TOWN OF BARRINGTON
SUBDIVISION LAW

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SUBDIVISION REGULATIONS

TOWN OF BARRINGTON

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SUBDIVISION REGULATIONS

TOWN OF BARRINGTON

ARTICLE 1

DECLARATION OF POLICY

LEGISLATIVE AUTHORITY

The Town of Barrington Planning Board has the power and authority to approve plans for the subdivision of land within the town boundaries, by virtue of a resolution adopted by the Town Board on the [day, month, 2013], pursuant to the provisions of Article 16, Chapter 62 of the Consolidated Town Laws of New York State, as amended.

APPROVAL OF PLATS

The Planning Board of the Town of Barrington is authorized and empowered to approve plats showing lots, blocks, or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of Yates County, and to approve Preliminary Plats with or without modifications within the Town of Barrington.

PLANNING BOARD POLICY

It is the policy of the Planning Board to consider Land Subdivision Plats as part of a plan for the orderly, efficient, and economical development of the Town. This means, among other things, that land to be subdivided shall be of such character that it can be safely used for building purposes without danger to health, or peril from fire, flood or other menace; that proper provision shall be made for drainage, erosion control, water supply, sewerage and other needed improvements; that all proposed lots and improvements therein, shall be so laid out and or of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient system conforming to the Official Map, if such exists, and shall be properly related to the proposals shown on the Comprehensive Plan, approved in 2009, and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of fire fighting equipment to buildings; and that proper provision shall be made for open spaces, for parks and playgrounds.

SHORT TITLE - EFFECTIVE DATE

In order that land subdivision may be made in accordance with this policy, these regulations, which will be known and cited as the, “Subdivision Regulations of the Town of Barrington ”,

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have been adopted by the Town of Barrington Planning Board on [month day, year] and approved by resolution of the Barrington Town Board on the [day of month, year].

CONSERVATION SUBDIVISION DEVELOPMENT

The Town Planning Board has been granted the authority to permit a Subdivider/developer to propose a Conservation Subdivision Development layout, or to require a Subdivider provide a Conservation Subdivision Development layout as provided in Section 278 of the Town Law of the State of New York, by resolution of the Barrington Town Board adopted on the [day of month, year].

RECONSIDERATION OF PLATS FILED WITH THE COUNTY CLERK

The Town Planning Board has been granted the authority to review Plats already filed in the office of the Yates County Clerk if such plats are entirely or partially undeveloped as provided in Section 276 of the Town Law of the State of New York, by resolution of the Barrington Town Board adopted on the [day, month, year]. Said plats shall be reviewed in accordance with the Subdivision Regulations of the Town of Barrington. Only plats where 20 percent or more of the lots are undeveloped shall be subject to reconsideration under this section. Reconsideration shall be commenced upon a majority vote of the Town Planning Board at a regularly scheduled meeting of said board. Any resident, officer, or duly established board of the Town may initiate a request for reconsideration which shall be voted upon by the Town Planning Board within 45 days of the date when the request is first presented to the Town Planning Board.

ARTICLE 2

DEFINITIONS

DEFINITIONS AND WORD USAGE

A. Word Usage. Words in the singular include the plural, and words in the plural include the singular. The word “person” includes a corporation, unincorporated association, and a partnership as well as an individual. The word “lot” includes “parcel” or “plot.” The word “building” includes “structure” and shall be construed as if followed by the words “or part thereof.” The word “street” includes “road,” “highway,” and “lane,” while “watercourse” includes “drain,” “ditch,” and “stream.” The word “may” is permissive.

B. Definitions. Unless otherwise expressly stated, the following terms shall, for the purposes of these regulations, have the meanings indicated:

AGRICULTURAL DATA STATEMENT: An identification of farm operations within an agricultural district located within 500 feet of the boundary of property upon which a subdivision is proposed, as provided in § 305-a of the Agriculture and Markets Law. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed subdivision and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within 500 feet of the boundary of the property upon which the subdivision is proposed; and a Tax Map or other map showing the site of the proposed statement.

ARCHITECT: A person licensed as an architect by the State of New York.

BOARD: The Town of Barrington Planning Board created pursuant to Article 271 of the

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Town Law of New York State Statutes.

BOND: Any form of security including a cash deposit, surety bond, collateral, property, or letter of credit in an amount and form satisfactory to the attorney for the Town. All bonds shall be approved by the Town Board wherever a bond is required by these regulations, or as a condition imposed by the Planning Board.

BUILDING PERMIT: An authorization issued by the Town Code Enforcement Officer to commence work on a structure in accordance with approved plans and specifications and in compliance with the New York State Uniform Fire Prevention and Building Code.

CERTIFICATE OF OCCUPANCY: A document that certifies that a structure is habitable.

CLUSTERING: See definition for Conservation Subdivision Development.

CODE ENFORCEMENT OFFICER: The officer of the Town of Barrington appointed and designated as the Code Enforcement Officer of the Town of Barrington by the Barrington Town Board. This official may also be referred to as the Building Inspector and/or the Zoning Officer as title and duties may be assigned by the Barrington Town Board.

CONDITIONAL APPROVAL OF A FINAL PLAT: The approval by the Planning Board of a final plat subject to conditions set forth in a resolution. Such conditional approval does not qualify a final plat for recording in the office of the Yates County Clerk nor does it provide authorization for the issuance of building permits.

CONDOMINIUM: A condominium is a title to a unit of real property which includes ownership in the airspace which an apartment, office or store occupies. The owner of the condominium also owns a common tenancy with owners of other units in the common area, which includes all the driveways, parking, elevators, outside hallways, recreation and landscaped areas, which are managed by a homeowners' or tenants' association and advertised as such.

CONSERVATION SUBDIVISION DEVELOPMENT: Also known as Cluster Development in Section 278 of the Town Law of New York State. This type of development shall mean a subdivision plat or plats in which the Town Planning Board permits the modification of the Zoning Code to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks, and landscaping in order to preserve the natural and scenic qualities of open lands. The modification must occur at the same time the plat or plats are approved pursuant to this Article. The purposes of such authorization will be to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of the land.

CONSTRUCTION DETAIL: The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision pursuant to the requirements of these regulations.

CUL-DE-SAC: A minor street having but one end open to traffic and pedestrian access, and the other end being permanently terminated by a vehicular turnaround.

DEDICATION: The deliberate unconditional appropriation of real property by its owner for any general and public use. Offers of dedication are subject to approval by the Town Board and/or the Highway Superintendent.

DEVELOPER: An individual, partnership or corporation or its agent holding title to a parcel of land to be developed or subdivided.

DOUBLE FRONTAGE LOT: A lot having at least two sides fronting on separate streets that

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do not intersect while adjoining the lot.

DRAINAGE DISTRICT: A special district established or extended pursuant to the Town Law of New York State Statutes for the purpose of constructing or maintaining storm water drainage facilities.

DRAINAGE EASEMENT or DRAINAGE RIGHT-OF-WAY: The lands or easements required for the installation of storm water sewers or drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

EASEMENT: Granted for the use by another of any designated part of this property for a specified purpose not inconsistent with the general property rights of the owner.

ENGINEER: A person licensed as a Professional Engineer (P.E.) by the State of New York.

ENGINEER FOR THE TOWN or TOWN ENGINEER: The duly designated engineer working on behalf of the Town of Barrington.

ENVIRONMENTAL REVIEW: See State Environmental Quality Review (SEQR).

ENVIRONMENTALLY SENSITIVE AREAS: Land or land features critical to the maintenance of ecosystems.

FINAL SUBDIVISION PLAT: See SUBDIVISION PLAT OR PLAT.

FLOOD PLAIN: Areas subject to a 1% or greater chance of flooding in any given year, as shown on the United States Department of Housing and Urban Development (HUD) Flood Insurance Rate Map.

GRADING PLAN: A plan showing all present and proposed grades for storm water drainage and final site design.

IMPROVEMENTS: Those physical additions and changes to the land that may be necessary to produce functional lots, including, but not limited to grading, paving, and required plantings which may or may not be offered for dedication.

INDIVIDUAL SEWERAGE SYSTEM: A single system of piping, tanks or other facilities serving only a single lot and disposing of sewage or other liquid wastes into the soil of the lot.

LETTER OF CREDIT: A letter taken out by the owner from a bank which guarantees the Town that a specific amount of money will be kept available for the completion of construction of facilities to be dedicated. This security can be drawn on only by the Town and guarantees that certain or all improvements will be made in accordance with the approved plans.

LOT: A piece, parcel, or plot of land or other real property identified by legal description and/or tax account number which is filed or proposed to be filed in the Yates County Clerk's office, and is intended as a unit for transfer of ownership or for development.

MONUMENT: A permanent reference marker set at points as may be required in this code.

MULTIPLE DWELLING: A single dwelling consisting of two or more separate dwelling or living units.

OFFICIAL MAP: The map, if any, established by the Town Board under Section 270 of the Town Law showing the streets, highways, and parks heretofore laid out, adopted, and established by law, and any amendments thereto adopted by the Town Board or additions thereto resulting from the approval of Subdivision Plats by the Planning Board, acceptance of

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dedication by the Town Board where appropriate, and the subsequent filing of such approved Plats with the Clerk of Yates County.

OFFICIAL SUBMISSION DATE: The date when a Subdivision Plat shall be considered submitted to the Planning Board, as provided in Section 276 of the Town Law, and is hereby defined to be the date of the meeting of the Planning Board at which all required surveys, plans, and data described in accordance with Article 4 of these regulations are submitted. The Official Submission Date shall in no instance be prior to the date when all relevant procedures have been completed under the New York State Environmental Quality Review Act, where applicable.

OPEN SPACE PERMANENT: Space dedicated to the Town of Barrington or set aside by easement or other manner in a form acceptable to the Town of Barrington for use as a park, recreation area, wildlife preserve, forest area, or other similar use deemed acceptable by the Town of Barrington.

OWNER: Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

PARENT PARCEL: A parcel of land as it existed on the effective date of these regulations.

PERFORMANCE BOND OR GUARANTEE: Any security which may be accepted in lieu of a requirement that certain improvements be made before the Planning Board approves a Plat, including performance bonds, escrow agreements, and other instruments acceptable in form to the Town.

PERMANENT HIGHWAY EASEMENT: A strip of land adjacent to an existing street right-of-way used for any public purpose. The front lot line shall be considered to be coincident with the permanent highway easement boundary. Front setbacks and other necessary lot measurements shall be measured from the permanent highway easement line. Where there is no requirement for a permanent highway easement the front line shall be considered to be coincident with the existing right-of-way line, with front setbacks and any other necessary lot measurements being measured from the existing right-of-way line.

PIN: A three-quarter inch (3/4”) metal reference marker a minimum of thirty inches (30”) in length set at final grade as may be required in this code.

PLANNING BOARD: The Town of Barrington Planning Board as established pursuant to the provisions of Article 16 of the Town Law of the State of New York.

PREAPPLICATION PROCESS: An informal meeting between the Town Planning Board and a Subdivider to develop an understanding of the general design and layout of the subdivision. Matters to be discussed include Town policies and procedures on the subdivision of land, a timetable for review, general agreement concerning the project design and on the Statement of Intent of the proposed subdivision.

PRELIMINARY PLAT: The preliminary drawing or drawings indicating the proposed manner or layout of the subdivision to be submitted to the Planning Board for its consideration and meeting the requirements of Article 4 of these regulations.

PRIVATE DRIVE: An undedicated access point serving one lot and providing ingress or egress to a road or street.

PRIVATE ROAD: An undedicated thoroughfare used as an ingress or egress to two or more properties with reciprocal easements and a common maintenance agreement.

RECORD SHEET: A map or plat that provides information concerning the actual location of

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improvements as built. (Often referred to as “as-builts.”)

RESUBDIVISION: Revision of all or part of an existing Plat previously filed with the Clerk of Yates County including consolidation of lots.

RIGHT-OF-WAY: See below.

PRIVATE RIGHT-OF-WAY: Existing land owned by a non-public agency or organization and occupied or intended to be occupied by transmission mains, gas pipelines, rails, or other special use.

PUBLIC RIGHT-OF-WAY: Existing land owned by public agencies for use as a street or other public purpose.

SERVICE DRIVE: See Alley under STREET.

SETBACK: The required space between any street or highway line or property line and the wall of the main structure, including any attachment thereto, with the exception only of cornices, chimneys or entrance steps.

SIGNIFICANCE DETERMINATION: A decision made by the lead agency at one or more points in the approval process. The decision establishes the degree to which the proposed project is likely to affect the environment.

SKETCH PLAN: A drawing prepared in accordance with Article 4 of these regulations showing in general form the manner in which a tract of land is to be subdivided or developed.

STATE ENVIRONMENTAL QUALITY REVIEW (SEQR): A formal review pursuant to part 617 of the New York Code Book of Rules and Regulations which encourages productive and enjoyable harmony between man and his environment and enhances human and community resources; and to enrich the understanding of the ecological systems, and natural, human and community resources important to the people of the Town of Barrington.

STREET: Any street, avenue, boulevard, road, lane, parkway, alley, or other way which is an existing state, county, or municipal roadway or way shown upon a Plat heretofore approved pursuant to law or approved by official action or a street or way on a Plat duly filed and recorded in the office of the Clerk of Yates County prior to the appointment of a Planning Board and the granting to such Board of the power to review Plans, and includes the land between the street lines whether improved or unimproved and may comprise pavement, shoulders, gutters, sidewalks, parking area, and other areas within the street lines. For the purpose of these Regulations, streets shall be classified as follows:

a) Collector streets are those which carry traffic from minor streets to the major system of arterial streets including the principal entrance streets of a residential development and streets for circulation within such a development.

b) Minor streets or local residential streets are those which are used primarily for access to the abutting properties.

c) Marginal service streets are streets which are parallel to and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.

d) Alleys are minor ways which are used primarily for vehicular service to the back or side of properties otherwise abutting on a street.

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

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SUBDIVIDER: Any person, firm, corporation, partnership, or association, who shall lay out, for the purpose of sale or development, any subdivision or part thereof as defined herein, either for himself or others.

SUBDIVISION: The division of any parcel of land into two or more lots, plats or sites, or any other division of land, for the purpose, whether immediate or future, to transfer ownership or building development rights, and shall include both resubdivision and any other movement or adjustment of the location of any existing lot line.

> MAJOR SUBDIVISION: Any Subdivision not comprising a minor subdivision under these regulations.
>
> MINOR SUBDIVISION: Any Subdivision of a single parcel existing at the effective date of these regulations and subdividing not more than four lots (over a ten-year period from the date of filing of a final subdivision plat at the office of the Yates County Clerk regardless of ownership) fronting on an existing street, or road, not involving any new street or road nor the extension of municipal facilities and, in the opinion of the Planning Board, not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Comprehensive Plan, Official Map, or Zoning Ordinance, if such exists, or these regulations.

SUBDIVISION PLAT OR FINAL PLAT OR 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 review under these regulations, and which, if approved, may be duly filed or recorded by the applicant in the Office of the Clerk of Yates County.

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

TOWN BOARD: The Municipal Governing Board of the Town of Barrington.

TOWN DEVELOPMENT PLAN, COMPREHENSIVE PLAN, TOWN PLAN OR MASTER PLAN: A composite of the mapped and written proposals recommending the physical development of the Town prepared by the Planning Board pursuant to Section 272-a of the Town Law which indicates the general locations recommended for various public works and reservations and for the general physical development of the Town and includes any part of such plan separately adopted and any amendment to such plan or parts thereof.

WETLANDS: Freshwater wetlands including lands and submerged lands, commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic and semi-aquatic types identified in Article 24 of the New York State Conservation Law.

ZONING: The separation or division of a municipality into districts, the regulation of buildings and structures in such districts in accordance with their construction and the nature and extent of their use, and the dedication of such districts to particular uses designed to serve the general welfare. Local zoning authority derives from a state constitutional grant of power to the state legislature, which in turn by statutes, defers or delegates it to municipalities. Zoning must be for the purpose of furthering the health, morals, safety, or the general welfare of the populace. Zoning decisions are subject to judicial review against arbitrariness and compliance with due process. Zoning ordinances properly adopted are presumed to be valid.

ZONING MAP: The officially adopted map of the Town of Barrington that shows the boundaries of the zoning districts.

ZONING ORDINANCE: The officially adopted Zoning Ordinance or Zoning Local Law of the Town of Barrington together with any and all amendments thereto.

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ARTICLE 3

PROCEDURE FOR FILING SUBDIVISION APPLICATIONS

SUBDIVISION APPROVAL REQUIRED PRIOR TO SALE

Whenever any subdivision of land is proposed to be made, and before any contract for the sale of, or any offer to sell any lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the Subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision. The Subdivider should meet with the Town of Barrington Code Enforcement Officer to determine which process is applicable to their project, Administrative Review, Minor or Major Subdivision.

ADMINISTRATIVE REVIEW OPTION

A. Applicability

This section shall apply only where the proposed subdivision is not subject to any other review under the zoning ordinance of the Town of Barrington, all the lots shown on a proposed subdivision application comply with all subdivision and zoning requirements, in that all lots and all the buildings thereon meet all applicable lot size, frontage, width, depth, area, setback, use, and with the Official Map, if any, of the Town of Barrington and such parcels front on an existing street and do not involve any new street or road, nor the extension of municipal facilities and, in the opinion of the Planning Board, do not adversely affect the development of the remainder of the parcel or adjoining property and comply with one or more of the following:

1) Combining of two or more existing tax parcels into a single parcel.

2) The creation of parcels all of which are 20 acres or more in size for agricultural use in a zoning district where agricultural uses are allowed.

3) The moving of a lot line between two adjacent properties to cure a boundary defect not affecting the location of curb cuts or access to the property, drainage, nor any buildings situate on either parcel.

4) Lot line adjustments between two contiguous parcels that remedy pre-existing non-conforming lots, as long as no new non conformities are created as a result.

5) Other subdivisions of one lot into two lots that do not create non-conforming lots that in the judgement of the Code Enforcement Officer and the Planning Board Chairman will not impact adjacent property or the general health, safety and welfare of the community. In the event of a third subdivision of the original parcel it will be considered a minor subdivision.

If the applicant is not satisfied with the judgment of the Code Enforcement Officer and the Planning Board Chairman he/she may request to be placed on the agenda of the next Planning Board meeting for review by the full Planning Board.

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B. Review

1) Upon submission of a subdivision application, the Code Enforcement Officer shall initially determine eligibility of the subdivision application for administrative approval under this section within 7 calendar days of submission of the subdivision application.

2) Upon initial determination of eligibility by the Code Enforcement Officer, said subdivision application shall be reviewed by the Planning Board Chairman within 7 calendar days of the date of initial determination of eligibility by the Code Enforcement Officer. If the Planning Board Chairman concurs that the subdivision application is eligible for administrative approval under this section, the applicant shall be so notified by the Code Enforcement Officer.

3) Notice to the applicant shall include any modifications or clarifications to the application to ensure compliance with this section. Said notice shall also include the need to prepare final subdivision plats in accordance with the requirements of Article 4 herein. Said notice shall be made within 7 calendar days of final determination of eligibility of the subdivision application for approval under this section.

C. Submission of Final Plat

1) Upon receipt of notice, the applicant shall submit a final subdivision plat to the Code Enforcement Officer within six months of the date of the notice.

2) If, after review, both the Code Enforcement Officer and the Planning Board Chairman ascertain that the final plat meets all requirements of this section, the final plat shall be deemed approved.

3) If for any reason, either the Code Enforcement Officer or the Planning Board Chairman ascertain that the submitted plat does not conform to the requirements of this section, including but not limited to the requirements for Final Plats found in Article 4 herein, the plat shall be returned to the applicant for correction or submission as a regular subdivision application to the Planning Board under the Preliminary Plat Section herein, and shall not be deemed approved under this section.

4) The Planning Board Chairman shall, upon determination that the final plat is in full compliance with this section, witness said approval by affixing his/her signature to the following statement placed on the plat:

> This plat has been reviewed and is approved as a final subdivision plat by the Town of Barrington as being exempt from review under the Subdivision Regulations of the Town of Barrington. Any change, erasure, modification, or revision of this Subdivision Plat, as approved, shall void this approval.
>
> Signed this _____day of _____, 20___ by _____
> Chairman, Town of Barrington Planning Board

5) Copies: The applicant shall furnish one paper copy of the approved final plat to the Town Planning and Zoning Office at the time of signature as described in paragraph 4 above.

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D. Filing of Plat

Upon approval and signing of the final subdivision plat by the Planning Board Chairman under this section, the applicant shall have thirty calendar days with which to file one mylar and two paper copies of the signed, approved, final subdivision plat at the office of the Yates County Clerk.

PROCESS OF DETERMINATION: MINOR OR MAJOR SUBDIVISION CATEGORY

A. Submission of Sketch Plan

Any owner of land shall, prior to subdividing or resubdividing land, submit to the Code Enforcement Officer, or other officer duly appointed by resolution of the Town Board, at least fourteen (14) days prior to the regular meeting of the Planning Board nine copies of a Sketch Plan of the proposed subdivision. It shall comply with the requirements of Article 4, for the purposes of classifying the application as constituting a Minor or Major Subdivision and for preliminary discussion. Said sketch plan shall be submitted accompanied by an application on forms available from the Town Code Enforcement Officer.

B. Discussion of Requirements and Classification

The Subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the requirements of these regulations for street improvements, drainage, sewerage, water supply, fire protection, and similar aspects, as well as the availability of existing services and other pertinent information. The Planning Board shall determine at this time the classification of the subdivision as Minor or Major, shall discuss the requirements of the New York State Environmental Quality Review Act, and shall inform the applicant of such decision.

Proposals for subdivision of parcels including active farm or cropland within an **Yates County Agricultural District** shall include delineation of proposed building sites on each lot, which sites shall be located outside or along the edges of active farm and crop lands.

Subdivisions of five (5) lots or more shall ordinarily be required to employ conservation subdivision or clustering techniques (see page 27) that provide for the preservation of active farm and cropland without reducing overall density of development. Subdivisions approved under Administrative Review shall be exempt from this section.

C. Study of Sketch Plan

The Planning Board shall determine whether the Sketch Plan meets the purposes and submission requirements of these regulations and shall, where it deems necessary, make specific verbal suggestions of possible modifications to be incorporated by the applicant in the next submission to the Planning Board. This is an informal working session. Results are not binding on either party. When an understanding is reached the Subdivider should prepare the Preliminary Plat.

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PRELIMINARY PLAT

A. **Application and Fee**

1) Prior to the filing of an application for the approval of a Subdivision Plat, the Subdivider shall file an application for the consideration of a Preliminary Plat, which shall in all respects comply with the requirements set forth in the provisions of Sections 276 and 277 of the Town Law, and Articles 4, 5 and 6 of these regulations.

2) The application for approval of the Preliminary Plat shall be accompanied by a fee as established by the Town Board.

3) Application for Preliminary Plat Approval is to be submitted to the Town Code Enforcement Officer, or other officer duly appointed by resolution of the Town Board, on forms provided by said officers at least fourteen (14) days prior to the regular monthly meeting of the Planning Board. Said application shall be accompanied by rendering of the application fee as described above, and is to be accompanied by such other material as specified in Article 3, Preliminary Plat, Paragraph B below.

B. **Other Application Requirements**

Nine (9) copies of the Preliminary Plat and Nine (9) copies of the draft Environmental Assessment Form are to be submitted at the time of application for Preliminary Plat Approval as specified in Article 3, Paragraph A above. More copies of the Preliminary Plat and draft Environmental Assessment Form may be requested of the applicant by the Planning Board if the Planning Board determines that other agencies, employees of the Town, or Consultants should review said Plat, or if additional agencies or individuals should review the draft Environmental Assessment Form under the provisions of the New York State Environmental Quality Review Act.

C. **Official Submission Date of Preliminary Plat Application**

The official submission date of the Preliminary Plat application shall be the date of the next regular monthly meeting of the Planning Board which occurs after a Preliminary Plat application is made in compliance with these regulations and the procedures of Article 3, paragraphs A and B. The Official Submission Date shall in no instance be prior to the date when all relevant procedures have been completed under the New York State Environmental Quality Review Act, where applicable. The Planning Board shall deem incomplete any application not made in compliance with these regulations, and the procedures of paragraphs A and B.

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

The Subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plat

E. **Study of Preliminary Plat**

The Planning Board shall study the practicability of the Preliminary Plat taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet not subdivided, the maintenance of rural character and the Town Comprehensive Plan, the Official Map, and the Zoning Local Law, if such exist.

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F. **County Official Map, Referral to County Planning Board**

The Planning Board will also notify Yates County Highway Superintendent, if the Subdivision Plat proposes structures or new streets having frontage on, access to, or is otherwise directly related to any existing County Road. The Planning Board at its regular monthly meeting shall determine if the location of the property proposed for subdivision must be referred to the Yates County Planning Board under Section 239-m of the General Municipal Law of New York State.

G. **County Planning Board Notification, Action, Impact**

Under the requirements of Section 239-m of the New York State General Municipal Law, whenever a proposed subdivision lies within a distance of 500 feet from the boundary of a municipality, 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, thruway, expressway, road 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 building is situated, then the proposed subdivision shall be referred to the County Planning Board for review.

The Town Planning Board shall determine if a Preliminary Plat application must be referred to the County Planning Board, and will direct the Town Code Enforcement Officer or other duly appointed officer to file said Preliminary Plat application with the County Planning Board for review at their next regular monthly meeting.

No action shall be taken on the Preliminary Plat application by the Town Planning Board until such time as a recommendation is received from the County Planning Board, although a public hearing may be held pursuant to the Preliminary Plat Section, Paragraph H of these regulations.

If no recommendation is received from the County Planning Board within Thirty (30) days, the Preliminary Plat shall be deemed approved by the County Planning Board. If the County Planning Board disapproves or recommends modification of a proposed preliminary subdivision plat, the Town Planning Board shall not act contrary to such disapproval or recommendation of modification except by a vote of a majority plus one of all its members and then only after the adoption of a resolution fully setting forth the reasons for such contrary action.

H. **Public Hearing on Preliminary Plat Application**

Within Forty-five (45) days of the official submission date of a Preliminary Plat application, the Planning Board shall hold a public hearing. This time may be extended upon mutual consent of the Planning Board and Subdivider. The hearing notice shall be advertised at least once in the official newspapers of the Town at least Five (5) days prior to the date of the hearing.

I. **Action of Planning Board on Preliminary Plat Application**

1) Within Forty-five (45) days of the date of the public hearing, the Planning Board shall approve, approve with modification, or disapprove the Preliminary Plat. This time may be extended upon mutual consent of the Planning Board and Subdivider. The Planning Board shall adopt a resolution stating its findings and the grounds for its decision on the Preliminary Plat.

2) When approving with modifications a Preliminary Plat, the Planning Board shall by resolution and in writing to the Subdivider, state said modifications it deems necessary for submission of the Final Plat.

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3) A certified copy of the Planning Board's action on a Preliminary Plat application shall be mailed to the Subdivider within Five (5) business days.

4) If the Planning Board fails to act upon the Preliminary Plat application within the time period herein stated, the Preliminary Plat shall be deemed approved, and the Town Clerk shall issue a certificate specifying the official submission date and failure of the Planning Board to act upon the Preliminary Plat application at the request of the Subdivider. This certificate shall be considered sufficient proof in lieu of any other evidence of approval of the Preliminary Plat.

5) In the case of a Minor Subdivision as determined by the Planning Board, the Planning Board may grant final approval or approval with modifications of the Subdivision, subject to preparation of a Final Plat as defined in the Section titled Subdivision Plat (or Final Plat).

J. **Subdivision Plat (Or Final Plat)**

A Subdivider proposing a Minor Subdivision as determined by the Planning Board shall within six months of approval by the Planning Board of the Preliminary Plat, present to the Chairman or Acting Chairman of the Planning Board a Final Subdivision Plat prepared as required in Article 4 of these regulations and conforming to any modifications imposed by the Planning Board in its review, and containing such other approvals as may be required as defined in Article 4 of these regulations. The Chairman or Acting Chairman of the Planning Board shall then be empowered to sign such Final Plat evidencing its approval by the Planning Board.

EXTRA REQUIREMENTS FOR MAJOR SUBDIVISIONS

A. **Application for Approval, Final Plat**

The Subdivider shall, within six months after the approval of the Preliminary Plat, file with the Planning Board an application for approval of the Subdivision Plat in final form. Application for Final Plat Approval is to be submitted to the Town Code Enforcement Officer or other duly appointed officer on forms provided by said officers at least fourteen (14) days prior to the regular monthly meeting of the Planning Board. Said application shall be accompanied by submission of the number of copies of the Final Plat, an original Final Plat and other materials as specified in Article 3, Paragraph B, below.

B. **Other Application Requirements**

Eight (8) copies of the Final Plat and one original Final Plat done with ink on linen or mylar are to be submitted at the time of application for Final Plat Approval as specified in Article 3, Paragraph A, above. Additional copies of the Final Plat may be requested of the applicant by the Planning Board if the Planning Board determines that other agencies, employees of the Town, or Consultants should review said Plat. The Subdivider shall also provide the original and one true copy of all offers of cession, covenants, and agreements, and three prints of all construction drawings.

C. **Endorsement of State, County and Local Agencies**

Water and sewer facility proposals contained in the Final Plat shall be properly endorsed and approved by the New York State Department of Health and the Department of Environmental Conservation in areas applicable to their jurisdiction. Application for approval of plans for

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sewer or water facilities will be filed by the Subdivider with all requisite Town, County, and State agencies. See Article 4, Final Subdivision Plat, Approvals Needed for a list of additional approvals that may be required.

D. **Official Submission Date of Final Plat Application**

The official submission date of the Final Plat application shall be the date of the next regular monthly meeting of the Planning Board which occurs after a Final Plat application is made in compliance with these regulations and the procedures of Article 3, Paragraphs A and B. Any application not made in compliance with this section shall be deemed incomplete by the Planning Board.

E. **Public Hearing**

Within Sixty-two (62) days of the official submission date of a Final Subdivision Plat application, the Planning Board shall hold a public hearing. This time may be extended upon mutual consent of the Planning Board and the Subdivider. The hearing notice shall be advertised at least once in the official newspapers of the Town at least Five (5) days prior to the date of the hearing.

The Planning Board may waive the requirement for this second public hearing if it deems the Final Plat to be in substantial agreement with the preliminary plat previously approved and modified according to any modifications required by the Planning Board during its review of the Preliminary Plat.

F. **Action of Planning Board**

Within Sixty-two (62) days of the date of the public hearing, the Planning Board shall by resolution approve, approve with modification, conditionally approve with or without modifications, or disapprove the Subdivision Plat. This time may be extended upon mutual consent of the Planning Board and Subdivider. The Planning Board shall adopt a resolution stating its findings and the grounds for its decision on the Final Plat.

1) Conditional approval of a Final Subdivision Plat is defined as the approval of the Final Plat subject to conditions set forth by the Planning Board in its resolution conditionally approving the Final Plat. Conditions may be, but are not limited to, some, all, or any of the following:

a) approval of Town, County, or State agencies having jurisdiction over sewer, water, roads, or other municipal service,

b) review by the Town's Attorney of the adequacy of any performance bond or other surety required by the Planning Board,

c) issuance of a road cut permit by the County Highway Superintendent where access from the subdivision is onto a County Road.

2) The State Attorney General's Office must review and approve any Homeowners' or Tenants' Association agreement

3) A certified copy of the Planning Board's action on a Final Subdivision Plat application shall be mailed to the Subdivider within Five (5) business days of the date of the Planning Board's action.

4) If a Final Subdivision Plat is conditionally approved, with or without modifications, or is approved with modifications, the Chairman of the Planning Board shall be empowered and required to sign the Final Subdivision Plat when all requirements stated in the Planning Board's resolution concerning the Final Plat have been satisfactorily met.

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5) The Subdivider shall have 180 days to satisfy the requirements specified in the Planning Board's resolution concerning the Final Plat and to obtain the signature of the Chairman of the Planning Board as required herein. Upon failure to obtain such approval, the Planning Board may at its first meeting after such time frame has elapsed vote to extend such time frame for an additional six months one time only if it determines the delay is due to circumstances beyond the control of the Subdivider. Such time extension may be granted only at the written request of the Subdivider. If such time frame has elapsed and no extension has been granted, the Subdivider must reapply for review under these regulations beginning with the Preliminary Subdivision Plat review stage and including the submission of the fees required therein.

G. **Signing of the Final Subdivision Plat**

Every Subdivision Plat submitted to the Planning Board for approval shall carry the following endorsement:

"Approved by Resolution of the Planning Board of the Town of Barrington, New York, on the _____ day of _____, 20___, subject to all requirements and conditions of said Resolution. Any change, erasure, modification, or revision of this Subdivision Plat, as approved, shall void this approval."

Signed this _____ day of _____, 20___

by_____

Chairman, Town of Barrington Planning Board

In the absence of the Chairman, the acting Chairman may sign the Subdivision Plat. If there is an Official County Map, such endorsement shall stipulate that the Subdivision Plat does not conflict with the Official County Map, or in cases where the subdivision does front on, or have access to, or is otherwise related to roads or drainage systems shown on the County Map, that subdivision has been approved by the County Planning Board, in the manner specified by Section 239-m of the New York State General Municipal Law. If the subdivision falls within the jurisdiction of the County Planning Board as set forth in Section 239-m of the New York State Municipal Law, then such endorsement shall stipulate that the requirements of said law have been satisfied.

ARTICLE 4

SPECIFICATIONS FOR SKETCH PLANS, PRELIMINARY PLATS, AND SUBDIVISION PLATS

SKETCH PLAN: MINOR AND MAJOR SUBDIVISIONS

The Sketch Plan initially submitted to the Planning Board shall be based on tax map information or some similarly accurate base map at a scale (preferably not less than 200 ft. to the inch) to enable the entire tract to be shown on one sheet. The Sketch Plan shall show the following information:

A. The location of the portion which is to be subdivided in relation to the entire tract, and the

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distance to the nearest existing street intersection.

B. All existing structures, wooded areas, streams, and other significant physical features, within the portion to be subdivided and within 200 feet thereof. If topographic conditions are significant, and/or there is a slope of 15% or greater contours shall also be indicated at intervals of not more than 10 feet.

C. The name of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records.

D. A copy of the tax map showing adjoining properties.

E. All the utilities available, all driveways and streets which are either proposed, mapped or built, and the location of any existing septic systems, working and non-working, wells and cisterns.

F. The proposed pattern of lots (including lot width and depth), street and driveway layout, recreation areas, systems of drainage, sewerage, and water supply.

G. All existing restrictions on the use of land including easements, covenants, and zoning lines.

PRELIMINARY PLATS: MINOR AND MAJOR SUBDIVISIONS

Preliminary Plats submitted to the Planning Board shall be drawn to scale of not more than one inch equal to 100 feet, and shall show the following information:

A. The location of the property with respect to surrounding property and streets. There shall also be included a key map at a scale of one inch equals five hundred feet showing all streets, streams, and property within fifteen hundred feet of the applicant's property. All property held by the applicant within 2,000 feet, must also be identified.

B. The location and approximate dimensions of all existing property lines (including the entire area proposed to be subdivided and the remainder of the tract owned by the current owner of record or the Subdivider).

C. All pertinent features such as existing structures, streets, railroads, water bodies, streams, swamps, and large trees, that may influence the design of the subdivision and topography at a contour interval of not more than five feet.

D. The approximate location, dimensions, and area of all proposed and/or existing lots.

E. The names of all property owners of record, or the names of developments within five hundred (500) feet of the proposed subdivision.

F. The name and address of the owner or owners of the land to be subdivided, the name and address of the Subdivider, if other than the owner, the name of the land surveyor, engineer, or landscape architect.

G. The date, source of the north point, and scale.

H. Acreage of the tract to be subdivided to the nearest tenth of an acre.

I. Proposed provision of water supply, fire protection, disposal of sanitary waste, and storm water drainage.

J. The application deadline date for submission of materials for the review of the preliminary subdivision plat by the Planning Board.

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K. The approximate location of any proposed buildings.

L. The location of the required setback lines for principal structures as delineated in the Town's Zoning Ordinance.

M. The approximate location of the sewage disposal system, and the results of a percolation test conducted within such area.

N. Each block shall be numbered and the lots within each block shall be numbered consecutively in accordance with the procedure established by the Town. The total number of residential lots shall be noted on the Plat. *

O. The approximate location and dimensions of all property proposed to be set aside for open space, playground or park use. *

P. The location width, and approximate grade of all proposed streets. Approximate elevations shall be shown at the beginning and end of each street, at street intersections, and at all points where there is a decided change in the slope or direction of the street. Profiles of all proposed streets shall be provided at a scale as specified in Article 5. *

**** Applies Only to Major Subdivision***

MISCELLANEOUS

Any other information which the Planning Board, in its review of the Sketch Plan or Preliminary Plan, may have deemed of importance in the design and review of a particular subdivision in order to better provide for the health, safety, and welfare of both present and future inhabitants of the Town.

FINAL SUBDIVISION PLAT

All Subdivision Plats shall bear the stamp and signature of a New York State Licensed Land Surveyor, Engineer, or Landscape Architect, and shall be legibly drawn on a stable transparent base (mylar or linen). All Subdivision Plats shall contain the information as required for a Preliminary Plat as defined herein, and such other information as may be required by the Planning Board and as required by the following:

A. **Additional Information Required for Subdivision Plats for Major Subdivision**

Major Subdivision Plats shall be accompanied by separate Construction Detail Sheets, and both shall be submitted to the Planning Board for approval as follows:

1) Drawing, Scale and Size of Plat – The Subdivision Plat and Construction Detail Sheets shall be clearly and legibly drawn on a stable transparent base (mylar or linen). In areas zoned for lots of a minimum permitted size (as required by the town code), maps and profiles shall be at a scale of one inch equals 100 feet. In areas zoned for minimum allowable lot sized of less than that required by the town code, maps and profiles shall be at a scale of one inch equals 50 feet. Maps shall be on uniform size sheets in accordance with the applicable New York State Statutes. Whenever any project is of such size that more than one sheet is required, then an index map on the same size sheet shall accompany these sheets. The Construction Detail Sheets shall show all improvements as required below in A – E starting on page 18.

2) Information to be shown on plat

a) Proposed subdivision name or identifying title which shall not duplicate or too closely approximate that of any other development in the town.

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b) Locations, names and widths of existing streets, highways and easements, building lines, parks, and other public properties.

c) Locations and widths of all streets, together with names of streets, and location, dimensions, and status of all easements proposed by the Subdivider.

d) Lot areas in square feet.

e) Lot lines with accurate dimensions and bearings of angles.

f) Sufficient information to readily determine the location, bearing, and length of all lines, and to reproduce such lines upon the ground.

g) Radii of all curves and lengths or arcs.

h) Location, material and approximate size of all monuments.

i) The accurate outline of all property which is offered, or to be offered, for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to be reserved by deed covenant or by a Homeowners' Association for the common use of the property owners of the subdivision.

j) Any additional information that the Planning Board shall direct to protect the public health, safety, and welfare.

CONSTRUCTION DETAIL SHEETS

Construction Detail Sheets shall show the following information:

A. Profiles showing existing and proposed elevations along the center lines of all streets. Where a proposed street intersects an existing street or streets, the elevation along the center line of the existing street or streets within 100 feet of the intersection, in both directions, shall be shown. All elevations must be referred to established U.S. Government or approved local bench marks, where they exist within one-half mile of the boundary of the subdivision.

B. Any other information which the Planning Board, in its review of the Sketch Plan, Preliminary Plan or Subdivision Plat, may have deemed of importance in the design and review of a particular subdivision in order to better provide for the health, safety, and welfare of both present and future inhabitants of the town.

C. The Planning Board may require, where steep slopes exist, that present and proposed elevations of all proposed streets shall be shown every 100 feet at five points on a line drawn at right angles or, if on a curve, radial to the center line of the proposed street. Said five elevation points shall be at the center line of the street, each property line, and points thirty feet inside each property line abutting the street.

D. Plans and profiles showing the location and a typical section of street pavements, including curbs and gutters, and catch basins; the location of street trees, and street signs; the location, size and invert elevations of existing and proposed sanitary sewers, storm water drains, and fire hydrants; and the exact location and size of all water, septic, gas, electric, or other underground utilities of structures.

E. All erosion control devices as required by the Steep Slopes Ordinance and Erosion Control Ordinance of the Town of Barrington.

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APPROVALS NEEDED

Before approved plans can be signed by the Chairman or acting Chairman of the Planning Board as being approved, the following approvals shall be required where applicable:

A. All proposed culverts along Town roads, all proposed streets and intersections shall be subject to the approval of the Town Highway Superintendent.

B. All proposed water and waste water disposal systems shall be approved by the Watershed Inspector in accordance with NYS Department of Health regulations.

C. In accordance with the NYS Sanitary Code and the NYS Department of Health regulations all extensions to existing potable water systems of five or more or that serve 25 or more persons shall be approved by the New York State Department of Health.

D. Per the NYS Sanitary Code, all waste water disposal systems within the Keuka Lake Watershed shall be approved by the Watershed Inspector.

E. All proposed curb cuts onto County roads shall be subject to the approval of the County Highway Superintendent.

F. All proposed curb cuts onto State highways shall be subject to the approval of the New York State Department of Transportation.

ARTICLE 5

DEVELOPMENT STANDARDS FOR SUBDIVISIONS

The Planning Board, in considering an application for the subdivision of land, shall be guided by the following considerations and standards:

GENERAL

1) 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.

2) Land subject to flooding, and land deemed by the Planning Board to be otherwise uninhabitable, shall not be platted for residential occupancy nor for such other uses as may increase danger to health, life, or property or aggravate the flood hazard on this or other property.

3) Subdivisions shall conform to the streets and parks shown on the Official Map of the Town as may be adopted as it is developed and adopted by the Town Planning Board.

4) Required improvements shall conform to Town specifications, on file at the Town Clerk's Office.

A. **Streets**

The following regulations shall govern the layout of streets:

1) Subdivisions shall be so designed as to provide a street pattern that is curvilinear in design. The design of the street pattern shall be based upon a local residential or minor street pattern connected to a residential collector street system.

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2) The arrangement of streets in new subdivisions shall make provisions for the continuation of existing streets in adjoining areas, or their proper protection where adjoining land that is not subdivided, at the same or greater width insofar as such may be deemed necessary for public requirements.

3) Local residential streets shall be designed so as to discourage through traffic.

4) All right-of-way street widths and street pavements shall be measured at right angles or radial to the center line of the street and shall not be less than the following:

	Right-of-way	Hard Surface
All streets	49 ft. 6 inches	20 ft.

5) Whenever possible, streets should intersect at right angles, and in no case shall they intersect at angles of less than sixty degrees.

6) The grades of streets shall be in accordance with specifications established by the Town Highway Superintendent and such grades as submitted on Subdivision Plats shall be approved by him prior to final approval by the Planning Board.

7) All proposed subdivisions shall be designed to provide access to adjacent properties. When a proposed subdivision abuts an existing subdivision, the Subdivider shall make every attempt to design the street system of the proposed subdivision to connect with dead-end or "stub" streets of the existing subdivision.

8) The following standards shall apply to turnarounds:

They shall be 40 feet wide and 60 feet long on the left hand side of a dead-end street and 60 feet from where the road ends.

9) If a dead-end street is of a temporary nature, a turnaround shall be provided as specified above, and provisions made for future extension of the street through to adjacent property and reversion of the excess right-of-way to the adjoining properties.

10) New half or partial streets shall not be permitted, except that wherever a proposed subdivision borders a half or partial street, the Town Planning Board may require that the other part of the street be platted in the proposed tract if it is found that such a requirement would increase the effectiveness of the circulation system in the area.

11) Multiple intersections involving a junction of more than two streets shall be prohibited.

12) Local residential streets and residential collector streets shall not intersect with arterial streets at a distance of less than eight hundred (800) feet a part, measured from center line to center line.

13) No street shall have a name which will duplicate or so nearly duplicates as to be confused with the names of existing streets within the County. The continuation of an existing street shall have the same name.

14) The minimum radius of horizontal curves, minimum length of vertical curves, and minimum length of tangents between reverse curves, and the location of curb cuts on Town Roads shall be in accordance with specifications established by the Town Highway Superintendent, and said items shall be approved by him prior to final approval of the Subdivision Plat by the Planning Board.

15) The Highway Superintendent shall approve the Highway Plans including road signs in writing, and shall have the right to inspect during construction of same.

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16) Planned access shall address the provisions of this Ordinance, other State and Local requirement, and the following:

a) Parcels that are the result of a subdivision do not have the right of individual and exclusive access to State and local roads. The number of driveways or other connections shall be the minimum number necessary to provide reasonable access to these parcels, not the maximum available for the frontage.

b) Access shall be provided to the road with the lowest functional classification serving the proposed development.

c) Access should be internalized. Access to residential parcels within a subdivision should be obtained from an access road or an interior road.

d) If the parcel that is proposed to be subdivided has frontage on two or more roads, internal parcels should share access to such roads.

e) The access system for the proposed subdivision should be coordinated with existing, proposed, and planned streets outside the subdivision.

17) Where a subdivision abuts or contains an existing street of inadequate right-of-way width, an additional right-of-way width may be requested by the Town Highway Superintendent.

18) Shared driveways, common parking area, interconnected parking, and private roads constructed to provide access to parcels internal to a subdivision shall be recorded as an easement and shall constitute a covenant running with the land. Operation and maintenance agreements for these facilities should be recorded with the deed.

B. **Maintenance of Private Roads**

Private roads must be maintained by their owners. The Town of Barrington has no obligation to maintain private roads.

C. **Lots**

The following regulations shall govern the layout of lots:

1) The lot size, width, depth, shape, orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

2) All lots shown on the Subdivision Plat must conform to the minimum requirements of the Town of Barrington Zoning Ordinance as to area and dimensions for the zone in which the subdivision is located. However, in the event of utilization of Section 278 of the Town Law, the Planning Board may use its discretion in determining lot sizes in accordance with the guidelines established in Section 281 and the relevant sections of these regulations.

3) Each lot shall front on a street built to the specifications of the Town of Barrington .

4) Corner lots shall have extra width sufficient for maintenance of required building lines on both streets as required in the Town of Barrington Zoning Ordinance.

5) Where extra width has been dedicated for widening of existing streets, lots shall begin at such extra width line, and all setbacks shall be measured from such line.

6) Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as rock formations, flood conditions, or similar circumstances, the Town Planning Board may, after reviewing pertinent information supplied by the Subdivider or

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the Subdivider's engineer, require the modification of such lots.

7) Block length and width or acreage within bounding roads shall be such as to accommodate the size of lots required in the area by the Town of Barrington Zoning Ordinance and to provide for convenient access, circulation control and safety of street traffic.

8) Lot sizes and dimensions in excess of the minimum standards of the Zoning Law shall be required by the Planning Board should the Board find that the size and dimensions of lots as proposed endanger the health, safety, or welfare of the community or the environment.

9) If remnants of land exist after subdividing, they shall be incorporated into existing or proposed lots or, if acceptable to the Town, proposed for dedication to the Town for public use where they are found to have value to the public.

D. **Easements**

An easement shall be provided for all natural drainage ways and all utility lines when such utility line or lines do not fall within a dedicated right-of-way. All easements shall be plotted on the Preliminary Plat and Final Subdivision Plat. A clause shall be inserted in the deed of each lot affected by an easement indicating that the easement exists and its purpose. Except as further required in this section, easements shall have a minimum width of twenty (20) feet. Where a subdivision is traversed by a drainage way, channel, or stream, a drainage way easement conforming substantially with the lines of such watercourse shall be provided. The easement shall be a minimum of twenty (20) feet wide or such width as will be adequate to preserve natural drainage and provide sufficient width for maintenance. Where it is found that additional easement width is needed, such width shall be determined by the Town Planning Board in consultation with the Highway Superintendent and such other parties as the Planning Board deems appropriate. To the fullest extent possible, easements shall be centered on or adjacent to rear or side lot lines.

E. **Landscaping and Ground Cover**

1) All lot areas which are not covered by structures or paving shall be properly seeded by the developer.

2) The developer shall provide a functional landscaping scheme for the entire subdivision. He shall use green infrastructure strategies whenever possible. Such strategies shall include but not be limited to on-site rain gardens, swales, porous pavers, infiltration areas and the retention of existing vegetation wherever reasonable. In addition each lot shall have a minimum of two (2) shade trees and four (4) shrubs.

3) Individual homeowners may, by written agreement with the Subdivider and builder, seed and landscape their yards independently as long as they do so promptly so as to avoid erosion.

F. **Preservation of Natural Features**

1) Topsoil shall be removed and stockpiled during construction from all areas where soil is to be either cut or filled. Said stockpile is to be seeded if it is not reused as specified herein within 14 days. After construction all areas not built or paved upon shall be recovered with stockpiled topsoil. All said covered areas shall be established by seeding or planting.

2) To the fullest extent possible, all existing trees and shrubbery shall be conserved by the Subdivider. Special consideration shall be given to the arrangement and ultimate

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improvement or development of the lots to this end. Precautions shall also be taken to protect existing trees and shrubbery during the process of grading the lots and roads.

3) Unique physical features such as historic landmark sites, rock out-cropping, hilltop lookouts, desirable natural contours, and similar features shall be preserved if possible.

G. **Woodlands**

1) Woodlands as a Resource. Woodlands occur extensively throughout the Town, often in association with stream valleys and wet areas, poor and erodible soils, and moderate to steep slopes. Woodland conditions within the Town vary with respect to species composition, age, stocking, and health but are generally mature mixed-age forests. Most woodlands in the Town represent one or more of the following resource values:

a) Erosion Control. As soil stabilizers, particularly on moderate to steep slopes, thereby controlling erosion into nearby streams, ponds, lakes, impoundments and roads. A closely related function is their enhancement of ground water recharge.

b) Climate Moderation. As a means of ameliorating harsh microclimatic conditions, in both summer and winter.

c) Economic Value. As a source of wood products, i.e., poles, saw timber, veneer and firewood.

d) Habitat. As habitats for woodland birds, mammals and other wildlife.

e) Recreation. As recreation resources for walkers, equestrians, picnickers and other related outdoor activities.

f) Visual Buffers. As visual buffers between areas of development and adjacent roads and properties.

2) Evaluation Required. Because of their resource values, all woodlands on any tract proposed for subdivision or development shall be evaluated by the applicant to determine the extent to which such woodlands should be designated partly or entirely as open space. Evaluation criteria shall include:

a) Configuration and Size.

b) Present Conditions, i.e., stocking health and species composition.

c) Site Potential. i.e., the site's capabilities to support woodlands, based upon its topographic, soil and hydrologic characteristics.

d) Ecological Functions. i.e., in protecting steep slopes, erodible soils, maintaining stream quality and providing for wildlife habitats.

e) Relationship to Woodlands on Adjoining and Nearby Properties and the potential for maintaining continuous woodland areas.

3) Report Required. The evaluation of the tract's woodlands shall be undertaken by a forester, landscape architect, horticulturist or another qualified professional acceptable to the Town. This evaluation shall be submitted as a report and made a part of the application for a final plat, if requested by the Planning Board. At a minimum, that report shall include one or more maps indicating boundaries and conditions of woodland areas accompanied by a report addressing the criteria in paragraph form.

4) Standards. In designing a subdivision plat, the applicant shall be guided by the following standards:

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a) Over One Acre. Healthy woodlands exceeding one acre shall be preserved and designated as open space areas to the maximum extent possible. Proposed site improvements shall be located, designed and constructed to minimize the loss or degradation of woodland areas.

b) Buffer Requirements. Subdivisions shall be designed to preserve woodland along roadways, property lines and lines occurring within a site such as streams, swales, stone fences and hedgerows. Such lines and the native vegetation associated with them shall be preserved as buffers between adjacent properties and between areas being subdivided within a property. Preservation shall include ground, shrub, under story and canopy vegetation.

c) Sensitive Areas such as stream banks, gullies and steep slopes. Disturbance or removal of woodlands occupying environmentally sensitive areas shall be undertaken only when approved by the Planning Board and on a limited, selective basis to minimize the adverse impacts of such actions. This shall include but not necessarily be limited to, vegetation performing important soil stabilizing functions on wet soils, stream banks and sloping lands.

d) Clearing Restrictions. No clearing or earth disturbance (except for soil analysis for proposed sewage disposal systems or test wells for water supply) shall be permitted on a site before the completion of subdivision agreements. The determination of sight distance clearances along roadways shall be made graphically and not by clearing on-site prior to final plan approval.

H. **Floodplain**

If any portion of the land within the subdivision is subject to inundation or flood, as shown on the United States Department of Housing and Urban Development Flood Insurance Rates Map, such fact and portion shall be clearly indicated on the Preliminary Plat and the prominent note on each sheet of such map whereon any such portion shall be shown.

I. **Self-Imposed Restrictions**

The owner may place restrictions on the development greater than those required by the Town of Barrington Zoning Ordinance. Such restrictions, if any, shall be indicated on the final Subdivision Plat.

J. **Modification of Standards**

The Town Planning Board may modify the specified requirements of these regulations in any individual case where, if in said Board's judgment, such modification is in the public interest, or will improve the general health, safety, or welfare of the affected public.

Where the Planning Board requires land to be set aside for parks, playgrounds, or other recreational purposes, the Planning Board shall require that the site be graded, loamed, and seeded and may require it to be fenced.

When an area for park, playground, recreational purposes or permanent open space shall have been required on the Subdivision Plat, the approval of said Subdivision Plat shall not constitute an acceptance by the Town of such an area.

ARTICLE 6

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IMPROVEMENTS

IMPROVEMENTS REQUIRED

The developer, before the approval of the Subdivision Plat, shall complete all improvements subject to the approval of the Highway Superintendent, the Watershed Inspector, and any other inspector which may be appointed by the Planning Board or Town Board, or shall post a Performance Bond or other surety in a form acceptable to the Town Board which is sufficient to insure the satisfactory completion of the following required improvements. The Planning Board may grant requests for waivers, subject to appropriate conditions.

A. **Streets**

Shall be constructed, graded, and paved in accordance with the standards and specifications on file in the Town and approved by the Town Highway Superintendent.

B. **Storm Drains, Culverts, Catch-Basins, and Other Drainage Structures**

Shall be installed in accordance with the standards and specifications in accordance with the Town Highway Superintendent and in accord with the final map approved by the Planning Board. All pipe shall comply with the requirements of the current New York State Highway Department specifications governing construction of these facilities. The location, length, depth, size, grade, and type of pipe shall be designated in the plans. If unusual conditions are discovered at the time of construction, which are not provided for on the plans, the Town Highway Superintendent, or other parties as designated by the Planning Board shall determine the type and extent of construction required to overcome such conditions.

C. **Street Signs**

Shall be of metal and shall be installed at the intersection of all streets in conformity with Town specifications at the locations approved by the Planning Board.

D. **Vegetative Strips**

Shall be provided within the portion of the street right-of-way beyond the curb line or gutter line and shall be properly graded and seeded.

E. **Sanitary Sewers / Waste Treatment Facilities**

Sanitary sewers and waste treatment disposal facilities may be required. Sewer systems shall be approved by the New York State Department of Health, the Watershed Inspector, and other Town Health Officials where appropriate. The construction is subject to the supervision of the Watershed Inspector, or the appropriate health agencies as determined by the Planning Board.

F. **Goals of Drainage Improvements**

Should follow New York State Drainage Law and comply with all New York State Phase II Storm Water Regulations as well as utilize New York State standards for Erosion Control and New York State Storm Water Design Manual.

G. **Buffers**

Buffers, a zone of at least 75 feet in width, such as trees, tall shrubs or some similar vegetation, must be provided along the lot lines that are in common with agricultural land.

H. **Agricultural Data Statement**

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If the property to be subdivided is in an agricultural district and contains a farm operation or lies within 500 feet of a farm operation in an agricultural district, an agricultural data statement is required by #305-a(2) of the Agricultural and Market Law. Upon receipt of a major subdivision plat application containing an agricultural data statement, the Planning Board shall mail a copy of the agricultural data statement to the owners of land identified by the Subdivider in the agricultural data statement. The cost of mailing shall be borne by the Subdivider.

I. **Historic Structures and Sites**.

1) Protect Historic Resources. Plans requiring subdivision approval shall be designed to protect existing historic resources.

Where, in the opinion of the Planning Board, a plan will have an impact upon an historic resource, the developer shall mitigate that impact to the satisfaction of the Board by modifying the design, relocating proposed lot lines, providing landscape buffers, or other approved means.

2) The Planning Board May Review. The Planning Board may require review by the Town Historian with regard to the preservation of historic resources including location of proposed sewage disposal systems.

J. **Corridors and Scenic Viewsheds**

All applications for subdivision shall attempt to preserve the scenic visual corridors along such roads by incorporating them into open space areas or otherwise providing for building setbacks and architectural designs to minimize their intrusion. In instances, where such designs fail to satisfactorily protect corridors, applicants will be required to provide naturalistic landscape buffers to minimize their adverse visual impacts. The species specified for such buffers shall be selected on the basis of an inventory of tree and shrub species found in existing hedgerows and along wooded roadside edges in the vicinity of the development proposal.

K. **Open Space Design Review Standards**.

1) Prioritized List of Resources to be Conserved:

a) Agricultural. Class I, II, III and IV agricultural soils as defined by the USDA Natural Resource Conservation Service.

b) Slopes. Moderate to steep slopes, particularly those adjoining water course and ponds, where disturbance and resulting erosion and sedimentation could be detrimental to water quality.

c) Wet Lands. Stream channels, floodplains, wet soils, swales, springs and other lowland areas, including adjacent buffer areas which may be required to insure their protection.

d.) Groundwater. Areas where precipitation is most likely to recharge local groundwater resources because of topographic and soil conditions affording high rates of infiltration and percolation.

f.) Woodlands. Healthy woodlands, particularly those performing important ecological functions such as soil stabilization and protection of streams, wetlands and wildlife habitats.

g) Wildlife. Significant natural areas of species listed as endangered, threatened, or of special concern.

h) Historic Sites. Historic structures and sites.

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i.) Distinctive Features. Visually prominent topographic features such as knolls, hilltops and ridges, and scenic view sheds as seen from public roads (particularly those with historic features.)

CONSERVATION SUBDIVISION DEVELOPMENT OR CLUSTERING PROVISION

Application of Section 278 of the Town Law of New York State

Whereas pursuant to resolution of the Town Board, the Planning Board is empowered to modify applicable provisions of the Zoning Ordinance in accordance with the provisions of Section 281 of the Town Law of New York State for the purpose of enabling and encouraging flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economic use of streets and utilities and to preserve the natural and scenic qualities of open lands, the following shall be the procedure and standards:

A. **Request by Subdivider**

A Subdivider (applicant) may request the use of Section 278 simultaneously or subsequent to presentation of the sketch plan as per procedure described in Article 4. Any submission subsequent to preliminary approval of a plat shall require a reapplication for sketch plan review. The Town Board authorizes the Planning Board to permit variations in the dimensional requirements under their subdivision review powers. The Planning Board shall comply with all procedures and standards set forth in this regulation when implementing such power.

B. **Requirement by Planning Board**

Upon determination of the Planning Board based upon its findings of unusual site conditions, neighborhood character, efficacy of design, or existence of unique natural features, the Planning Board may require a Subdivider to comply with Section 278 of the New York State Town Law, as amended, and the associated sections of these regulations.

C. **Standards Governing Residential Cluster Development**

Any residential cluster development shall conform to the following requirements:

1) This procedure shall apply only to parcels of land that are a minimum of 20 acres in size. In addition, it shall be determined that such development will not be detrimental to the health, safety, or general welfare of persons residing in the vicinity, or injurious to property or improvements in the close proximity, and that the proposed development create an attractive residential environment which is in conformance with the town's Comprehensive Plan, and that the gross density will be no greater than if the tract were developed in accordance with the existing zoning requirements, and that the permanent retention of open space areas along with their care and maintenance are guaranteed.

2) When such development is proposed adjacent to any existing residence or residential area, a buffer area of at least 30 feet in width from existing lot lines shall be maintained within the proposed development along any lot line that abuts an existing residential development area or in conventionally platted residential map that has been filed with the Yates County Clerk.

3) When the proposed development is adjacent to agricultural land a buffer area of at least 75 feet in width from existing lot lines shall be maintained within the proposed development along any line that abuts an active farm or crop land.

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4) The size of lots in a residential cluster development may vary from the normal requirements of the district, but no dimensional or area requirement of the district shall be reduced more than 50%.

5) Single-family detached house shall be subject to the following minimum setback requirements:

Front Yard:
Rear Yard: As stated in the town of Barrington's Zoning Code.
Side Yard:

6) All residential cluster development plans shall be prepared with competent professional assistance and shall be consistent with the spirit and intent of this chapter.

7) In areas without public water and sewer, any reduction in lot size allowed under this article shall be dependent upon the approval of water and sewer provisions by the New York State Department of Health and the New York State Department of Environmental Conservation.

8) Land not contained in lots or road right-of-ways.

a) All the land not contained in the lots or road right-of-ways, if provided, shall be contiguous or on either side of a watercourse and of such size and shape as to be usable for recreation, open space or agriculture.

b) Such land shall either be deeded to the Town, if the Town agrees, or held in corporate ownership by the owners of lots within the development, and, if held in corporate ownership, the developer shall incorporate into the deeds of all property within the development a clause giving to the owners an interest in such open land which shall be used for recreation, open space, or agricultural purposes. No structure, save those incidental to the recreational, open space or agricultural use shall be permitted thereon.

c) The open space lands shall be subject to taxation unless deeded to the Town. In the case of such tracts, the developer may petition the Town to take over the land to be used in perpetuity as open space.

9) Special designs. In cases where a developer has proposed a special design for groups of dwellings and garages, the Planning Board, after inspecting the plans and elevations, may recommend approval of smaller minimum lot sizes than those specified, provided that the sanitary systems are approved by the New York State Departments of Health and Environmental Conservation, that the gross density does not exceed that normally permitted within the zoning district in which the property is located, and the layout is not detrimental to the health, general welfare and aesthetic character of the community.

10) Construction shall start within one year of the date of approval and shall be completed within a timeframe agreed to by the developer and the Planning Board. If such timeframe is not met by the developer within the agreed timeframe the residential cluster development approval may be revoked by the Planning Board.

11) Notice and Hearing.

a) In the event that the organization established to own and maintain common property or a successor organization shall fail to maintain the common property in reasonable order and condition in accordance with the plan, the Town may serve written notice upon such organization or upon the residents and owners of the development setting forth the manner in which the organization has failed to maintain the common property in reasonable condition. Said notice shall include a demand that

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such deficiencies of maintenance be cured within 30 days thereof, and shall state the date and place of a hearing thereon which shall be held within 14 days of the notice.

b) At such hearing the Town may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within 30 days or any extension thereof, the Town, in order to preserve the taxable values of the properties within the development and to prevent common property from becoming a public nuisance, may enter upon said common space and maintain the same for a period of one year. Said entry and maintenance shall not vest in the public any rights to use the common open space, except when the same is voluntarily dedicated to the public by the residents and owners. Before the expiration of said year, the municipality shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common property, call a public hearing upon notice of such organization or the residents and owners of the development to be held by the Town, at which hearing such organization or the residents and owners of the development shall show causes why such maintenance by the Town shall not, at the election of the town continue for a succeeding year.

c) If the town shall determine that such organization is ready and able to maintain said common property in reasonable condition, it shall cease to maintain said common property at the end of said year. If the Town shall determine such organization is not ready and able to maintain said common property in a reasonable condition, the Town may at its discretion continue to maintain said common property during the next succeeding year, subject to a similar hearing and determination in each year thereafter.

d) The cost of such maintenance by the Town shall be assessed at the same proportion as each unit's assessed value bears to the total assessment of the development.

E. **Preliminary Plan**

In the event that a Subdivider opts not to employ the formula as defined in the Zoning Local Law of the Town of Barrington to establish the maximum number of residential building lots and dwelling units, the Subdivider shall prepare a standard preliminary plan, which herein shall be referred to as a "conventional preliminary plan," consistent with all the criteria established by these Regulations and the comments received from the Planning Board during the review of the conventional sketch plan. Said conventional preliminary plan shall be reviewed by the Planning Board in accordance with these regulations. The Subdivider shall make all changes required by the Planning Board.

1) Determination of Number of Lots and Dwelling Units: Once the conventional preliminary plan is deemed acceptable by the Planning Board, the number of single family lots indicated on the acceptable preliminary plan shall be the maximum number of dwelling units and single family lots which the Subdivider shall be allowed to indicate on the sketch, preliminary and final plans prepared in accordance with Section 278 of the New York State Town Law.

2) Review Under Section 281: The Subdivider shall comply with the procedures described in Article 3 of these regulations beginning with the submission and review of a sketch plan, to be known herein as a Cluster Sketch Plan, followed by the submission and review of a preliminary plan, to be known herein as a Cluster Preliminary Plan, and upon approval of the Cluster Preliminary Plan submission and review of a Cluster Final Plan.

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All procedures including public hearings as described in Article 3 of these regulations concerning the review of section 281 subdivisions shall apply to the review of subdivisions prepared in accordance with Section 281.

3) Park, Recreation, Open Space or Other Municipal Purposes: If the application of this procedure results in a plat showing land available for park, recreation, open space, or other municipal purposes, directly related to the plat, then conditions as to ownership, use and maintenance of such lands as are necessary to assure the open space, or other municipal purposes, directly related to the plat, then conditions as to ownership, use and maintenance of such lands as are necessary to assure the preservation of such lands for their intended purposes shall be set forth by the Planning Board.

ARTICLE 7

REQUIRED IMPROVEMENTS

A. **Improvements and Performance Bond**

Before the Planning Board passes a resolution approving with or without modifications, or conditionally approving with or without modifications a Subdivision Plat, the Subdivider shall follow the procedure set forth in the following:

1) A certificate that there are no tax liens on the property being subdivided.

2) In an amount set by the Town Board 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 or other surety instrument acceptable to the Town Board to cover the full cost of the required improvements. Any such bond or other surety shall comply with the requirements of Section 277 of the Town Law, and further shall be satisfactory to the Town Board and the Town Attorney as to form, sufficiency, manner of execution and surety. A period of one (1) year, or such other period as the Town Board may require, shall be set forth in the bond within which time required improvements must be completed.

The bond or other surety instrument shall provide that an amount determined adequate by the Town Board shall be retained for a period of one (1) year after the date of completion of the required improvements to assure their satisfactory condition.

3) If a Subdivider shall be authorized to file the approved Final Plat in sections, approval of the Final Plat may be granted upon the posting of a performance bond or other surety instrument to cover the full cost of all required improvements of each section as authorized or as outlined in subparagraph A) above.

4) The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Town Highway Superintendent, the Town Watershed Inspector, and the Town Code Enforcement Officer and a map has been submitted indicating the location of monuments marking all underground utilities as actually installed. The performance bond or other surety instrument shall not be released until a satisfactory map is submitted.

5) If utilities or roads are offered for dedication to the Town, the Subdivider shall be required to post a maintenance bond in an amount, form, and term acceptable to the Town Board to pay for repair or maintenance of dedicated utilities or roads which prove defective following

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dedication.

B. **Inspection of Improvements**

At least five (5) days prior to commencing construction of required improvements the Subdivider shall notify the Town Code Enforcement Officer , Town Highway Superintendent and Watershed Inspector or other duly appointed officer in writing of the time when the Subdivider proposes to commence construction of such required improvements.

C. **Proper Installation of Improvements**

If the Town Highway Superintendent, Watershed Inspector or other inspector hired by the Town finds upon inspection of the improvements performed before the expiration date of the performance bond or other surety instrument that any of the required improvements have not been constructed in accordance with plans and specifications filed by the Subdivider, the applicant and the bonding company will be severally and jointly liable for the costs of completing said improvements according to specifications previously filed by the Subdivider.

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

FILING OF AN APPROVED SUBDIVISION PLAT

A. **Final Approval and Filing**

Upon completion of all requirements set forth in the resolution approving the Final Subdivision Plat, inclusion of a notation to that effect upon the Subdivision Plat, and submission of the completed Subdivision Checklist available from the Code Enforcement office, it shall be deemed to have final approval and shall be signed by the Chairman of the Planning Board. The Final Subdivision Plat must be filed by the Subdivider in the office of the Clerk of Yates County. Any Final Subdivision Plat not so filed and recorded within Sixty-two (62) days of the date upon which the Chairman signs the Final Subdivision Plat evidencing its final approval, shall become null and void. In addition, the Subdivider shall furnish one paper copy of the signed Final Subdivision Plat to the Town Code Enforcement Officer.

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

No building permits shall be issued until a certified copy of the Final Subdivision Plat, filed at the office of the Yates County Clerk, has been delivered to the Town Code Enforcement Officer. No changes, erasures, modifications, or revisions shall be made in any Final Subdivision Plat after approval has been given by the Planning Board and endorsed in writing on the Final Subdivision Plat, unless the said Final Subdivision Plat is first resubmitted to the Planning Board and such Board approves any modifications. In the event that such Final Subdivision Plat is recorded without complying with this requirement, said recorded Final Subdivision Plat shall be considered null and void, and the Planning Board shall institute proceedings to have said Subdivision Plat stricken from the records of the Clerk of Yates County.

RESUBDIVISION

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

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PUBLIC STREETS, RECREATION AREAS

A. **Public Acceptance of Streets or Other Real Property Rights Offered for Dedication to the Town**

The approval by the Planning Board of a Subdivision Plat shall not be deemed to constitute or be evidence of any acceptance on the part of the Town of Barrington of any street, easement, or other open space shown on any such Subdivision Plat.

B. **Ownership and Maintenance of Recreation Areas**

When a park, playground, or other recreation area shall have been shown on a Subdivision Plat, the approval of said Subdivision Plat shall not constitute an acceptance by the Town of said area. The Planning Board shall require the Subdivision Plat to be endorsed with appropriate notes to the effect. The Planning Board may require the filing in the office of the Clerk of Yates County of a written agreement between the applicant and the Town Board covering future title, dedication, equipment, and maintenance of any park or playground area.

START OF CONSTRUCTION

Upon the posting of an acceptable performance bond or other surety instrument in accordance with Article 7 Required Improvements Section, Paragraph A of these regulations, and after approval and filing in the Office of the Clerk of Yates County of the Subdivision Plat, the Subdivider may initiate land sales or construction of the subdivision itself. The Subdivider is required to give Five (5) days notice to the Town of the construction of any required improvements in accordance with Article 7 Required Improvements Section, Paragraph B of these regulations.

ARTICLE 8

VARIANCES AND APPEALS

Conditions for grant.

A. When the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of the Official Map, the Town Comprehensive Plan or the land use regulations, if such exists.

B. Where the Planning Board finds that, due to the special circumstances of a particular plat, the provision of certain required improvement is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements subject to appropriate conditions.

C. In granting variances and modifications, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified. All area variances associated with the application will be sent to the Barrington Zoning Board of Appeals. Where an applicant believes that the Planning Board has been unjust in their interpretation of this law the applicant may appeal to the Zoning Board of Appeals to remedy the situation.

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ARTICLE 9

PENALTIES

Statutory authorization.

Pursuant to § 268 of the Town Law, the Town Board of the Town of Barrington hereby provides for the enforcement of the subdivision regulations of the Town of Barrington, Yates County, New York as originally adopted by the Planning Board on [month, day, year], approved by the Town Board on [month, day, year], and enacted as [Local Law No. X] and as amended from time to time, by enacting the following penalty provisions.

Violations and Penalties.

The Subdivision of any lot or any parcel of land without prior review and approval of the Planning Board is a violation of these regulations. Any person, firm, company or corporation which neglects or refuses to do any act required by these regulations shall be guilty of an offense and shall be subject to a fine not to exceed $250 for each violation and, if an individual person, shall be subject to imprisonment not to exceed 15 days. Each week that such violation, disobedience, omission, neglect or refusal continues or arrises shall be deemed a separate offense. These penalties shall be enforced by the Town of Barrington, except where circumstances beyond the control of the offending party, as determined by the Town of Barrington Code Enforcement Officer, such as severe weather events, acts of God, or other extreme events causing disruption at the site.

Civil Enforcement.

Appropriate civil actions and proceedings may be taken by the Town to prevent any violation of these regulations, to prevent unlawful constructions, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building, structure or premises, and these remedies shall be in addition to the penalties described above. Consequently, the Town may institute any appropriate action or proceeding to restrain, correct or abate such violation or to prevent any illegal act, conduct, business or use in and about such premises.

Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgement of declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgement or declaration is rendered, and such judgement or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other person or circumstance. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be deemed severed here from, and the Town Board of the Town hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and person or circumstances, a portion hereof is severed or declared invalid or unenforceable.

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