

SUBDIVISION REVIEW PROCEDURE

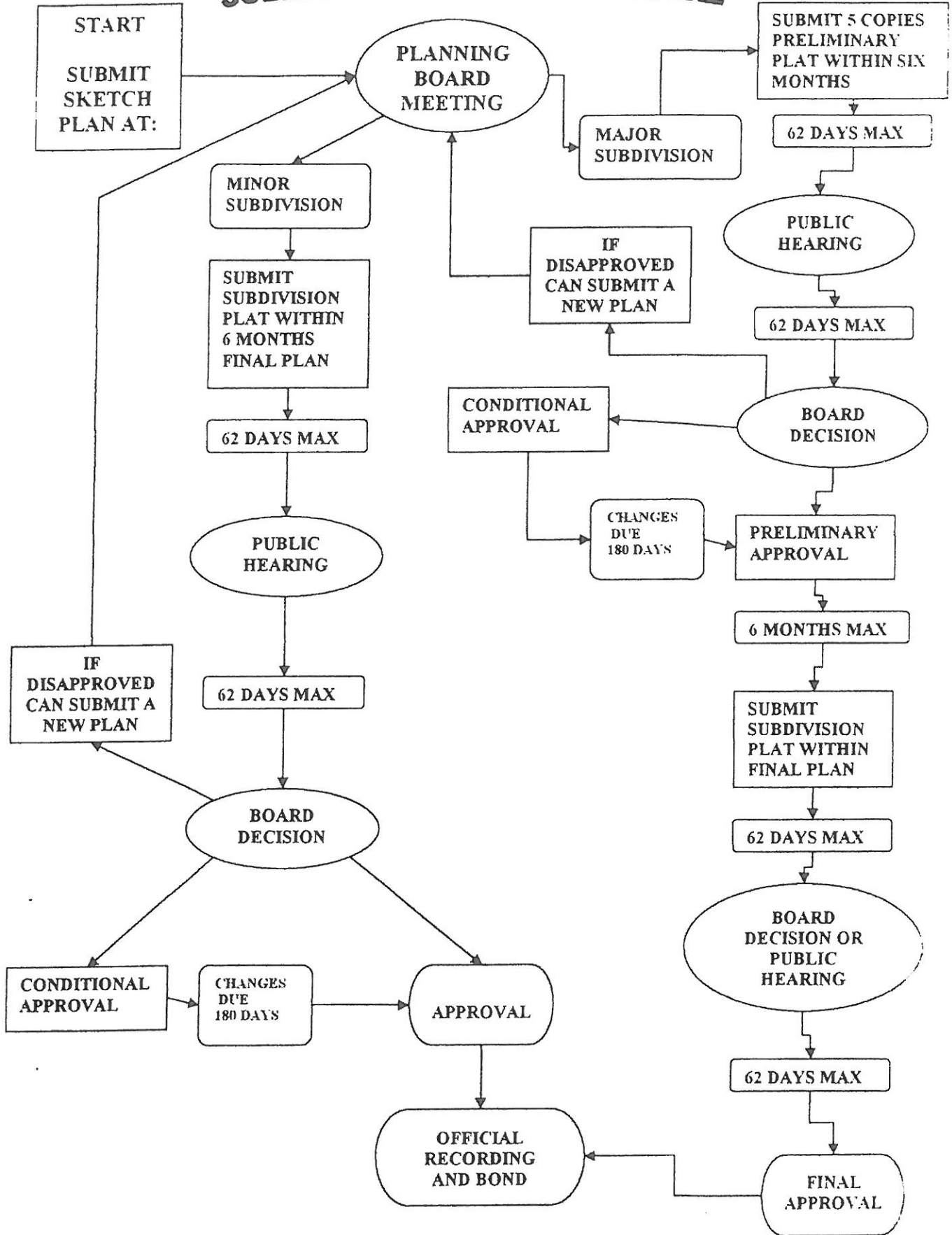


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PART ONE: AUTHORITY AND PURPOSE

A. Short Title

This Local Law shall be known and may be cited as “The Subdivision Regulations of the Town of Wilmington”

B. Authority

This Local Law is enacted by the Town Board of Wilmington, New York, pursuant to Article 16 of the Town Law and Article 10 of the Municipal Home Rule Law and all amendments thereto. This Local Law is intended to amend and supersede the current Town of Wilmington Subdivision Regulations.

C. The Wilmington Planning Board is empowered to review, approve, and disapprove subdivisions.

D. The purpose of these regulations is to provide for the orderly, economic and efficient development of Wilmington. This includes:

- Protection from fire, flood or other dangers;
- Adequate surface drainage, sewerage, water supply;
- Proper relationship to the land use plan, in terms of type and character of development;
- Adequate access for future traffic, including fire-fighting equipment and other emergency use.

E. These regulations apply to all land within the Town of Wilmington.

F. The Wilmington Planning Board adopted subdivision regulations originally in October 1975, with revisions in July 1977.

PART TWO: DEFINITIONS AND INTERPRETATIONS OF LANGUAGE

When used in these regulations, the following terms are defined below:

BUILDING LOT means a parcel of land upon which a dwelling unit may be located meeting the applicable requirements of the Adirondack Park Agency (APA), New York State Department of Health, or Town of Wilmington regulations.

CLERK OF THE PLANNING BOARD means the person who is designated by the Planning Board to perform the duties as directed by the Planning Board.

CLUSTER DEVELOPMENT means a subdivision of land providing for the grouping of development such that it is necessary to modify minimum lot size or other lot dimension of the zoning regulations pursuant to Section 278 of the Town Law. *(See Part Six)*

EXEMPT means subdivisions that are not subject to these regulations.

IMMEDIATE FAMILY means the following people: parents, children, brothers and sisters, grandparents, grandchildren and spouses. The term includes members of a family, whether by adoption or blood relation and includes half-blood as well as full-blood members.

LOT LINE ADJUSTMENT means a division of a parcel of land where no new building lots are created. This division does not create non-conforming lots and does not violate any other provision or portion of the town land use plan or zoning regulations or policy set forth in these regulations.

TOWN COMPREHENSIVE PLAN is the foundation on which planning and zoning laws are built as required by Section 272-a of the Town Law, including amendments to such plan (i.e., “the materials, written and/or graphic *** that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long range protection, enhancement, growth and development of the town”).

OFFER FOR SALE TO THE PUBLIC means to make publicly and generally known of the availability of a subdivision lot for sale.

OFFICIAL MAP means the map established by the Town Board pursuant to Section 270 of the Town Law.

PLANNING BOARD or BOARD means the Planning Board of the Town.

PRELIMINARY PLAT means a drawing or drawings clearly marked showing a proposed subdivision, as specified by these regulations, submitted to the Planning Board for approval prior to submission of the plat in final form.

REQUIRED IMPROVEMENTS means any activities or improvements required by these regulations, except those waived by the Planning Board, including but not limited to, streets and

roads, utility installations, road ditches, drainage facilities and culverts, monuments, park and recreation areas, and revegetation operations.

SEQRA refers to the State Environmental Quality Review Act as adopted by New York State.

SKETCH PLAN means a sketch of a proposed subdivision showing the required information.

STREET means and includes streets, roads, avenues, lanes, or other traffic ways, not including private rights-of-way providing access to four or fewer lots. This will not prevent the Planning Board from requiring reasonable conditions for private rights of way.

- **COLLECTOR STREET** means a street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.
- **DEAD-END STREET** means a street or a portion of a street with only one vehicular traffic outlet being no more than 600 feet in length.
- **MAJOR STREET** means a street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.
- **MINOR STREET** means a street intended to serve primarily as an access to properties.

SUBDIVIDER means any person, firm, corporation, partnership or association, or an authorized representative of any of the above, who shall file an application for a subdivision of land as defined by these regulations. This definition applies to any person or by any other person controlled by, under common control with or controlling such person or by any group of persons acting in concert as part of a common scheme or plan.

SUBDIVISION means any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy. Subdivision of land shall include a map, plat or other plan of the division of land, whether or not previously filed. Subdivision of land does not include

- (1) the lease of land for hunting and fishing and other open space recreation uses;
- (2) the division of land resulting from bona fide gifts of land by a natural person(s) to members of his/hers/their immediate family(ies) and which conform to the applicable minimum lot area, width requirements, and provide sufficient access to public highways and utilities; and
- (3) divisions of land that
 - a) correct prior conveyances;
 - b) correct encroachments; or
 - c) adjust the boundaries between adjoining parcels

AND do not result in any new building lots.

- **MAJOR SUBDIVISION** means any subdivision of five or more lots, parcels or sites, or any subdivision requiring any new street.
- **MINOR SUBDIVISION** means any subdivision containing not more than four lots, parcels or sites and not requiring any new street, or the extension of any water or sewage lines.

SUBDIVISION PLAT or FINAL PLAT means a drawing, in final form, showing proposed information or detail required by these regulations, to be presented to the Planning Board for approval, filed or recorded by the applicant in the office of the County Clerk.

TOWN REPRESENTATIVE means the person or persons duly designated by the Town Board to inspect and approve the construction and installation of required improvements under these regulations.

LAND USE CODE means the duly enacted Land Use Code of the Town of Wilmington.

Any word or term used in these regulations which is not defined in this Part, nor a defined word or term in the land use code, nor defined in its context, shall carry its customary meaning, unless otherwise stipulated. Furthermore, the following rules of construction apply to the text of these regulations:

- (a) The particular regulations shall supersede the general regulations.
- (b) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (c) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless context clearly indicates the contrary.
- (d) A building or "structure" includes any part thereof.
- (e) The word "used", when employed in the phrases "used to," "used for" or "used as" includes the following words when employed in similar phrases: "designed," "intended," "maintained," "occupied."

PART THREE: FILING PROCEDURES

Application and approval of subdivisions shall occur before any offer for sale to the public, sales or building permits are granted.

A. Preliminary Review of Subdivision Applications

1. Applications for approval of subdivisions that the applicant believes exempt shall be submitted to the code enforcement officer.
2. Within 15 days of receipt of a completed application, the code enforcement officer shall either:
 - i. Approve the application, if it is exempt from further review by the Planning Board:
 - ii. Disapprove the application, if it is not exempt from further review or otherwise fails to meet the standards set forth in these regulations: or
 - iii. Refer the application to the planning board if he or she is uncertain as to whether the proposed division is exempt or otherwise qualified under the standards set forth in these regulations; if such a referral is made the planning board shall have an additional 30 days in which to make a decision, unless it decides, in its discretion, to hold a public hearing, in which case it shall have an additional 45 days.
3. Decisions by the code enforcement officer or planning board shall be in writing, and a copy of each decision made by the code enforcement officer shall be furnished to the planning board chairman.
4. If the code enforcement officer disapproves an application the subdivider may request the planning board to reconsider the matter.

B. Sketch Plan

As a starting point for all subdivisions, an application, the appropriate filing fee, and two copies of a sketch plan shall be submitted to the code enforcement officer for the preliminary review set forth above. If the subdivider seeks a finding that the proposed subdivision is exempt from planning board review, no filing fee is required. All other subdivision applications must be filed with 2 copies of the sketch plan to the designated representative for the planning board at least ten days prior to a regularly scheduled Board meeting. The purpose of a sketch plan is to enable the subdivider to save time and expense in reaching general understanding with the Planning Board as to the form of the layout and the site of the proposed subdivision in relation to the provisions of these regulations.

- **Requirements for Sketch Plan**

The sketch plan shall consist of a drawing based on tax map information or some other similarly accurate base map at a scale (not less than 200 feet to the inch) to enable the entire ownership of the subdivider to be shown on one sheet, and shall show:

- The location of that portion of the subdivider's ownership which is to be subdivided in relation to the whole, and the location of nearby streets and roads.
- All existing structures, wooded areas and permanent and intermittent watercourses within the portion to be subdivided and within 200 feet of that portion.
- The name of the owner(s) of the property to be subdivided and of all adjoining property owners as disclosed by the most recent municipal tax records.
- The tax map sheet, block and lot numbers, if available.
- All available utilities, and streets which are either proposed, mapped or built.
- The proposed lot layout, street layout and any proposed recreation or open space areas.
- All existing restrictions on the use of land including easements or covenants.

C. Meeting with Planning Board

After submission of a Sketch Plan, the subdivider shall meet with the Board at its next regularly scheduled meeting to discuss the requirements of these regulations, including those relating to:

- Street design and construction
- Placement of utilities, drainage, sewerage, water supply, fire protection
- Parks and open space areas
- Availability of existing services and other pertinent information.

The Planning Board shall review the sketch plan to determine the proposal as, minor subdivision or major subdivision. For review of the sketch plan, the Board shall use the town land use plan and available analysis maps to check for site limitations.

At this point, the subdivider may be advised to consult with technical agencies such as the APA for application of non-jurisdiction, or the Soil Conservation Service.

PART FOUR: PROCEDURES FOR SUBDIVISIONS CLASSIFIED AS MINOR

Minor subdivisions are defined as two to four lots without a new road for dedication to the town.

NOTE: Any subdivision of three or four lots with a new road for dedication to the town, or the extension of any water or sewerage lines is subject to Major Subdivision review.

A. Minor Subdivision Plat

- Application and Fee.
 - The subdivider shall submit an application for Minor Subdivision Plat approval within six months after classification of the subdivision by the Planning Board, unless otherwise agreed by both parties. This application must include any recommendations made by the Board during the sketch plan review.
 - Failure to do so within such time period may require resubmission of the Sketch Plan to the Planning Board.
 - The application shall be on a form provided by the Clerk of the Planning Board.
 - The Minor Subdivision Plat shall conform to the layout shown on the Sketch Plan, reflecting any recommendations made by the Planning Board.
 - The appropriate fee shall accompany all applications for Minor Subdivision Plat approval.

- Number of Copies.
 - Five copies of the application for Minor Subdivision Plat approval shall be presented to the Clerk of the Planning Board when the minor subdivision preliminary plat is submitted.

- An application for Minor Subdivision Plat approval shall include:
 - The plat to be filed with the County Clerk, at a scale of not more than two hundred (200) but not less than fifty (50) feet to the inch which shall be made and certified by a licensed land surveyor, and bearing the date of the completion of the survey and shall show:
 1. Proposed subdivision name, Town of Wilmington, Essex County, and the names of all adjoining property owners.

2. North point, map scale, and name and address of the subdivider, the owner(s) of record, engineer or surveyor, including license number and seal.

3. The boundary lines of the tract, and for each of the lots offered for sale to the public, if any.

4. The boundary lines of such lots drawn by actual field survey, giving complete descriptive data by bearings and distances.

5. The corners of whatever part or parts of the tract may be offered for sale to the public shall also be located on the ground and marked by monuments, and shall be as shown on the Plat.

6. All existing structures, easements, wooded areas and permanent and intermittent watercourses.

7. The size of the sheet upon which the plat is drawn shall be not less than 8.5 by 11 inches, nor more than 34 by 44 inches.

8. No survey shall be required for a minor subdivision effected by bona fide gift, devise or inheritance, or for a minor subdivision which is not offered for sale to the public, as provided by Section 334, Article 9 of the Real Property Law.

- Design of all proposed on-site sanitation and water supply facilities, meeting the minimum specifications of the State Department of Health and the town sanitary code.

- A copy of the deed(s) relating to the property to be subdivided and proposed covenants or any deed restrictions that may be apply to the property in whole or in part

- Initial Planning Board meeting

The subdivider, or his duly authorized representative, shall attend the next regularly scheduled meeting of the Planning Board to discuss the Minor Subdivision Plat after it has been submitted.

At this meeting the Planning Board shall comply with the provisions of SEQRA under article 8 of the environmental conservation law and it's implementing regulations.

- Date of Official Submission and Referral to County Planning Agency Where Necessary

- The date of the submission of the Minor Subdivision Plat shall be

- √ The date on which both a completed application for Minor Subdivision Plat and the required fee have been filed with the Clerk of the Planning Board: and

- √ The date on which a negative declaration has been filed or until a notice of completion of a draft environmental impact statement has been filed in accordance with the provisions of SEQRA.

The time periods for review of a Minor Subdivision Plat shall begin on the satisfaction of the above requirements.

- Where required by Section 239-k or 239-m of the General Municipal Law, the county superintendent of highways or commissioner of public works shall be notified, and a copy of the completed application shall be forwarded to the county planning agency having jurisdiction for that body's report and recommendations.

- Public Hearings

- The Planning Board shall hold Public Hearings within sixty-two (62) days from the date of official submission of the Minor Subdivision Plat for approval.

- Such hearing shall be advertised at least once in a newspaper of general circulation in the town at least five (5) days before. The Planning Board may request that the hearing be further advertised in such manner as it deems appropriate.

- A conspicuous notice shall be placed on 2 places on the property, which notices shall be visible to any passers by or vehicle at least ten (10) days before the hearing. The Code Enforcement Officer will be responsible for placing of such notices.

- Action on Minor Subdivision Plat.

- If the preparation of an environmental impact statement on the Minor Subdivision Plat is not required, the Planning Board shall by resolution approve with or without modification or disapprove the Minor Subdivision Plat not more than sixty-two (62) days after the completion of the public hearing.

- If an environmental impact statement is required, the Planning Board shall make its own findings and its decision on the Minor Subdivision Plat not more than sixty-two(62) days after the completion of the hearing or within thirty (30) days of the adoption of the findings of the lead agency, whichever period is longer.

- Within five (5) business days from the date of the adoption of the resolution of the Planning Board stating the decision of the Planning Board on the Minor Subdivision Plat, the chairman or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Town Clerk. Any resolution approving the Minor Subdivision Plat will also include a provision that authorizes the signing of the Subdivision Plat.
- This time period may be extended by written agreement of the subdivider and the Planning Board.
- Failure of the Planning Board to act within the sixty-two (62) day time period (or otherwise agreed-upon period) shall be deemed final approval of the plat.
- On demand of the subdivider the Town Clerk shall issue a certificate indicating the date of submission and the failure of the Planning Board to take action within such prescribed time.
- In making its decision the Board shall apply the standards and requirements in these regulations as those standards are applicable to the proposed subdivision.
- The Board in its discretion may require the subdivider to satisfy certain provisions with respect to any required improvements associated with the proposed subdivision.
- The Board shall also consider any findings or recommendations of technical review or assistance agencies (such as the APA) consulted by the subdivider at the Board's request. The grounds for disapproval, or for conditional approval, shall be explicitly set forth in the Board's resolution.
- If granting conditional approval of the plat, the Planning Board shall empower a duly designated officer to sign the plat stating the conditions and requirements as stated in the Board resolution that must be satisfied prior to final approval.
- Within five (5) business days of the resolution granting conditional approval, the plat shall be certified by the clerk of the Planning Board as conditionally approved. A copy shall be filed in his/her office and a certified copy (return receipt required) mailed to the subdivider. The copy mailed to the subdivider shall include a certified statement of such requirements which when completed will allow for final approval of the plat.
- Upon completion of requirements to the satisfaction of the designated officer of the Planning Board, the plat shall be deemed to have received final approval and such officer shall sign the plat.

- Conditional approval of a plat shall expire one hundred eighty (180) days after the date of the resolution granting such approval unless the requirements have been certified as complete within that time. The Planning Board may extend the time within which a conditionally approved plat may be submitted for signature if an extension is warranted for one or two additional periods of ninety (90) days each.
- Filing of Approved Minor Subdivision Plat.
 - Final Approval and Filing.
 1. Upon receiving final approval and being properly signed by the designated officer of the Planning Board, or upon receiving a certificate from the Town Clerk as to the Planning Board's failure to act within the prescribed time period, a Subdivision Plat may be filed or recorded in the Office of the Clerk or Register of Essex County.
 2. However, the signature of the designated officer of the Planning Board, or the certificate from the Town Clerk, shall expire sixty-two (62) days from the date of the signature or the issuance of the certificate, unless within the sixty-two (62) day period the plat has been filed or recorded in the office of the Essex County Clerk or register.
 - Plat Void if Revised After Approval.
 1. No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat after approval has been given by the Planning Board and a designated officer of the Planning Board has signed the Plat, unless the Plat is first resubmitted to the Planning Board and the Board approves, in writing, any modifications.
 2. In the event that any such modified or revised subdivision Plat is recorded without complying with this requirement, such recording shall be null and void, and the Board shall institute proceedings to have the Plat stricken from the records of the Essex County Clerk.

C. **PART FIVE: PROCEDURES FOR SUBDIVISIONS
CLASSIFIED AS MAJOR**

D. E. Major Subdivision defined as five or more lots, parcels or sites or any subdivision requiring a new street.

A. **Major Subdivision Preliminary Plat.**

• Application and Fee.

- The subdivider shall submit an application for Major Subdivision Preliminary Plat approval within six months after classification of the subdivision as a Major Subdivision by the Planning Board, unless otherwise agreed by both parties. This application must include any recommendations made by the Board during the sketch plan review.
- Failure to submit the application within the defined time period may require resubmission of the sketch plan to the Planning Board.
- The application shall be on a form provided by the Clerk of the Planning Board.
- The Major Subdivision Preliminary Plat shall conform to the layout shown on the Sketch Plan, reflecting any recommendations made by the Planning Board.
- The appropriate fees shall accompany all applications for Major Subdivision Preliminary Plat approval.

• Number of Copies.

- Five copies of the application for Major Subdivision Preliminary Plat approval shall be presented to the Clerk of the Planning Board when the Major Subdivision Preliminary Plat is submitted.

• An application for Major Subdivision Preliminary Plat approval shall include:

- The preliminary plat, clearly marked “preliminary plat,” at a scale of not more than one hundred (100) but not less than fifty (50) feet to the inch, which shall be made and certified by a licensed land surveyor bearing the date of the completion of the survey and shall show:
 1. Proposed subdivision name or identifying title, Town of Wilmington, Essex County, and the names of all adjoining property owners.
 2. North point, map scale, and name and address of subdivider, owner(s) of record, engineer or surveyor, including license number and seal.
 3. The boundary lines of the tract as determined by actual field survey, giving complete descriptive data by bearings and distances. The corners of the tract shall also be located on the ground and marked by substantial monuments, and shall be shown on the plat.

4. Topographic contours, at intervals of ten (10) feet, including elevations on existing roads and approximate grading plan if natural contours are to be changed by more than two (2) feet.
 5. Location of existing structure, easements, permanent and intermittent watercourses, wetlands, rock outcrops, wooded areas, and other significant existing features for the proposed subdivision and adjacent property.
 6. Location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
 7. The width and location of any streets or roads within the area to be subdivided, shown on the Official Map, if such exists, and the width, location and grades of all streets or roads proposed by the subdivider.
 8. The proposed lot lines with approximate dimensions and area of each lot.
 9. The approximate location and size of all proposed water lines, valves, hydrants and sewer lines, and fire alarm boxes, and connections to existing lines. Alternate means of water supply or sewage disposal and treatment shall be indicated.
 10. Storm drainage plan indicating the approximate location and size of proposed lines or ditches and their profiles, connections to existing lines or ditches, and any alternate means of drainage.
 11. Preliminary design of any proposed bridges or culverts.
 12. Typical lot layout(s), with building and on-site sewage disposal system sites.
 13. Typical clearing and grading cross section for construction of roads and installation of utilities.
 14. Proposed recreational or open space areas, including parcels or land proposed to be dedicated to public use.
 15. When more than one sheet is required, an additional index sheet of the same size shall be submitted showing to scale the entire subdivision with lot and block numbers clearly legible.
- If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than four hundred (400) feet to the inch showing all existing streets, an outline of the platted area with its proposed streets, and an indication of the probable future street and drainage systems (if any) in the remaining portion of the tract with its grades and drainage.

- Design of all proposed on-site sanitation and water supply facilities, meeting the minimum specifications of the State Department of Health and the town sanitary code.
- A copy of the deed(s) relating to the property to be subdivided and proposed covenants or any deed restrictions that may be apply to the property in whole or in part
- The subdivider may be required to submit an analysis of the ability of the public to provide supporting services and facilities anticipated to be required following the approval of the project, an analysis of any benefits that will derive from the project, any plans the applicant may have for future development related to the project, information describing the applicant, evidence of financial capacity to complete the project as planned and the names of any professional advisors or consultants associated with the project.

- Initial Planning Board Meeting

- The subdivider, or his duly authorized representative, shall attend the next regularly scheduled meeting of the Planning Board to discuss the Major Subdivision Preliminary Plat after it has been submitted.

At this meeting the Planning Board shall comply with the provisions of SEQRA under article 8 of the environmental conservation law and its implementing regulations

- Date of Official Submission and Referral to County Planning Agency Where Necessary

- The date of Official Submission of a Major Subdivision Preliminary Plat application shall be

√ The date on which both a completed application for Major Subdivision Preliminary Plat and the required fee have been filed with the Clerk of the Planning Board; and

√ The date on which a negative declaration has been filed or until a notice of completion of a draft environmental impact statement has been filed in accordance with the provisions of SEQRA.

The time periods for review of a Major Subdivision Preliminary Plat shall begin on the satisfaction of the above requirements.

- Where required by Section 239-k or 239-m of the General Municipal Law, the county superintendent of highways or commissioner of public works shall be notified, and a copy of the completed application shall be forwarded to the County Planning Agency having jurisdiction for that body's report and recommendations.

- Study of Major Subdivision Preliminary Plat
 - The Planning Board shall study the Major Subdivision Preliminary Plat, taking into consideration the provisions of these regulations, the requirements of the community, and the best use of the land being subdivided.
 - Particular attention shall be given to the arrangement, location, and design of streets, and their relation to topography, water drainage, lot sizes and arrangement, the placement of utilities, the future development of adjoining lands as yet un-subdivided, and the requirements of the Comprehensive Plan and the Official Map, if such exist, and the Land Use Code. In addition, the Planning Board shall consider any findings or recommendations of technical review or assistance agencies (such as the APA) consulted by the subdivider at the Board's request.
- Public Hearing
 - Within sixty-two (62) days after the date of official submission of the Major Subdivision Preliminary Plat, the Planning Board shall hold a public hearing. Such hearing shall be advertised at least once in a newspaper of general circulation in the town at least five (5) days before the hearing. The Planning Board may request that the public hearing be further advertised in such manner as it deems most appropriate for full public consideration of such Major Subdivision Preliminary Plat.
 - A conspicuous notice shall be placed on 2 places on the property, which notices shall be visible to any passers by or vehicle at least ten (10) days before the hearing. The Code Enforcement Officer will be responsible for the placing of such notices.
- Action on Major Subdivision Preliminary Plat
 - If the preparation of an environmental impact statement on the Major Subdivision Preliminary Plat is not required, the Planning Board shall by resolution approve with or without modification or disapprove the Major Subdivision Preliminary Plat not more than sixty-two (62) days after the completion of the hearing. This time period may be extended by written agreement of the subdivider and the Planning Board.
 - If an environmental impact statement is required, the Planning Board shall make its own findings and its decision on the Major Subdivision Preliminary Plat not more than sixty-two (62) days after the completion of the hearing or within thirty (30) days of the adoption of the findings of the lead agency, whichever period is longer.
 - In making its decision, the Board shall apply standards and requirements set forth in these regulations as are pertinent to the proposed subdivision.
 - The reasons for a modification or the reasons for disapproval shall be stated upon the records of the Planning Board. When approving a Major Subdivision

Preliminary Plat, the Planning Board shall state, in writing, modifications as it deems necessary for submission of the plat in final form.

- Failure of the Planning Board to act within the sixty-two (62) days, or otherwise agreed upon period shall be deemed approval of the Major Subdivision Preliminary Plat.
- Within five (5) business days of the approval of such Major Subdivision Preliminary Plat it shall be certified by the Clerk of the Planning Board as granted approval and a copy filed in the office, a certified copy mailed to the owner, and a copy forwarded to the Town Board. Within five (5) business days from the date of the adoption of the resolution of the Planning Board stating the decision of the Planning Board on the Major Subdivision Preliminary Plat, the chairman or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Town Clerk.
- When granting approval to a Major Subdivision Preliminary Plat, the Planning Board shall state the terms of such approval with respect to:
 1. The modifications to the Major Subdivision Preliminary Plat
 2. The character and extent of any required improvements for which waivers may have been requested and which, in the opinion of the Planning Board, may be waived without jeopardy to the public health, safety, morals, and general welfare,
 3. The amount of improvement bonds or the amount of all bonds required as prerequisite to Major Subdivision Preliminary Plat approval.
- Approval of a Major Subdivision Preliminary Plat shall not constitute approval of the Subdivision Plat, but rather it shall be deemed an expression of approval of the design submitted on the Major Subdivision Preliminary Plat, and as a guide to the preparation of the Major Subdivision Final Plat.

B. Major Subdivision Final Plats.

- Number of Copies
 - Five copies of the application for Major Subdivision Final Plat approval shall be presented to the Clerk of the Planning Board at the time of submission of the Major Subdivision Final Plat.
- An application for Major Subdivision Final Plat approval shall include:
 - The plat to be filed with the County clerk at a scale of not more than one hundred (100) but not less than fifty (50) feet to the inch. Such survey shall be made and certified by a licensed land surveyor and the plat shall bear the date of completion of the survey. The plat must show:
 1. Proposed subdivision name or identifying title, Town of Wilmington, Essex County, and the names of all adjoining property owners.

2. North point, map scale, and name and address of subdivider, owner(s) of record, engineer or surveyor, including license number and seal.
3. The boundary lines of the tract, proposed street lines and lot lines as determined by actual field surveys, including the length and bearings of straight lines and length and radii of all curves. All dimensions shall be shown in feet and decimals. Referenced on the plat shall be:
 - Monuments of a type approved by the Planning Board set at all corners and angle points of the boundaries of the original tract to be subdivided, all street intersections, angles in street lines, points of curve and such other points as may be required by the Planning Board; and
 - Permanently lodged lot corner markers of at least 3/4-inch diameter and 24-inch length, located in the ground to existing grade.
4. Topographic contours, at intervals of five (5) feet or less as required by the Board, including elevations on existing roads and final grading plan if natural contours are to be changed by more than two (2) feet.
5. Location of existing structures, easements, permanent and intermittent watercourses, wetlands, rock outcrops, wooded areas, single trees with a diameter of twenty-four (24) inches or more as measured at breast height, and other significant existing features for the proposed subdivision and adjacent property.
6. Location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
7. The location and size of all proposed water lines, valves, hydrants and sewer lines, and fire alarm boxes, and connections to existing lines.
8. Storm drainage plan indicating the location and size of proposed lines or ditches and their profiles, and connections to existing lines or ditches.
9. Final design of any proposed bridges or culverts.
10. All recreational or open space areas, including parcels of land proposed to be dedicated to the town.
11. Typical lot layout(s) with building and on-site sewage disposal sites.
12. Typical clearing and grading cross-sections for construction of roads and installation of utilities.

- The size of the sheets shall be not less than 8 1/2 by 11 inches or more than 34 by 44 inches. When more than one sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible.
 - Design of all proposed onsite sanitation and water supply facilities meeting the minimum specifications of the State Department of Health and the town sanitary code.
 - Offers of cession and deeds for any recreational areas or open space to be dedicated to the town and for such areas title to which is to be retained by the subdivider, copies of agreements or other documents showing the manner in which such areas are to be maintained and any other provisions agreed upon. Such offers, deeds, agreements or other documents shall bear the approval of the town attorney as to their legal sufficiency.
- Date of Official Submission and Referral to County Agency When Necessary
 - The date of submission of the Major Subdivision Final Plat shall be considered to be the date on which both a completed application for approval of the Major Subdivision Final Plat, including any required endorsements and the required fees have been filed with the Clerk of the Planning Board.
 - Where material changes have been made in the plat since the previous referral of the preliminary plat to county officials, the Planning Board shall make another such referral as described below.
- Endorsement of State and County Agencies
 - Evidence shall be supplied that any proposed water supply and sewage disposal facilities associated with the Subdivision Plat requiring approval by the Department of Environmental Conservation and/or the State or County Department of Health have received at least preliminary approval(s) of such facilities.
- Public Hearing.
 - Within sixty-two (62) days of the date of official submission of the Major Subdivision Plat for approval, the Planning Board shall hold a public hearing. 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 is scheduled. The hearing may be further advertised in such manner as the Board deems appropriate for full public consideration of the final plat approval.
 - If the Planning Board deems the final plat to be in substantial agreement with the approved preliminary plat and modified in accordance with requirements set forth in the preliminary plat review, the Planning Board may waive the requirement for this public hearing
- Action on Subdivision Final Plat.

- If the preparation of an environmental impact statement on the Subdivision Final Plat is not required, the Planning Board shall by resolution either conditionally approve, disapprove, or grant final approval (with or without conditions which the Planning Board does not feel need to be satisfied before signing the plat within sixty-two (62) days of the date of official submission of the Subdivision Final Plat, if no hearing is held, or if a hearing is held, not more than sixty-two (62) days after the completion of the hearing.
- If an environmental impact statement is required, the Planning Board shall make its own findings and its decision of the Subdivision Final Plat
 - Within sixty-two (62) days
 - Of Official submission of the Subdivision Final Plat, if no hearing is held; or
 - After the completion of the hearing, if a hearing is held; OR
 - Within thirty (30) days of the adoption of findings by the lead agency, Whichever is longer
- The resolution will authorize the signing of the Subdivision Final Plat.
- This time period may be extended by written agreement of the Subdivider and the Planning Board.
- Failure to take action on a final plat within such sixty-two (62) day, or otherwise agreed upon period shall be deemed final approval of the plat.
- The Town Clerk shall issue a certificate indicating the date of submission and the failure of the Planning Board to take action within the prescribed time.
- In making its decision the Board shall apply the standards and requirements in these regulations as applicable to the proposed subdivision.
- Final approval shall not be granted until all requirements are met.
- Upon granting conditional approval of the final plat, the Planning Board shall empower a duly designated officer to sign the plat upon compliance with such conditions and requirements as stated in the Board resolution that must be satisfied before signing the final plat.
- Within five (5) business days of such resolution, the plat shall be certified by the Clerk of the Planning Board as conditionally approved and a copy filed in his/her office and a certified copy (return receipt required) 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. Within five (5) business days from the date of the adoption of the resolution stating the decision of the Planning Board on the Subdivision Final Plat, the chairman or other duly

authorized member of the Planning Board shall cause a copy of such resolution to be filed in the Office of the Town Clerk.

- Upon completion of such requirements to the satisfaction of the designated officer of the Planning Board, the plat shall be deemed to have received final approval, and such officer shall sign the plat accordingly.
- 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 Planning Board may extend the time within which a conditionally approved plat may be submitted for signature. If such extension is warranted, the extension may be for one or two additional periods of ninety (90) days each.

- Required Improvements.

- Improvements and Performance Bond.

Before the Planning Board grants approval of a Major Subdivision Final Plat, the Planning Board may require the subdivider to follow the procedures below.

1. 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 comply with the requirements of Section 277 of the Town Law and further, shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety.

The Planning Board will set the period of time for improvements to be made, typically by one year and not to exceed three years.

2. The subdivider will complete all required improvements to the satisfaction of the Town Representative, who will file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not completed, the subdivider will file with the Town Clerk a certified check or performance bond covering the costs of satisfactorily completing such improvements. Any such bond shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution, and surety.

3. The required improvements will not be considered to be completed until the improvements and their installation have been approved by the Town Representative and a map has been submitted to the Planning Board indicating the location of monuments marking all underground utilities as actually installed.

4. If the subdivider completes all required improvements, then this map shall be submitted prior to final approval and the duly designated officer of the Planning Board will sign the map. If the subdivider elects to provide a bond or certified check for all or part of the required improvements, such bond shall not be released until such a map is submitted.

- Modification of Design of Improvements.

1. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town Representative that unforeseen conditions make it necessary or desirable to modify the location or design of such required improvements, the Town Representative may, upon approval by a previously delegated member of the Planning Board, authorize modifications, provided these modifications are within the spirit and intent of the Planning Board's approval and any conditions attached thereto, and do not amount to a waiver or substantial alteration of any improvements required by the Board.

2. The Town Representative shall issue any authorization under this paragraph in writing and shall transmit a copy of such authorization to the Planning Board at their next regular meeting.

- Proper Installation of Improvements.

1. If the Town Representative shall find, upon inspection of the improvements performed before the expiration date of any performance bond, that any of the required improvements have not been constructed in accordance with approved plans and specifications filed by the subdivider or any conditions of Planning Board approval, he shall so report to the Town Board and Planning Board. The Town Board then shall notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the Town's rights under the bond.

2. The Planning Board will not approve the plat if the subdivider is in default on a previously approved plat.

• Filing of Approved Major Subdivision Plat.

- Final Approval and Filing.

1. Upon receiving final approval and being properly signed by the duly designated officer of the Planning Board or upon receiving a certificate from the Town Clerk stating the Planning Board's failure to act within the prescribed time period, a Subdivision Plat may be filed or recorded in the Office of the Clerk or Register of the Essex County.

2. The signature of the duly designated officer of the Planning Board, or the certificate from the Town Clerk, shall expire sixty-two (62) days

from the date of such signature or the issuance of such certificate unless within such sixty (62) day period the plat has been filed or recorded in the Office of the County Clerk or Register of Essex County.

- Plat Void if Revised After Approval.
 1. No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat after approval has been given by the Planning Board and a duly designated officer, thereof has signed the Plat, unless such Plat is first resubmitted to the Planning Board and such Board approves in writing any modifications. In the event that any such modified or revised Subdivision Plat is recorded without complying with this requirement, such recording shall be null and void, and the Board shall institute proceedings to have the Plat stricken from the records of the County Clerk.
- Public Streets, Parks and Recreation Areas.
 - Public Acceptance of Streets.
 1. The approval by the Planning Board of a Major Subdivision Plat shall not constitute acceptance by the Town of any street, easement or other Open Spaces.

PART SIX: CLUSTER DEVELOPMENT

Cluster Development is defined as a subdivision of land providing for the grouping of development such that it is necessary to modify minimum lot size or other lot dimension of the zoning regulations pursuant to Section 278 of the Town Law.

- A. The Planning Board is empowered to modify the lot requirements of the Land Use Code in order to encourage flexible, efficient and economical design and to preserve natural and scenic resources
- B. The standards for such zoning modifications shall include:
 - The minimum acreage for a cluster development equal to three minimum lot sizes for the zone district involved (e.g., in an area of 5 acre zoning, the minimum site for a cluster development is 15 acres).
 - No overall or average density increases.
 - Adjoining land must be safeguarded.
 - A copy of the deed(s) relating to the property to be subdivided and proposed covenants or any deed restrictions that may be apply to the property in whole or in part.
 - The Planning Board may require necessary restrictions to preserve open space.
- C. If a subdivider submits a sketch plan as a cluster development, a second sketch plan indicating separate lots, which conform to the zoning regulations, shall also be submitted for purposes of comparison. The Planning Board may then grant that the cluster development standards may be used. An approved cluster subdivision shall be noted on the zoning map.
- D. Any cluster development shall adhere to Section 278 of Town Law.

PART SEVEN: GENERAL REQUIREMENTS AND DESIGN STANDARDS

The following minimum standards will be used by the Planning Board for subdivision review. The Planning Board may apply additional requirements where reasonable and necessary.

A. General

- Only land, which is suitable for safe human occupancy, shall be used for development. Proposed development may require special design features or measures to overcome potential health, fire, and flooding or similar hazards.
- Future development should blend harmoniously with the surroundings, including the topography, vegetation and other natural features.
- Future development should avoid the need for costly land alterations or elaborate engineering to overcome adverse site conditions.
- All new on-site and replacement septic systems shall conform to the town sanitary regulations and/or county or state sanitary regulations.
- Subdivisions shall conform to the comprehensive plan.
- All required improvements (streets, etc.) will be installed in accordance with approved plans and specifications.

B. Street Layout and Design

Annexed to these regulations as Schedule "A" are street design and engineering factors that the applicant can use as general guidelines.

Applicants are hereby notified that all proposed streets, whether offered for dedication to the town or not, will be subject to review by the Highway Superintendent for the Town of Wilmington. If the applicant proposes to dedicate any roads shown on the subdivision map to the Town of Wilmington, the Highway Superintendent's approval will be required before any subdivision permit can be issued. If the applicant proposes not to dedicate any roads shown on the subdivision map to the Town of Wilmington, the Highway Superintendent's comment and opinion on the proposed roads will be invited and considered by the Planning Board.

Note: All street design is subject to review and approval by the Highway Superintendent.

C. Re-vegetation of Disturbed Soil Areas

- All cleared areas, with the exception of roads, drives, shoulders, building sites and parking areas shall be planted or otherwise stabilized to minimize erosion. Planting efforts are to be inspected six months or more after planting. If corrective measures are to be made, they must begin within 15 days after the inspection.
- Re-vegetation shall be done in half-acre increments or phases.
- Re-vegetation shall be completed within a five to ten day period after final grading.

D. Street Names

- The Planning Board shall approve street names. New street names should be substantially different in sound and spelling from existing streets so as to avoid confusion.

E. Lots

- Lots shall conform to area and dimension requirements set forth in the zoning ordinance, unless the provisions of Part Six, Cluster Development, are used.
- Lot boundaries and shape should be suitable to the topography.
- Lot lines should be approximately right angles to street lines unless a different alignment will result in a better plan.
- Driveways should not exceed 12% grade, over 150' in length, or over 5% within 50' of a connecting street.
- Private rights-of-way to five lots or more shall be constructed according to the public road standards described above.
- Permanent monuments shall be located at block corners, angle points, points of curves and other prominent points.

F. Drainage

- Spring or surface water drainage shall be carried, by ditch or culvert, within the street right-of way or in another permanent easement.
- Drainage easements shall be provided for watercourses, at a minimum of 150 feet wide.

- Culverts shall be designed to accommodate the peak runoff from all upstream areas whether inside or outside the subdivision, under conditions of total potential development in the upstream area.
 - 10-year peak runoff if drainage areas is one square mile or less.
 - 25-year peak runoff if drainage is between one and four square miles.
 - 100-year peak runoff if drainage is more than four square miles.
- A study of the subdivision's downstream effect shall be required.
- Lands within a floodway special zoning district shall not be used for residential occupancy.

G. Parks, Open Space and Natural Features

- All proposed public open spaces should be indicated on the subdivision plat. At least 5% of the area of a major subdivision shall be public open space (park, playground, etc.).
- An ink drawing of the proposed public area(s), at a minimum scale of 1"=30' shall be provided. The drawing shall indicate boundaries, natural features, existing and proposed contours and any proposed equipment.
- The Planning Board may waive the 5% requirement of public open space for payment of an appropriate fee.
- The subdivider shall provide for the provision of natural features, including:
 - Watercourses and falls
 - Beaches
 - Historic sites
 - Scenic vistas and areas.
- In no case shall a live tree of 24" in diameter or more be removed unless it occupies a future area of permanent, approved construction.

PART EIGHT: WAIVERS

Where the Planning Board finds, due to the specific circumstances of a particular plat, that meeting a certain requirement of the regulations is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirement subject to appropriate conditions. In no case shall any of the provisions of Part Four or Part Five of this document be waived.

In granting waivers, the Planning Board shall impose such conditions as will substantially assure that the objectives of the standards or requirements are met.

PART NINE: SEVERABILITY

Should any section or provision of these regulations as written or as amended 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 declared to be invalid.

This document shall be reviewed on a regular basis as legislation warrants.

Schedule "A"
Road Specifications

The following factors can be used as general guidelines:

- All streets must logically relate to the natural environment. Since utilities are to be planned at the same time, steep slopes (25%+) and soils that are shallow, erodible or with a high water table are to be avoided. Building sites should be at or above the grade of adjacent roads.
- The number of stream crossings should be minimized.
- Blind intersections and closely spaced street jogs should be avoided.
- Minor streets should not be designed to encourage through traffic.
- Dead-end or loop street layouts should include an easement to allow a future through-connection where appropriate.
- Subdivisions with 20 lots or more shall have at least two street connections to public streets.
- Principal streets on adjacent land shall be accommodated and extended as required to provide for the extension of utilities and fire equipment access.
- The Planning Board may require that street patterns for larger-than-minimum lot developments be arranged so the area could be further subdivided into minimum sized lots at a future date.
- All subdivisions shall have 50-foot minimum rights-of-way for street corridor. The road base and surface shall be designed as follows:
 - General
 1. Roadway construction materials meeting the State of New York's Department of Transportation Specifications shall generally be approved for construction. The Town may use other materials upon approval. All roadway construction shall be controlled by stakes for grade and alignment.
 - Subgrade Preparation

1. All trees, brush, topsoil, stumps, roots more than one-half inch in diameter, and rubbish shall be removed from the area of the roadway. Boulders shall be removed to a depth of one foot below the subgrade surface.
 2. Muck, spongy material or other unsuitable material shall be completely removed and the excavation filled with suitable material.
 3. The subgrade shall be compacted to ninety-five (95) percent Standard Proctor. The final compacted surface shall not be more than one-half inch higher than design subgrade in any location and shall be the same cross-sectional shape as the final design grade. It shall also be proof-rolled, with witnessing by the Town, to determine if stabilization fabric may be required.
- Embankment
 1. No organic material, frozen material or other unsuitable material shall be used in embankments. The compacted embankment shall have a minimum dry density of ninety-five (95) percent Standard Proctor.
 2. The slopes of all embankments shall be stabilized by spreading, rolling and seeding topsoil to obtain a satisfactory stand of grass.
 3. Embankments shall be placed and rolled in layers of maximum eight (8) inch depth, measured before compaction. The embankment subgrade shall be prepared as required under "Subgrade Preparation".
 - Subbase Construction
 1. Materials and construction methods for the pavement base course shall conform to the Town Highway Standards and shall be 6" minimum of Item 4 compacted.
 - Surface Construction
 1. Materials and construction methods for the binder course and wearing course shall conform to the Town Highway Standards. The layer requirement is two (2) inches of dense binder number 403.13 after being compressed with 1 % grade from the center for run off; with width no less than 20 feet.
 - Bridge crossings, at right angles, with the following capacities:
 1. 50,000 lb. load capacity, to accommodate public maintenance vehicles.
 2. 10 year storm runoff if drainage area is one square mile or less.
 3. 25-year storm runoff if drainage area is one to four square miles.
 4. 100 year storm runoff if drainage is more than four square miles.
 - Maximum cut and fill slopes:
 1. 2:1 fill and for cuts in coarse sand and gravel.
 2. 2.5:1 for cuts in fill or silty sand.

3. 3:1 in sandy silt.
 4. 4:1 in silt, sandy clay or clay.
- Clearing and grubbing required before fill. Fill to be deposited in 12-inch layers.

 - Turnarounds at the end of dead-end road with a right-of-way of 60 feet radius and a pavement radius of 50 feet.

 - Access to private lots across watercourses, whether via culvert or other means, shall be approved by the Planning Board.

 - Clearing and grubbing for all services shall be shown on the final grading plans.

 - Construction of roads and utilities should be phased to prevent conflicts or redundant work.

 - Cleared areas, except shoulders and road surfaces, shall be planted with suitable grasses or suitable ground cover. Ditch bottoms shall be planted, paved, rip rapped or otherwise designed to minimize soil erosion.

 - Within the hamlet district, roads shall be paved and walks provided, as necessary, to provide safe circulation. Pedestrian paths or walks would not be required to follow road alignment, but should establish routes, which suit the plan of the hamlet area.

 - The design of streetlights and other equipment should be in harmony with the rural, residential character of the community, in terms of size, materials (wood, dark metal, masonry) and color.