

# SUBDIVISION OF LAND

## CHAPTER 79

# SUBDIVISION OF LAND

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### ARTICLE I

#### General Provisions

#### **§ 79-1. Role and Authority of Town Board and Planning Board.**

A. Town Board. By the authority of and pursuant to New York State Law, including Article 16 of the Town Law (and any subsequent amendments), the Town Board retains all the power and authority to approve or deny all subdivisions applications; as set forth

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herein but outside of any incorporated city or village. As described herein, the Town must, where appropriate, hold a public hearing and must comply with all time constraints as defined herein. As part of its review process, the Town Board must consider the recommendation of the Planning Board; as herein defined. If the Planning Board fails to make a timely review and recommendation, such failure shall be deemed a favorable review and recommendation.

B. The Planning Board. The Planning Board shall have the power and authority to review all subdivision applications; as set forth herein but outside of any incorporated city or village, and to make a recommendation to the Town Board. Planning Board may, at its own discretion hold a public hearing as part of its process. The Planning Board shall have no time constraints upon its review and recommendation, other than they must not interfere with those time constraints of the Town Board.

### **§ 79-2. Policy.**

It is the policy of the Town to consider land subdivisions as part of a plan for the orderly, efficient and economical development of the town. Land to be subdivided shall be of such character that it can be used for building purposes without danger to health or peril from fire, flood, drainage or other menace to neighboring properties or the public health, safety and welfare.

### **§ 79-3. Intent and purpose.**

It is the intent of these regulations that a subdivision shall not be approved and facilities shall not be accepted by the town unless the subdivider fully completes all necessary facilities so that the town's obligation is limited to maintenance of a completed facility and does not include any portion of its construction. The purpose of this policy is to provide for the future growth and development of the town and to afford adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population. Should these regulations conflict or be inconsistent with any provision of the Town Law, such provision of the Town Law shall apply.

### **§ 79-4. Definitions.**

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

**CONDITIONAL APPROVAL OF A FINAL PLAT** --- Approval by the Town Board of a final plat subject to conditions set forth by the Town Board in a resolution conditionally approving such plat. Such conditional approval does not qualify a final plat for recording nor authorize issuance of any building permits prior to the signing of the plat by a duly authorized officer of the Planning Board and recording of the plat in the office of the Broome County Clerk as herein provided.

**DEAD-END STREET** — A street or portion of a street with only one vehicular outlet.

**EASEMENT** — The authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

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**FINAL PLAT** — A drawing prepared in a manner prescribed by these regulations, that shows a proposed subdivision, containing in such additional detail as shall be provided by these regulations all information required to be shown on a preliminary plat and the modifications, if any, required by the Town Board at the time of approval of the preliminary plat if such preliminary plat has been so approved.

**FINAL PLAT APPROVAL** — The signing of a plat in final form by a duly authorized officer of the Town Board pursuant to a Town Board resolution granting final approval to the plat or after conditions specified in a resolution granting conditional approval of the plat are completed. Such final approval qualifies the plat for recording in the office of the Broome County Clerk.

**MINOR SUBDIVISION** — The division of a parcel of land into three or fewer lots, blocks or sites, within five years, each with required road frontage. A minor subdivision shall not be subject to the provisions of this chapter, provided that the owner obtains a zoning compliance letter from the Town Code Enforcement Officer.

**OFFICIAL MAP** — The map, if any, established by the Town Board under § 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 Town Board and the subsequent filing of such approved plats.

**PLANNING BOARD** — The Town of Windsor Planning Board.

**PRELIMINARY PLAT** — A drawing prepared in a manner prescribed by these regulations showing the layout of a proposed subdivision, including but not restricted to road and lot layout and approximate dimensions, key plan, topography and drainage, all proposed facilities, including preliminary plans and profiles, at suitable scale and in such detail as these regulations may require.

**PRELIMINARY PLAT APPROVAL** — The approval of the layout of a proposed subdivision as set forth in the preliminary plat but subject to the approval of the plat in final form in accordance with the provisions of this section.

**SEQRA** — The New York State Environmental Quality Review Act of the Environmental Conservation Law.

**STATE** — The State of New York.

**STREET** — Includes streets, roads, avenues, lanes or other ways.

**SUBDIVIDER** — Any person or entity who shall lay out for the purpose of sale, transfer of ownership or development any subdivision or part thereof, as defined herein, either for himself or others.

**SUBDIVISION** — The division of any parcel of land into a number of lots, blocks or sites

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as specified herein, with or without streets or highways, for the purpose of sale, transfer of ownership or development. The term "subdivision" may include any alteration of lot lines or dimensions of any lots or sites shown on a plat previously approved and filed in the office of the Broome County Clerk. The term "subdivision" shall not include a minor subdivision, as defined herein.

TOWN — The Town of Windsor.

TOWN BOARD — Refers to the Town of Windsor Town Board.

TOWN COMPREHENSIVE PLAN or TOWN MASTER PLAN — A Comprehensive Plan for development of the town, if any, prepared pursuant to § 272-a of the Town Law, which plan 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.

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

ZONING ORDINANCE — The officially adopted Zoning Ordinance of the town, together with any and all amendments thereto.

### **§ 79-5. Approval of subdivision required.**

Whenever any subdivision of land is proposed, before any contract for the sale of any part thereof and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his authorized agent shall apply for and secure approval of such proposed subdivision in accordance with the procedures set forth herein.

All submission; in both preliminary and then in final form shall be submitted to the Planning Board for review and recommendation.

All plats shall be submitted to the Town Board for approval in both preliminary and in final form provided herein and shall be accompanied by the recommendation of the Planning Board.

## **ARTICLE II Preliminary Plats**

### **§ 79-6. Informal discussion.**

Before preparing the preliminary plat, the subdivider is urged to informally discuss with the Planning Board the requirements for reservations of land, street improvements, drainage, sewerage, water, fire protection and all other things herein discussed, as well as the availability and extension of existing town services. The subdivider should also

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discuss the preliminary plat with the County Health Department, whose approval is required by these regulations and which must eventually approve any subdivision plat coming within its jurisdiction.

### **§ 79-7. Approval of preliminary plats.**

The application for the approval of a preliminary plat shall:

- A. Be clearly marked "preliminary plat" and shall conform to the definition provided herein.
- B. Be accompanied by a fee of \$250.
- C. Include all land, which the subdivider proposes to subdivide.
- D. Be accompanied by eight copies of the preliminary plat, as described below.

### **§ 79-8. Specifications for preliminary plat.**

A. Preliminary plats shall be drawn to a convenient scale, not less than one inch equals 100 feet.

B. The preliminary plat shall contain the following information:

- (1) The location of the property with respect to surrounding property and streets. This shall be shown on an area map, at a scale of one inch equals 400 feet, showing all such streets and property within one thousand feet of the subdivider's property. All property held by the subdivider in the area should be identified.
- (2) The approximate location, dimensions and area of all proposed or existing lots and lot lines, including the entire area proposed to be subdivided and the remainder of the tract owned by the subdividing owner and the approximate dimensions and suggested location of buildings.
- (3) All pertinent features such as existing structures, existing easements, streets, railroads, water bodies or courses, 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, unless waived by the Town Board.
- (4) The location, width and approximate grade of all existing and 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. If the preliminary plat covers only a part of the subdivider's entire holding, a sketch of the prospective future street system of the unsubmitted part shall be furnished and the street system of the unsubmitted part will be considered in light of adjustments and connections with the street system of the part not submitted. Subdividers are requested to inquire of the Town Clerk of the system for numbering houses in the town.
- (5) The approximate location and dimensions of all property proposed to be set

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aside for playground or park use.

- (6) The names of all adjoining property owners of record or the names of adjoining developments.
- (7) The name and address of the owner or owners of land to be subdivided, the name and address of the subdivider, if other than the owner, the name of the land surveyor and the name of the designer of the preliminary plat.
- (8) The date, approximate true North point and scale.
- (9) The location of any existing or proposed sidewalks, streets, street lighting standards and species of street trees, curbs, gutters, storm drains, manholes, basins, underground conduits and the sizes and types thereof; the character, width and depth of pavement and sub-base and data on the proposed provision of fire supply.
- (10) Proposed subdivision name or identifying title and the name of the town or towns and county or counties in which the subdivision is located.
- (11) The location of any existing or proposed sewers and water mains, culverts and drains on the property to be subdivided.
- (12) A deed description and map of survey of tract boundary made and certified by a licensed land surveyor tied into established town reference points.
- (13) The boundaries of proposed easements over or under private property shall be shown where the topography is such as to make difficult the inclusion of any such facilities within the public area so laid out. These permanent easements shall be not less than 10 feet in. width and shall provide satisfactory access to an existing public highway or other public open space shown upon the plat or upon the official map.

C. Storm water pollution prevention plan. A storm water pollution prevention plan (SWPPP) shall be required for preliminary plat approval.

### **§79-9. Additional requirements for preliminary plats.**

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

B. When the Town Board is a lead agency under SEQRA:

- (1) The time within which the Town Board shall hold a public hearing on the

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preliminary plat shall be coordinated with any hearings the Town Board may schedule pursuant to SEQRA, as follows:

(a) If the Town Board determines that the preparation of an environmental impact statement on the preliminary plat is not required, the public hearing on such plat shall be held within 62 days after the receipt of a complete preliminary plat by the clerk of the Town Board; or

(b) If the Town Board determines that an environmental impact statement is required and a public hearing on the draft environmental impact statement is held, the public hearing on the preliminary plat and the draft environmental impact statement shall be held jointly within 62 days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the public hearing on the preliminary plat shall be held within 62 days of filing the notice of completion.

(2) The Town Board's public hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing, if no hearing is held on the draft environmental impact statement, or 14 days before a hearing held jointly therewith. The Town Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Town Board within 120 days after it has been opened.

(3) The Town Board shall approve, with or without modification, or disapprove such preliminary plat as follows:

(a) If the Town Board determines that the preparation of an environmental impact statement on the preliminary plat is not required, the Town Board shall make its decision within 62 days after the close of the public hearing; or

(b) If the Town Board determines that an environmental impact statement is required and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of such public hearing in accordance with the provisions of SEQRA. If no hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of the public hearing on the preliminary plat. Within 30 days of the filing of such final environmental impact statement, the Town Board shall issue findings on the final environmental impact statement and make its decision on the preliminary plat.

(4) The grounds for a modification, if any or the grounds for disapproval shall be stated on the records of the Town Board. When so approving a preliminary plat, the Town Board shall state, in writing, any modifications it deems necessary for submission of the plat in final form.

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C. When the Town Board is not the lead agency under SEQRA:

(1) The Town Board shall, with the agreement of the lead agency, hold the public hearing on the preliminary plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement or if no public hearing is held on the draft environmental impact statement, the Town Board shall hold the public hearing on the preliminary plat within 62 days after the receipt of a complete preliminary plat by the Clerk of the Town Board.

(2) The hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing, if held independently of the hearing on the draft environmental impact statement, or 14 days before a hearing held jointly therewith. The Town Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Town Board within 120 days after it has been opened.

(3) The Town Board shall by resolution approve, with or without modification, or disapprove the preliminary plat as follows:

(a) If the preparation of an environmental impact statement on the preliminary plat is not required, the Town Board shall make its decision within 62 days after the close of the public hearing on the preliminary plat.

(b) If an environmental impact statement is required, the Town Board shall make its own findings and its decision on the preliminary plat within 62 days after the close of the public hearing on such preliminary plat or within 30 days of the adoption of findings by the lead agency, whichever period is longer.

(4) The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Town Board. When so approving a preliminary plat, the Town Board shall state in writing any modifications it deems necessary for submission of the plat in final form.

D. Within five business days of the adoption of the resolution granting approval of such preliminary plat, such plat shall be certified by the Supervisor of the Town Board as having been granted preliminary approval and a copy of the plat and resolution shall be filed with the office of the Town Clerk. A copy of the resolution shall be mailed to the subdivider.

E. Within five business days from the date of the adoption of the resolution stating the decision of the Town Board on the preliminary plat, the Supervisor or other duly authorized member of the Town Board shall cause a copy of such resolution to be filed in the office of the Town Clerk.

F. Within six months of the approval of the preliminary plat, the subdivider must submit

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the plat in final form. If the final plat is not submitted within six months, approval of the preliminary plat may be revoked by the Town Board.

### **ARTICLE III Final Plats**

#### **§ 79-10. Approval of final plats.**

The application for approval of the final plat shall:

A. Include the entire subdivision or a section thereof which derives access from a street either accepted for maintenance by the Town Board or set forth on the Official Map, if any, which street is improved to town standards or for which street a bond covering such improvement is held by the town or will be submitted prior to approval of the final plat.

B. Be accompanied by eight copies of the final plat.

C. Comply in all respects with the preliminary plat, changed in accordance with any modifications deemed necessary by the Town Board.

D. Be presented to the Supervisor of the Town Board at least two weeks prior to a regular meeting of the Town Board.

#### **§ 79-11. Specifications for final plats.**

A. The final plat shall be clearly and legibly drawn and shall be submitted on paper which conforms to applicable industry standards for engineering or architecture.

B. Final plats shall contain all the information required for preliminary plats and shall also contain the following information:

(1) Locations and widths of all streets and sidewalks, together with the names of streets and location, dimensions and status of all easements proposed by the subdivider.

(2) Lot area in square feet.

(3) Lot lines with accurate dimensions and bearings of angles.

(4) Sufficient data acceptable to the Town Engineer to determine readily the location, bearing and length of all lines and to reproduce such lines upon the ground. Where practicable, these should be referenced to monuments included in the state system of plane coordinates and in any event should be tied to reference points previously established by a public authority.

(5) Radii of all curves, lengths of arcs, lengths of all straight lines and tangent distances and tangent bearings of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot.

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(6) Location, material and approximate size of all monuments. Permanent reference monuments shall be shown thus: "X." They shall be constructed in accordance with specifications of the engineer and where referenced to the state system of plane coordinates shall also conform to the requirements of the State Department of Public Works. They shall be placed as required by the engineer and their location noted and referenced upon the plat.

(7) 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 for the common use of the property owners of the subdivision.

(8) Suitable monuments shall be placed at block corners and other necessary points of the original tract to be subdivided and at all points of curve and such intermediate points as may be required by the Board and the location thereof shall be shown on the map of such plat.

C. Construction detail sheets shall show the following information, except that where requirements have been waived, applicable specifications may be omitted:

(1) Profiles showing the 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 shall be shown. All elevations must be referred to established United States government or approved local bench marks, where they exist within 1/2 mile of the boundary of the subdivision.

(2) The Town Board may require, where steep slopes exist, that present elevations of all proposed streets shall be shown every 100 feet at five points on a line at right angles to the center line of the street, and said elevation points shall be at the center line of the street, at each property line and at points 30 feet inside each property line.

(3) Plans and profiles showing the location and typical section of street pavements, including curbs and gutters, sidewalks, manholes and catch basins; the locations of street trees, street lighting standards 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, gas or other underground utilities or structures.

D. Storm water pollution prevention plan. A storm water pollution prevention plan consistent with the requirements shall be required for final plat approval.

### **§79-12. Additional final plat requirements.**

A. When a final plat is submitted which the Town Board deems to be in substantial agreement with an approved preliminary plat, the Town Board shall by resolution

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conditionally approve, with or without modification, disapprove or grant final plat approval and authorize the signing of such final plat within 62 days of its receipt by the Clerk of the Town Board.

B. When no preliminary plat is required to be submitted, a final plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the state environmental quality review act. The time periods for review of such plat shall begin upon filing of such negative declaration or such notice of completion.

C. When a final plat is submitted which the Town Board deems not to be in substantial agreement with an approved preliminary plat or when no preliminary plat is required to be submitted and a final plat clearly marked "final plat" is submitted conforming to the definition provided by this section, the following shall apply:

(1) When the Town Board is the lead agency:

(a) The time within which the Town Board shall hold a public hearing on such final plat shall be coordinated with any hearings the Town Board may schedule pursuant to SEQRA, as follows:

[1] If the Town Board determines that the preparation of an environmental impact statement is not required, the public hearing on a final plat not in substantial agreement with a preliminary plat shall be held within 62 days after the receipt of a complete final plat by the Clerk of the Town Board; or

[2] If the Town Board determines that an environmental impact statement is required and a public hearing on the draft environmental impact statement is held, the public hearing on the final plat and the draft environmental impact statement shall be held jointly within 62 days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the public hearing on the final plat shall be held within 62 days following filing of the notice of completion.

(b) The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing, if no hearing is held on the draft environmental impact statement, or 14 days before a hearing held jointly therewith. The Town Board may provide that the hearing be further advertised in such a manner as it deems most appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Town Board within 120 days after it has been opened.

(c) The Town Board shall make its decision on the final plat as follows:

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[1] If the Town Board determines that the preparation of an environmental impact statement on the final plat is not required, the Town Board shall by resolution conditionally approve, with or without modification, disapprove or grant final approval and authorize the signing of such plat within 62 days after the date of the public hearing; or

[2] If such Board determines that an environmental impact statement is required and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of such public hearing in accordance with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of the public hearing on the final plat. Within 30 days of the tiling of the final environmental impact statement, the Town Board shall issue findings on such final environmental impact statement and shall by resolution conditionally approve, with or without modification, disapprove or grant final approval and authorize the signing of such plat. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Town Board.

(2) When the Town Board is not a lead agency:

(a) The Town Board shall, with the agreement of the lead agency, hold the public hearing on the final plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement or if no public hearing is held on the draft environmental impact statement, the Town Board shall hold the public hearing on the final plat within 62 days after the receipt of a complete final plat by the Clerk of the Town Board.

(b) The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing, if held independently of the hearing on the draft environmental impact statement, or 14 days before a hearing held jointly therewith. The Town Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Town Board within 120 days after it has been opened.

(d) The Town Board shall by resolution conditionally approve, with or without modification, disapprove or grant final approval and authorize the signing of such plat as follows:

[1] If the preparation of an environmental impact statement on the final plat is not required, the Town Board shall make its decision within 62 days after the close of the public hearing on the final plat.

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[2] If an environmental impact statement is required, the Town Board shall make its own findings and its decision on the final plat within 62 days after the close of the public hearing on such final plat or within 30 days of the adoption of findings by the lead agency, whichever period is longer. The grounds for a modification, if any or the grounds for disapproval shall be stated upon the records of the Town Board.

### **§ 79-13. Endorsement by the County Health Department.**

Insofar as possible, the proposed final plat shall be properly endorsed by the Broome County Health Department or other pertinent health agency as meeting the standards of the Broome County Sanitary Code or other applicable health code before any hearing is scheduled. The plat should be in final form before the Broome County Health Department's approval is obtained. If the Broome County Health Department requires town approval before its consideration of the plat, the Town Board may approve,' subject to Broome County Health Department approval and subject to consideration of any changes required by the Broome County Health Department.

### **§ 79-14. Notification to Broome County Planning Department and other interested agencies or public entities..**

Notice shall be made in accordance with General Municipal Law Sections 239 –l, 239-m, 239-n and 239-nn, as it is amended from time to time.

### **§ 79-15. Final actions on approved plats.**

#### **A. Approval and certification of final plats.**

(1) Certification. Within five business days of the adoption of the resolution granting conditional or final approval for the final plat, such plat shall be certified by the Supervisor of the Town Board as having been granted conditional or final approval and a copy of such resolution and plat shall be filed with the office of the Town Clerk. A copy of the resolution shall be mailed to the owner. In the case of a conditionally approved plat, such resolution shall include a statement of the requirements which when completed will authorize the signing thereof. Upon completion of such requirements, the plat shall be signed by the Supervisor of the Town Board and a copy of such signed plat and resolution shall be filed in the office of the Town Clerk.

#### **(2) Signing of the plat.**

(a) Every subdivision plat submitted to the Board for its approval shall carry the following endorsement:

Approved by resolution of the Town Board of the Town of Windsor, New York, on \_\_\_\_\_, subject to all requirements and conditions of said resolution. Any change, erasure, modification or revision of this plat, as approved, shall void this approval. Signed, by Supervisor.

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(b) In the absence of the Supervisor, an authorized Councilperson may sign in his place.

(3) Approval in sections. In granting conditional or final approval of a final plat, the Town Board may permit the plat to be subdivided and developed in two or more sections and may in its resolution granting conditional or final approval state that such requirements as it deems necessary to insure the orderly development of the plat be completed before said sections may be signed by the Supervisor of the Town Board. Conditional or final approval of the sections of a final plat may be granted concurrently with conditional or final approval of the entire plat, subject to any requirements imposed by the Town Board.

B. Filing final plat. The owner shall file in the office of the Broome County Clerk such approved final plat or a section of such plat within 62 days from the date of final plat approval or such approval shall expire. The following shall constitute final approval: the signature of the Supervisor or authorized councilperson of the Town Board constituting final approval by the Town Board of a plat as herein provided; or the approval by the Town Board of the development of a plat or plats already filed in the Broome County Clerk's Office if such plats are entirely or partially undeveloped; or the certificate of the Town Clerk as to the date of the submission of the final plat and the failure of the Town Board to take action within the time herein provided. In the event that the owner shall file only a section of such approved plat in the office of the Broome County Clerk, the entire approved plat shall be filed within 30 days of the filing of such section with the Town Clerk in each town in which any portion of the land described in the plat is situated. Such section shall encompass at least 10% of the total number of lots contained in the approved plat and the approval of the remaining sections of the approved plat shall expire unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of Subdivision 2 of § 265-a of the Town Law, as it is amended from time to time.

C. Time requirements.

(1) Expiration of approval. Conditional approval of the final plat shall expire within 180 days after the resolution granting such approval unless all requirements stated in such resolution have been certified as completed. The Town Board may extend, by not more than two additional periods of 90 days each, the time in which a conditionally approved plat must be submitted for signature if, in the Town Board's opinion, such extension is warranted by the particular circumstances.

(2) Failure of Town Board to take action. The time periods prescribed herein within which a Town Board must take action on a preliminary plat or a final plat are specifically intended to provide the Town Board and the public adequate time for review and to minimize delays in the processing of subdivision applications. Such periods may be extended only by mutual consent of the owner and the Town Board. In the event a Town Board fails to take action on a preliminary plat or a final plat within the time prescribed therefore after completion of all requirements under SEQRA or within such extended period as may have been established by the mutual consent of the owner and the Town Board, such preliminary or final plat

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shall be deemed granted approval. The certificate of the Town Clerk as to the date of submission of the preliminary or final plat and the failure of the Town Board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.

(3) Planning Board. Failure of the Planning Board to take timely action shall not affect the Town Board's authority and shall not be deemed an approval or a recommendation in favor of the pending application.

### **ARTICLE IV Additional Standards**

#### **§79-16. Streets.**

A. Location. All streets or other public places shown on final plats shall be suitably located, of sufficient width and suitable grade and adequately improved to accommodate prospective traffic, to afford adequate light and air and to afford satisfactory access to police, fire fighting, snow removal or other road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties. The proposed streets shall compose a convenient system, conforming to the Official Map, if any, and shall be properly related to the proposals shown on the Town's Master Plan, if any, adopted by the Town Board.

B. Relation to topography. Streets shall be logically related to the topography and all streets shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and sharp curves shall be avoided.

C. Intersections. Intersections of major streets with other streets shall be at least 800 feet apart, if possible. Cross (four-cornered) street intersections shall be avoided insofar as possible, except at important traffic intersections. A distance of at least 150 feet shall be maintained between offset intersections. Within 40 feet of an intersection, streets shall be approximately at right angles.

D. Continuation. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties where such continuation is necessary for convenient movement of traffic, effective fire protection and efficient provisions of utilities and particularly where such continuation is in accordance with the Town Plan, if any. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right of way and improvements shall be extended to the property line. The Town Board may limit temporary dead-end streets to a length not more than double the permitted length of permanent dead-end streets.

E. Permanent dead-end streets. Where a street does not extend to the boundary of the subdivision and its continuation is not needed for access to adjoining property, it shall be separated from such boundary by a distance not less than the minimum lot depth prescribed by the zoning regulations for the zoning district in which the street is located.

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Reserve strips of land shall not be left between the end of a proposed street and an adjacent piece of property. The Town Board may require the reservation of a twenty-foot-wide easement to accommodate pedestrian traffic or utilities. A circular turnaround shall be provided at the end of a permanent dead-end street. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length to six times the minimum lot width for the zoning district.

F. Street names. All streets shall be named and such names shall be subject to approval of the Town Board. Names shall be sufficiently different in sound and in spelling from other street names in the town so as not to cause confusion. A street which is the continuation of an existing street shall bear the same name.

G. Specifications for town streets. Streets shall conform in all respects to the Standard Specifications for Street Improvements adopted by the Town Board, as follows:

(1) Requirements.

(a) Town streets shall have a gravel base course. The materials used shall be of such size as will pass a two-and-one-half-inch-square sieve. The material shall be run of bank gravel or other acceptable granular material. Not more than 70% (by weight) shall pass the No. 40 mesh sieve and not more than 10% (by weight) shall pass the No. 200 mesh sieve. The minimum thickness of the course, after compaction, shall be 12 inches.

(b) The twelve-inch gravel base shall extend a minimum distance of 14 feet in both directions from the center line of the right-of-way. The gravel shall daylight at the side slope intersection.

(c) The side slope of any town street shall not be steeper than a one in four slope and should be seeded with material approved by the Town Superintendent of Highways.

(d) Driveway entrances shall have a minimum width of 10 feet. Driveway culverts shall be minimum diameter of 12 inches and shall be a minimum length of 14 feet. Grading for driveways shall not interfere with the normal cross slope of the pavement or shoulder. Maximum ascending gradient within five feet of the shoulder break shall be 4%.

(e) After placement of the gravel base course, the Highway Superintendent shall be notified. At this time the quality and depth of this course will be inspected by the Highway Superintendent and the contractor or developer will be responsible for excavating any inspection areas as directed by the Highway Superintendent. Any deficiencies must be corrected to the satisfaction of the Highway Superintendent. The acceptance of the gravel base course will be made, in writing, by the Highway Superintendent at such time as the course is deemed acceptable.

(f) Upon completion and acceptance of the gravel base course, a stabilized

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surface shall be applied to the roadbed. The roadbed surface shall be a double surface treatment of stone and asphalt emulsion or an asphalt concrete top, in accordance with the specifications set forth below.

[1] Double surface treatment shall only be applied when the surface is dry and when the air temperature is between 50° and 95° F., unless otherwise permitted by the Highway Superintendent. Asphalt shall be asphalt emulsion MS-2 and shall be applied at a temperature between 130° and 170° F. Stone aggregate shall be No. 1 for both courses. Approximate application rates shall be as follows:

	Bituminous Material (gallons per square yard)	Stone Aggregate (pounds per square yard)
First Course	.50	30
Second Course	.40	25

[2] Each course shall be thoroughly rolled after application of the cover aggregate. After completion of each course, excess material shall be swept from the surface and removed.

(g) A tack coat shall be uniformly applied to a clean, dry subbase surface having a temperature of at least 45° F. The application rate shall be 0.03 to 0.07 gallons per square yard as approved by the Highway Superintendent. Three inches of asphalt concrete base and 1 1/2 inches of asphalt concrete top shall then be applied. The asphalt concrete courses shall meet the requirements of Section 403 of the New York State Department of Transportation Standard Specifications Construction of Materials book and any amendments thereto.

H. Related improvements. Proper provisions shall be made for street signs, sidewalks, street lighting standards, curbs, gutters, street trees, water mains, fire alarm signal devices (including necessary ducts and cables or other connecting facilities), sanitary sewers and storm drains and they shall all be installed in accordance with standards, specifications and procedures acceptable to the appropriate town departments except as hereinafter provided, or alternatively, a performance bond or other security shall be furnished to the town as hereinafter provided.

I. Final actions.

(1) Certification. Upon written certification from the Highway Superintendent that the proposed town street meets all town specifications, the right-of-way is to be conveyed to the town.

(2) Filing. A cross-section of the typical town street shall be kept on file in the office of the Town Clerk for a review by any interested persons.

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### **§ 79-17. Lots.**

A. Arrangement. The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots, in compliance with the Zoning Ordinances and in providing access to buildings on such lots from an approved street.

B. Watercourse. Where a watercourse separates the buildable area of a lot from the street by which it has access, provision shall be made for installation of a culvert or other structure of design approved by the town's engineer.

C. Lot dimensions. Lot dimensions shall at least comply with the minimum standards of the Zoning Ordinance, except as varied as hereafter set forth. Where lots are more than double the minimum required area for the zoning districts, the Town Board may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve such potential lots.

D. Side lot lines. Side lot lines shall be at right angles to street lines unless a variation from this rule will give a better street or lot plan.

### **§ 79-18. Reservations and easements.**

A. Street realignment. Where the subdivision borders an existing street and the Official Map or Master Plan, if any, indicates plans for realignment or widening of the street that would require reservation of some land of the subdivision, the Town Board may require that such areas be shown and marked on the plat "reserved for street realignment (or widening) purposes."

B. Utility and drainage easements. Where topography or other conditions are such as to make impractical the inclusion of utilities or drainage facilities within street rights-of-way, perpetual unobstructed easements at least 20 feet in width for such utilities shall be provided across property outside the street lines and with satisfactory access to the street. Easements shall be indicated on the plat.

C. Pedestrian access. The Town Board, where it deems it necessary, in order to facilitate pedestrian access from streets to schools, parks, playgrounds or other nearby streets, may require perpetual unobstructed easements at least 20 feet in width. Easements shall be indicated on the plat.

### **§ 79-19. Preservation of existing features.**

Existing features which would add value to the subdivision, such as large trees, watercourses and falls, beaches, historic spots and similar irreplaceable assets, should be preserved insofar as possible, through harmonious design of the subdivision.

### **§ 79-20. Self-imposed restrictions.**

The owner may place restrictions on the subdivision greater than those required by the

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Zoning Ordinance. Such restrictions, if any, shall be indicated on the final plat.

### **§ 79-21. Parkland.**

A. Before the Town Board may approve a subdivision plat containing residential units, such subdivision plat shall also show, when required by such Board, a park or parks suitably located for playground or other recreational purposes.

B. Land for park, playground or other recreational purposes may not be required until the Town Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or for other recreational purposes within the town. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the town based on projected population growth, to which the particular subdivision plat will contribute.

C. In the event that the Town Board makes a finding that the proposed subdivision plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such subdivision plat, the Town Board may require a sum of money in lieu thereof, in an amount to be established by the Town Board. In making such determination of suitability, the Town Board shall assess the size and suitability of lands shown on the subdivision plat which could be possible locations for park or recreational facilities, as well as practical factors, including whether there is a need for additional facilities in the immediate neighborhood. Any moneys required by the Town Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited into a trust fund to be used by the town exclusively for park, playground or other recreational purposes, including the acquisition of property.

### **§79-22. Performance bond or other security.**

As an alternative to the installation of infrastructure and improvements, as above provided, prior to Town Board approval, a performance bond or other security sufficient to cover the full cost of the same, as estimated by the Town Board or a town department designated by the Town Board to make such estimate, where such departmental estimate is deemed acceptable by the Town Board, shall be furnished to the town by the subdivider.

A. Approval in sections. In the event that the subdivider shall be authorized to file the approved plat in sections, approval of the plat may be granted upon the installation of the required improvements in the section of the plat filed in the office of the Broome County Clerk or the furnishing of security covering the costs of such improvements. The subdivider shall not be permitted to begin construction of buildings in any other section until such section has been filed in the office of the Broome County Clerk and the required improvements have been installed in such section or a security covering the cost of such improvements is provided.

B. Requirements of security. Any such security must be provided pursuant, to a written

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security agreement with the town, approved by the Town Board and also approved by the Town Attorney as to form, sufficiency and manner of execution and shall be limited to a performance bond issued by a bonding or surety company; the deposit of funds in or a certificate of deposit issued by a bank or trust company located and authorized to do business in this state; an irrevocable letter of credit from a bank located and authorized to do business in this state; obligations of the United States of America; or any obligations fully guaranteed as to interest and principal by the United States of America, having a market value at least equal to the full cost of such improvements. If not delivered to the town, such security shall be held in a town account at a bank or trust company.

C. Duration of security. Any such performance bond or security agreement shall run for a term to be fixed by the Town Board, but in no case for a longer term than three years; provided, however, that the term of such performance bond or security agreement may be extended by the Town Board with consent of the parties thereto. If the Town Board shall decide at any time during the term of the performance bond or security agreement that the extent of building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such security or that the required improvements have been installed as provided in this section and by the Town Board in sufficient amount to warrant reduction in the amount of said security and upon approval by the Town Board, the Town Board may modify its requirements for any or all such improvements and the amount of such security shall thereupon be reduced by an appropriate amount so that the new amount will cover the cost in full of the amended list of improvements required by the Town Board.

D. Default. In the event that any required improvements have not been installed as provided in this section within the term of such security agreement, the Town Board may thereupon declare the performance bond or security agreement to be in default and collect the sum remaining payable thereunder; and upon the receipt of the proceeds thereof, the town shall install such improvements as are covered by such security and as commensurate with the extent of building development that has taken place in the subdivision, but not exceeding in cost the amount of such proceeds.

### **§79-23. Modification of standards.**

The Town Board may modify the specified requirements in any individual case where, in the Board's judgment, such modification is in the public interest or will avoid the imposition of unnecessary individual hardship.