints or reproductions of originals conforming to the foregoing specifications.
- F. All plats shall have provided a signature block not less than three (3) inches square for the Planning Board endorsement of approval.
- G. A metes and bounds description of proposed lot lines (required for final); also the area and dimensions of each lot.

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ARTICLE V

Required Improvements and Agreements

§ 200-24. Completion of improvements or filing of performance bond.

Prior to final approval of a subdivision plat by the Planning Board, the subdivider shall complete all required improvements or file a performance bond or certified check to assure completion of all required improvements in accordance with the following procedures:

A. Improvements to be Completed.

- (1) After adoption of a resolution approving a final subdivision plat, and before the plat is endorsed by the Planning Board Chairperson and other duly authorized member, the subdivider shall be required to complete, at his or her expense and without reimbursement by the town or any special district, all street and other improvements as shown on the approved construction plans or otherwise specified in the resolution.
- (2) All improvements shall be completed to the satisfaction of the Town's Highway Superintendent or consulting engineer and approved by the Town Board, in accordance with the approved construction plans and the requirements of these regulations, the town road construction standards and other specifications.

B. Performance of Improvements.

- (1) In lieu of completing some or all required improvements, the subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements or the subdivider shall file with the Town Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety.
- (2) Such guaranty shall be issued pursuant to the conditions of § 277, Subdivision 9, of the Town Law and shall state the period within which the required improvements must be completed, which period shall not exceed three years.

C. Certification of Completion of Improvements. The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Land Use Enforcement Officer and a map satisfactory to the Town Board has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements, then said map shall be submitted prior to endorsement of the plat by the appropriate Planning Board officer. However, if the subdivider elects to provide a bond or certified check for all required improvements, such bond or check shall not be released until such a map is submitted. Reinspection costs shall be for the account of the subdivides, and, if unpaid, shall delay any endorsement.

D. Modification of Required Improvements. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Land Use Enforcement Officer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Land Use Enforcement

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Officer may, upon approval by the Planning Board, authorize modifications provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Planning Board. The Land Use Enforcement Officer 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.

§ 200-25. Inspection of improvements.

A final inspection of all improvements will be made to determine whether the work is satisfactory and in agreement with the approved final plat and construction drawings. Upon a satisfactory final inspection report, action will be taken to release the performance bond covering such improvements and utilities, if a bond was filed. The Land Use Enforcement Officer or consulting engineer shall also notify the Town Board that all work has been completed to town specifications. These relate to matters including drainage, subbase materials and compaction, and final paving.

- A. Unacceptable Improvements. If the Land Use Enforcement Officer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivides, he shall so report to the Town Board and Planning Board. The Town Board then shall notify the subdivides and, if necessary, the bonding company and take all necessary steps to preserve the Town's rights under the bond. No plat shall be approved by the Town as long as the subdivides is in default on a previously approved plat.
- B. Inspection Fee. An inspection fee related to the estimated cost of improvements as determined by the Planning Board or to the amount of the performance bond, if filed, shall be paid to the Town prior to the time that the Planning Board signs the final plat.

§ 200-26. Streets and recreation areas.

- A. Acceptance of Streets. The approval by the Town 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.

In the event that no offer of cession to the public is made for any street, easement or other open space shown on the plat, there shall be submitted with the application for plat approval copies of agreements or other documents providing for and fixing responsibility for suitable maintenance of such facilities and statements of all rights which exist with respect to the use of such property (ies). The adequacy of such documents shall be subject to Planning Board approval, based upon recommendations of the Town Attorney.

- B. Acceptance 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 or other

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documents covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of such recreation area.

§ 200-27. Agreements.

The following documents shall be submitted with any major or minor subdivision plat under review for final approval.

- A. Offers of cession and covenants governing the maintenance of unceded open space that shall bear the certificate of the Town Attorney as to their legal sufficiency.
- B. Copies of any covenants or deed restrictions being applied to any lots in the subdivision.
- C. Any certification required by these regulations to verify that the proposed subdivision complies with applicable local and state laws.

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ARTICLE VI Design Standards

§ 200-28. General standards.

The Planning Board in considering an application for the subdivision of land, shall be guided by the following considerations and standards, which standards shall be deemed to be the minimum requirements for the convenience, health, safety and welfare of the town. In all cases except where noted herein, the Planning Board shall be the determining agent.

- A. Character of Land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. Particular attention must be paid to the inadequacies of local soils, in regard to adequacy of drainage. The Planning Board must be convinced of the adequacy of any soils tests required. Before any residential building construction is undertaken, the Planning Board may require test(s) in accordance with New York State Department of Health Section 75-A of Public Health Law 201(1)(L). The test (s) may be required to be witnessed and the results approved by the Land Use Enforcement Officer's inspection (s), which shall be paid by the landowner. Any sewage treatment system shall then be installed at the test (s) location, or the test may need to be repeated.
- B. Conformance. Subdivisions shall conform to the Official Map of the Town and shall be in harmony with the Master Plan, if such exists,
- C. Town Specifications. All required improvements shall be constructed or installed to conform to the Town's specifications.

§ 200-29. Lot Size, layout and monumentation.

- A. Conformance with Health Laws:
 - (1) Where additional lot area is required to support private on-site water supply or sewage disposal systems, such additional lot area shall be provided and made a part of any or each lot being created. The need for additional lot area shall be determined by the New York State Department of Health.
 - (2) Lots shall be of sufficient size to accommodate buildings and individual sanitary sewage disposal systems designed in accordance with the New York State Health Department. Lots shall not be inordinately long and narrow, unless of sufficient total area to overcome any objection as to adequacy of water and sewage arrangements as outlined in Section 75-A of Public Health Law.
 - (3) Lots shall be of sufficient size to accommodate buildings and individual sanitary sewage disposal systems designed in accordance with minimum specifications of any applicable State, County, Town or New York City agencies having jurisdiction. Lots should generally not be less than one (1) acre and should have a minimum road frontage of at least one hundred and fifty feet (150') or (one hundred feet (100') on a cul-de-sac). All lots should be of sufficient width and depth to accommodate a residence with setbacks of at least twenty-five feet (25') from side and rear lot lines and one hundred feet (100') from the road centerline.

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- B. Variances. All lot Lines shall be buildable in accordance with the yard and setback requirements of local laws and regulations.
- C. Erection of More Than One Principal Structure on a Lot. More than one single-family residence may be erected on a single lot provided that all other requirements of this Chapter shall be met for each structure as though it were on an individual lot.
- D. Natural Limitations. Lots shall be laid out so as to avoid conflict with the natural limitations of the land. Buildable portions of lots shall not include Special Flood Hazard Areas, stream beds, swamps or marshlands, or slopes in excess of fifteen (15) percent. Such areas shall be shown on the subdivision plat and clearly labeled as being unbuildable.
- E. Design Specifications. The following design specification shall be followed in laying out lots, except where the shape of the parcel being subdivided, the natural limitations of the site or efficient use of the land require otherwise:
- (1) Side lot lines shall be at right angles to straight lines and radial to curved street lines.
 - (2) Lots should not be of such a depth as to encourage creation of a second building lot in the front or rear portion of a lot.
 - (3) Corner lots should be larger than interior lots to provide for proper building setback from each street.
- F. Future Resubdivisions. If a tract is divided into lots which are large enough to permit resubdivision, such lots shall be arranged so as to allow the opening of future streets and the logical further resubdivision, except if such lots are prohibited from resubdivision by a deed restriction at the time of their creation.
- G. Street Access. Every lot being created shall have access to a public street or highway. Access from private streets shall be acceptable only if such streets are designed and improved in accordance with these regulations.
- H. Monuments. Permanent monuments meeting specifications approved by the Land Use Enforcement Officer as to size, type and installation shall be set at such block corners, angle points, points of curves in streets and other points as the Land Use Enforcement Officer may require. The location of these monuments shall be shown on the subdivision plat.
- I. Driveways. Driveways shall not exceed slopes of 14% at any point and shall be separated by from each other by one-hundred (100) feet and road intersections by one-hundred and fifty (150) feet.
- I. Soil Preservation. Land to be subdivided shall be designated in reasonable conformity to existing topography in order to minimize grading, cut and fill, to retain the natural contours, to limit storm water runoff, and to conserve the natural vegetative cover and soil. No trees, topsoil or excavated material shall be removed from its natural position except where necessary to the improvement of lots and the construction of streets and

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related facilities in accordance with the approved plan. Topsoil shall be restored to its original depth and properly seeded and fertilized in those disturbed areas not occupied by buildings or structures.

§ 200-30. Street layout and design.

- A. Streets shall be suitably located to accommodate prospective traffic created by the subdivision and afford access for fire fighting, snow removal and other road maintenance equipment. The arrangement of streets shall conform to the street design requirements of subsection § 200-30(B) of these regulations and the following requirements:
- (1) Roads shall be constructed to the Town of New Lisbon Town Road standards that conform to the *Donovan Plan* minimum standards.
 - (2) Arrangement of streets shall provide for the continuation of principal streets of adjoining properties or subdivisions and for proper projections of principal streets into adjoining properties that are not yet subdivided.
 - (2) Minor streets shall be so laid out that their use by through traffic will be discouraged.
 - (3) The creation of dead-end or loop residential streets will be encouraged wherever the Planning Board or Town Board finds that such type of development will not interfere with normal traffic circulation in the area. In the case of dead-end streets, where needed or desirable, the Board may require the reservation of a twenty (20) foot or wider easement to provide for continuation of pedestrian traffic and utilities to the next street. Subdivisions containing twenty (20) lots or more may require at least two (2) streets shown on an approved submission plat for which a bond has been filed.
 - (4) Blocks shall not be less than four hundred (400) feet nor more than twelve hundred (1200) feet in length, and no block width shall be less than twice the normal lot depth. In blocks exceeding eight hundred (800) feet in length, the Planning Board or Town Board 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 foot path be included.
 - (5) Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided where practical.
 - (6) All streets shall join each other so that for a distance of at least one hundred (100) feet the street is approximately at right angles to the street it joins.
 - (7) 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.
 - (8) Street or roads shall not exceed slopes of 12% at any point.

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- B. Intersections with County Roads. All proposed intersections between streets in a subdivision and any county highway shall be submitted to and approved by the Otsego County Highway Superintendent. All proposed intersections between streets in a subdivision and any state highway shall be submitted to and approved by the resident engineer of the New York State Department of Transportation.
- C. Intersections. No more than two (2) streets shall intersect or meet on any point. No street shall intersect or meet at any angle of less than seventy-five (75) degrees or more than one hundred twenty (120) degrees. The centerlines of offset intersecting streets shall be separated by a minimum distance of 150 feet. Grades shall be limited to no more than plus or minus 2% within 50 feet of an intersection.
- D. Street Improvements. Streets may be required to 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. Grading and improvements shall be approved as to design and specifications by the consulting Town Engineer.
- E. Street Names. All street names shall be shown on a preliminary plat or subdivision plat and shall be subject to approval by the Town Board. Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names.
- F. Underground Utilities. The Town shall, wherever possible, require that any 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. Where topography is such as to make impractical the inclusion of utilities within the street right-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 easement shall be cleared and graded where required.
- G. Commercial Streets. 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.
- H. 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 storm water easement or drainage right-of-way as required by the consulting Town Engineer and in no case less than twenty (20) feet in width.
- I. Debris and Waste. No cut trees, stumps, timber, debris, junk, rubbish or other waste materials of any kind shall be buried under any proposed street.

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- J. School Bus Pickup Areas. Where a subdivision contains or abuts a major or collector street, the Planning Board or Town Board may require that the subdivider reserve, clear, grade, pave or otherwise improve an area of such size and location as will provide a safe and suitable place for use by children awaiting school buses. In general, the size of such area shall not be less than one hundred (100) square feet, and no dimension shall be less than ten (10) feet. Such area shall be included within the street right-of-way and shall be maintained by the holder of fee title to the street. The layout and design shall be subject to Planning Board or Town Board approval.

§ 200-31. Drainage.

- A. Storm Drainage Facilities. Adequate provision shall be made for storm drainage facilities necessitated by the subdivision, subject to the review and recommendations of the Town Highway Superintendent or consulting Town Engineer. All subdivisions shall be related to the existing drainage pattern for the involved areas, and in no case shall the volume or flow of drainage be increased to the detriment of off-site properties.
- B. Twenty-Five Year Storm. The design storm which shall be used for planning all subdivision drainage facilities is the twenty-five-year storm. However, this standard shall be reviewable by the Planning Board should the Town Highway Superintendent or consulting Town Engineer recommend a different design storm for a specific subdivision.
- C. Maintenance. Any drainage structures, easements or rights-of-way created on a subdivision shall be the responsibility of the lot owner to perpetually maintain; however, the lot owner shall allow the Town the right to enter and maintain such facilities for public reasons if it so chooses, unless other arrangements are specifically approved by the Town Board in writing. The disposition of drainage structures, easements or rights-of-way shall be certified by a note on the map.

§ 200-32. Parks and open spaces.

- A. Recreation Areas Shown on Plats. The Planning Board or Town Board may require that sites of a character, extent and location suitable for the development of a park, playground or other recreational purpose be shown on the subdivision plat. Such areas may be required for any other proposed subdivision involving the creation of fifty (50) or more lots of any size or the creation of five (5) or more lots less than one half (1/2) acres in size. Required park, playground and recreation areas shall not exceed ten (10) percent of the total area of the subdivision and such areas may be dedicated to the town, subject to the acceptance by the Town Board.
- B. Payment in Lieu of Dedication. Where the Planning Board or Town Board finds that land for park, playground or other recreational purpose cannot be properly located in a subdivision, or if in the opinion of the Planning Board, provision of such lands would result in areas too small or of insufficient layout to achieve the objective of providing recreational facilities for purchasers of lots within the subdivision, the Planning Board may require a payment in lieu of dedication in an amount not to exceed five hundred (\$500) dollars per lot. Moneys from such payments in lieu of dedication shall be held by the Town Board in a special Town Recreation Site Acquisition and Improvements Fund to be used for the purpose of acquisition or improvement of parks, playgrounds or recreational areas serving the general neighborhood in which the subdivision is located.

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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.

§ 200-33. Fire protection and emergency access.

- A. Fire Protection. Subdivisions containing twenty (20) or more lots or building sites or any number of lots for commercial or industrial development shall provide a supply of water for fire fighting purposes. This supply may be provided through fire hydrants connected to a community water supply system or by means of fire ponds. Such hydrants and ponds shall conform to the following specifications and shall be acceptable to the chief of the fire department in whose district the subdivision is located.
- (1) Installation of any fire hydrants shall be in conformity with all requirements of standard thread and not as specified by the New York Fire Insurance Rating Organization and the New York State Division of Fire Safety.
 - (2) Fire ponds, tanks or other water storage facilities shall have a capacity of not less than thirty thousand (30,000) gallons plus two thousand (2,000) gallons for every lot or building site served. Said ponds, tanks or storage facilities may be provided with a hydrant, the design and location of which is acceptable to the local fire chief.
 - (3) Hydrants or fire ponds, tanks or other water storage facilities or community water supply system shall be readily accessible from a street. Where such hydrants are located outside of any existing street right-of-way, access to such hydrants shall be provided by a twenty (20) foot wide right-of-way and a service drive of at least ten (10) feet in width. Such a service drive shall be of construction and design suitable for use by fire fighting equipment and shall be posted by a permanent sign restricting use to emergency vehicles only.
 - (4) Hydrants or sources of water supply shall be located so that no buildable portion of a lot is located more than fifteen hundred (1,500) feet from any such hydrant or source of water supply.
- B. Emergency Access. Where the physical arrangement of lots or building sites is such that emergency access would be unreasonably difficult in the opinion of the chief of the fire department in whose district the subdivision is located, the Planning Board or Town Board may require that the subdivider provide for alternative means of emergency access.
- C. Water Supply. Fire hydrants and sources of water supply shall be capable of sustaining a flow of five hundred (500) gallons per minute for at least one (1) hour, except that where multiple family, commercial or industrial use of lots is anticipated, the chief of the fire department in whose district the subdivision is located may specify a higher minimum standard.
- D. Maintenance. When any fire hydrants, fire ponds or emergency access roads shall have been shown on a plat, the approval of said plat shall not constitute an acceptance by the town of such facilities or areas. 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 or other documents

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covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of such facilities or areas.

§ 200-34. Environmental considerations.

- A. Preservation of Natural Features: Land to be subdivided shall be designed in reasonable conformity to existing topography in order to minimize grading, cut and fill, and to retain, insofar as possible, the natural contours, to limit storm water run-off, and to conserve the natural vegetation cover and soil. No trees, topsoil or excavated material shall be removed from its natural position except where necessary and incidental to the improvement of lots and the construction of streets and related facilities in accordance with the approved plan. Existing natural features which are of ecological, aesthetic or scenic value to residential development or to the town as a whole, such as wetlands, water courses, water bodies, rock formations, stands of trees, historic spots, view and vistas, man-made features indigenous to the area, such as stone walls and similar irreplaceable assets, shall be preserved, insofar as possible, through harmonious design of the subdivision and where appropriate, the Planning Board may require the inclusion of such features in permanent reservations.
- (1) Trees. A conscious effort shall be made to preserve all worthwhile trees and shrubs which exist on the site. On individual lots or parcels, care shall be taken to preserve selected trees to enhance the landscape treatment of the development. No tree with a diameter of eight inches (8") or more as measured three feet (3') 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 inches (8") or more as measured three feet (3') above the base of the trunk be removed without prior approval by the Planning Board;
- (2) Soil. Natural fertility of the soil shall be preserved by disturbing it as little as possible, and no topsoil shall be removed from the site.
- B. Flood Areas. Land subject to serious or regular flooding shall not be subdivided for residential occupancy or for such other uses as may increase danger to life or property or aggravate the flood hazard, but such land may be used for such uses, subject to any zoning regulations, or in such a way that the flood danger to this property and other upstream or downstream properties will not be increased and periodic or occasional inundation will not be a substantial threat to life or property.
- C. Steep Slopes. Development of steep slope (over fifteen percent (15%) sites will be conditionally acceptable only if there is no prudent or feasible alternative site, and erosion and sedimentation control measures are incorporated in the design, construction, and operation of the development according to standards set by the U.S. Soil Conservation Service, and proposed water and sewage facilities are approved by the New York State Department of Health.
- D. Sediment Control. The subdivider shall provide effective sediment control measures for planning and construction of subdivisions. Use of the following technical principles shall be applied as deemed appropriate by the County Soil and Water Conservation District:

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- (1) The smallest practical area of land shall be exposed at any one time during the development.
- (2) When land is exposed during development, the exposure shall be kept to the shortest practical period of time.
- (3) Temporary vegetation and/or emulsion shall be used to protect critical areas exposed during development.
- (4) Sediment basins, debris basins, silting basins or silt traps shall be installed and maintained to remove sediment from run-off waters on land undergoing development.
- (5) Provision shall be made to effectively accommodate the increased run-off caused by changing soils and surface conditions during and after development.
- (6) Permanent final vegetation and structures should be installed as soon as practical in the development.
- (7) The development plan should be fitted to the type of topography and soils so as to create the least erosion potential.
- (8) Wherever feasible, natural vegetation should be retained and protected.

E. Performance Standards. The interpretation and regulations of this Subdivision Regulation will be guided by the following performance criteria:

- (1) Will not result in undue water or air pollution.
- (2) Has sufficient water available for the reasonable foreseeable needs of the subdivision or development.
- (3) Will not cause unreasonable burden on an existing water supply, if one is to be utilized.
- (4) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
- (5) Will not cause unreasonable highway congestion or unsafe condition with respect to use of the highway, existing or proposed.
- (6) Will not cause failure of normal performance of approved sewage systems due to local conditions.

§ 200-35. Cluster development (Reserved).

[**Editor's Note:** Since the Town of New Lisbon does not have a Zoning Law, the provision of § 278 of the Town Law is not applicable.]

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ARTICLE VII Fees, Inspections and Enforcement

§ 200-36. Fees.

The fees established by the Town Board for subdivision application review shall be deemed to be minimum fees, and any additional expenses actually incurred by the Planning Board or Town Board for professional consultations and other nonministerial expenses shall be imposed on the applicant and paid prior to the endorsement of an approved subdivision plat or site plan or the issuance of any building permit or the issuance of a certificate of occupancy or inspection or the filing of any applicable local law with the Secretary of State.

§ 200-37. Inspections.

- A. Notification by Developer. All permanent improvements, as herein defined, shall require an inspection by the Land Use Enforcement Officer (LUEO). The owner, developer or his agent shall inform the LUEO at least forty-eight (48) hours before such inspection is required and shall not conceal, cover, hide or in any way render invisible any portion of a permanent improvement until such inspection has been made and approved.
- B. Street Inspection. All street grades and methods of construction shall require inspection before acceptance of same for future maintenance. The street inspection shall be conducted by the Land Use Enforcement Officer.
- C. Failure to Inspect. If the Land Use Enforcement Officer does not carry out the inspection of required improvements during construction, the subdivider or the bonding company shall not in any way be relieved of its responsibilities.

§ 200-38. Enforcement.

- A. Penalties. Any violation of the regulations shall be an offense punishable by a fine not to exceed five hundred (500) dollars or by imprisonment of a term not to exceed six (6) months or both. Each week's continued violation shall constitute a separate additional violation. These penalties shall be levied against the owner/subdivider and against the responsible contractor and/or subcontractor(s).
- B. Remedies. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or if any building, structure or land is used in violation of these regulations, any appropriate action or proceeding, whether by legal process or otherwise, may be instituted or taken in addition to other remedies provided by law to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such property.
- C. Complaints. Whenever a violation of these regulations occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Town Clerk, who shall properly record such complaint and immediately cause an investigation of any report thereon by the Land Use Enforcement Officer.

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ARTICLE VIII Waivers

§ 200-39. Waivers.

Where the Town 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 waivers will not have the effect of nullifying the intent and purpose of the master plan or the zoning law, if such exists. In granting waivers, the Town shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so waived.

ARTICLE IX

Amendments, Separability And Effective Date

§ 200-40 Amendments.

This chapter or any portion thereof may be amended, supplemented or repealed at any time by the Town Board on its own motion or by petition or by recommendation of the Planning Board. Such amendments to this chapter shall be made pursuant to the State Municipal Home Rule Law. Also, should provisions of New York State Town Law be amended to require actions different from those specified herein, the State requirements shall prevail.

§ 200-41. Separability.

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

§ 200-42. Effective date.

This Law shall be effective immediately upon enactment and recording with the Secretary of State.