

## SUBDIVISION REGULATIONS-TOWN OF BUTTERNUTS

### ARTICLE 1 ESTABLISHMENT, POLICY AND TITLE

By the authority of the resolution of the Town Board of the Town of Butternuts, adopted on October 1, 1986, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Butternuts 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 the County and to approve preliminary plats, within that part of the Town of Butternuts outside the limits of any incorporated city or village. It is declared to be 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 used safely for building purposes without danger to health or peril from fire, flood or other menace; that proper provision shall be made for drainage, water supply, sewerage and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient system conforming to the Official Map, if such exists, and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fair protection and to provide access of firefighting equipment to buildings; and that proper provision shall be made for open spaces for parks and playgrounds. In order that land subdivisions may be made in accordance with this policy, these regulations which shall be known as, and which may be cited as, the Town of Butternuts Land Subdivision Regulations" have been adopted by the Planning Board on September 6, 1987 and approved by the Town Board on September 7, 1987.

### ARTICLE 2 DEFINITIONS

For the purpose of these subdivision regulations, words used in the present tense include the future tense, the plural includes the singular, the word "lot" includes the words "plot" and "parcel," the word "building" includes the word "structure," the word "shall" means mandated, the word "occupied" includes the words "designed for occupancy" or "intended to be occupied."

- Applicant** The owner of the land proposed to be subdivided or his representative. Consent shall be required from legal owner when a representative makes application.
- Arterial Road** A street or road designated for the high speed movement of large volumes of traffic.
- Bond** A written agreement issued by the applicant and a qualified agent who guarantees either the performance of a certain agreed upon activity or an equivalent consideration if the activity is not completed as required of the applicant.
- Building** Any structure covered by a roof supported by columns or by walls and intended for shelter housing or enclosure of persons, animals or chattels.
- Cluster Development** A planned development in which lots are platted with less than the minimum total size and dimension requirements, but which have access to common open space that is a part of overall development plan approved by the Planning Board.

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

**Common Open Space**

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

**Crosswalk or Walkway**

An access way designated for pedestrian traffic and dedicated to public use.

**Cul-De-Sac**

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

**Cumulative Subdivision**

When an application is received for a subdivision, and the original parent parcel has been previously subdivided in the previous 5 years preceding the date of the application, the application shall be classified as a minor or major subdivision based on the total number of lots in the plat of the parent parcel.

**Development Administrator**

The representative designated by the Town Board to oversee the completion of required improvements in subdivisions.

**Easement**

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

**Engineer**

An individual duly qualified and licensed by the State of New York to perform engineering work.

**Environmental Assessment Form (EAF)**

A form used by the Planning Board in the State Environmental Quality Review process to assist in determining the environmental significance of an action or project.

**Environmental Impact Statement (EIS)**

A written document required for each Type I and Unlisted Action which the Planning Board determines may have a significant effect on the environment.

**Final Plat**

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

**Improvement**

A physical change to the land necessary to produce usable and desirable lots from raw acreage including grading, pavement, curb, gutter, storm sewers and drains, and betterments to existing watercourses (meeting all DEC requirements), sidewalks, street signs, cross walks, shade trees, sodding or seeding, street name signs and monuments.

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

**Local Street** A street or road designated to provide access to abutting property (not intended for through traffic movement)

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

**Major Subdivision**

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

**Minor Subdivision**

Any subdivision containing two (2) to four (4) lots and which does not require the construction of a new street or the extension of any existing street or municipal facility.

**Simple Split**

The division of a parcel of land into two lots which does not require the construction of a new street or the extension of any street or unimproved facilities, and which is in conformity with all state and federal requirements.

**Low Impact Subdivision**

A subdivision of not greater than ten (10) contiguous lots each having an area of at least five acres or more and frontage for each lot on a dedicated public roadway of at least four hundred (400) contiguous feet. Such a subdivision must not require new utilities and each lot must contain at least five (5) acres of contiguous land without division by public highway.

**Official Map**

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

**Parcel**

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

**Planning Board** The Planning Board of the Town of Butternuts.

**Plat**

A plan for developing a piece of undeveloped property.

**Preliminary Plat**

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

**Resubdivision**

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

**Sketch Plan**

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

**State Environmental Quality Review Act (SEQR)**

A process to help government and the public protect and improve the environment. SEQR requires that environmental factors be considered along with social and economic considerations in government decision making.

**Street**

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

**Street Width**

The width of rights-of-way measured at right angles to the center line of the street.

**Subdivider**

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

**Subdivision**

The division of a parcel of land into two or more lots.

**Buildable lot**

Any parcel on which a building can be constructed or installed and occupied in compliance with all applicable New York state laws, rules and regulations then in effect.

**Surveyor**

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

**Type I Action**

An action that is likely to have significant effect on the environment as listed in Part 617.12 of the SEQR Law.

**Unlisted Action**

An action that is likely to have significant effect on the environment as listed in Part 617.2 of the SEQR Law.

## ARTICLE 3 PROCEDURES FOR FILING SUBDIVISION APPLICATIONS

Whenever any subdivision of land is proposed to be made, and before any contract for the transfer of, or any offer to transfer any lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply in writing to the Planning Board for approval of such proposed subdivision in accordance with the following procedures:

### **Section 3.1 Submission of Sketch Plan**

Any owner of land shall, prior to subdividing or resubdividing land, shall review submission guidelines in §3.8, and submit to the Secretary of the Planning Board, at least ten (10) days prior to the regular meeting of the Board, two (2) copies of a sketch plan of the proposed subdivision, for the purposes of classification and preliminary discussion. All sketch plans shall be on a copy of the parcel tax map and show on a reasonable scale all dimensions of the subdivided lots. Illegible, incomplete or substantially inaccurate maps shall be subject to rejection by the Board.

#### **a. Meeting with Planning Board**

The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the requirements of these regulations for lot size and arrangement, street improvements, drainage, sewerage, water supply, fire protection, and similar aspects, as well as the availability of existing services and other pertinent information.

#### **b. Classification of Sketch Plan**

The Planning Board, in reviewing the sketch plan shall determine the appropriate classification of the subdivision as defined in these regulations.

#### **c. Sketch Plan Review and Recommendations**

The Planning Board shall determine whether the sketch plan meets the purposes of the regulations and shall, where it deems it necessary, make specific recommendations in writing to be incorporated by the applicant in the next submission to the Planning Board.

#### **d. State Environmental Quality Review Act (SEQR)**

The Planning Board shall also determine the applicability of SEQR. An Environmental Assessment Form (EAF), to be completed by the applicant, is required if the proposed subdivision is classified as a Type I or Unlisted Action according to the SEQR Act. A completed EAF will assist the Planning Board in determining the environmental significance of the project.

### **Section 3.1a Simple Split Procedure**

- a. Application.** Applications for Simple Split can be made at any time within ten (10) days of a scheduled Planning Board Meeting on a form provided by the Town Clerk.
- b. Fee.** The fee for Simple Split applications shall be \$10 per lot or \$20 total, and may be set from time to time by resolution of the Town Board.

- c. **Attachments.** Such applications shall be accompanied by an Otsego County tax map and/or a Certified Survey Map and an ink drawing setting forth the general shape of the property to be subdivided together with sufficient information as to the location to clearly identify the size, shape and location of the resulting parcels, together with the legal description intended by the application to be used in the deed to transfer the property.
- d. **Public Hearing.** Notice of an application for a Simple Split shall be published in the town newspaper at least five (5) days prior to the meeting when the application is to be considered. Although no formal public hearing is required, the Planning Board shall provide an opportunity for public comment on a Simple Split prior to any vote on such an application.
- e. **Action of a Simple Split.** The Planning Board may act upon a Simple Split at its initial meeting after the subdivision application. However, regardless of the time of voting, a decision shall be made within forty-five (45) days of the date of the initial consideration, unless extended by mutual consent of the Board and the applicant.
- f. **Approval subject to conditions.** If the Simple Split is approved subject to conditions, all such conditions must be either satisfied prior to transfer or included in the deed of the parcel(s) to be transferred. Upon final approval of a Simple Split, the Planning Board shall authorize the Town Planning Board Chairman to affix a stamp indicating conformity with the subdivision regulations of the Town upon approval. Such stamp shall only be affixed to an approved plat or the actual deed of transfer.

### **Section 3.1b Low Impact Subdivision Procedure**

- a. **Application.** Applications for a Low Impact Subdivision can be made at any time within ten (10) days of a scheduled Planning Board Meeting on a form provided by the Town Clerk.
- b. **Fee.** The fee for Low Impact Subdivision applications shall be \$10 per lot and may be set from time to time by resolution of the Town Board.
- c. **Attachments.** Such applications shall be accompanied by an Otsego County tax map and/or a Certified Survey Map and an ink drawing setting forth the general shape of the property to be subdivided together with sufficient information as to the location to clearly identify the size, shape and location of the resulting parcels, together with the legal description intended by the applicant to be used in the deed to transfer the property.
- d. **Public Hearing.** Notice of an application for a Low Impact Subdivision shall be published in the town newspaper at least five (5) days prior to the meeting when the application is to be considered. Although no formal public hearing is required, the Planning Board shall provide an opportunity for public comment on a Low Impact Subdivision prior to any vote on such an application.

- e. **Action of a Low Impact Subdivision.** The Planning Board may act upon a Low Impact Subdivision at its initial meeting after the subdivision application. However, regardless of the time of voting, a decision shall be made within forty-five (45) days of the date of initial consideration, unless extended by mutual consent of the Board and the applicant.
- f. **Approval subject to conditions.** If the Low Impact Subdivision is approved subject to conditions, all such conditions must be either satisfied prior to transfer or included in the deed of the parcel(s) to be transferred. Upon final approval of a Low Impact Subdivision, the Planning Board shall authorize the Town Planning Board chairman to affix a stamp indicating conformity with the subdivision regulations of the Town upon approval. Such stamp shall only be affixed to an approved plat or the actual deed of transfer.

### Section 3.2 Minor Subdivision Procedures

- a. **Application.** Within six (6) months after classification of the sketch plan as a minor subdivision by the Planning Board, the subdivider shall submit an application in duplicate for approval of a subdivision plat. The application shall be accompanied by the items specified in the checklist in §3.8. Failure to do so shall require re-submission of the sketch plan to the Planning Board for reclassification. The plat shall conform to the layout shown on the sketch plan, plus any recommendations made by the Planning Board.
- b. **Fee.** Four (4) copies of the proposed subdivision plat shall be submitted for review by the Planning Board at least ten (10) days prior to the Planning Board meeting at which it is to be considered. The subdivider, or his duly authorized representative, shall attend the Planning Board meeting to discuss the subdivision plat. A processing fee of ten (10) dollars per lot shall accompany the final plat submission.

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

The time of submission of the Minor Subdivision Plat shall be considered to be the date of the regular monthly meeting of the Planning Board, at least ten (10) days prior to which the Final Application for plat approval, complete and accompanied by the required fee and all required data, has been submitted to the Planning Board.

- c. **Public Hearing.** The Planning Board shall review the subdivision plat as submitted by the subdivider at its next scheduled meeting after the date on which the application was filed. The Planning Board will have forty-five (45) days from the date the plat was filed to hold a public hearing. The public hearing must be advertised at least once in a newspaper of general circulation in the town at least five (5) days before it is held. Failure of the Planning Board to hold a public meeting within the required time period shall be deemed to be the equivalent to Planning Board approval of the subdivision plat.

- d. Action on Minor Subdivision Plat.** The Planning Board shall render a decision on the subdivision proposal within forty-five (45) days after the date of the public hearing or within a period extended by the mutual consent of the subdivider and the Planning Board. Such a decision shall consist of a Planning Board resolution directing the chairman of the Planning Board to either sign and approve the final plat indicating any conditions which approval is subject to, or, to formally notify the applicant, in writing of the reason(s) for the Planning Board disapproval. Failure of the Planning Board to respond within forty-five (45) days or within the mutually agreed to time period, shall be considered an approval of the application by the Planning Board.

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

- e. Filing of Minor Subdivision Plat.** The approval of a subdivision plat by the Planning Board, either by a direct statement of approval or by approval due to failure to respond within the specified time, shall expire within sixty (60) days if the subdivider fails to record the approved subdivision with the Otsego County Clerk. No local building permits may be issued prior to the time that such filing is made with the Otsego County Clerk.

### **Section 3.3 Major Subdivision Procedure.**

- a. Application.** Prior to the filing of an application for the approval of a major subdivision plat, the subdivider shall file two (2) copies of the application for the approval of a preliminary plat of the proposed subdivision. Such preliminary plat shall be clearly marked "Preliminary Plat" and shall be in the form described in these regulations. The preliminary plat shall, in all respects, comply with the requirements set forth in the provision of these regulations, except where a waiver may be specifically authorized by the Planning Board.
- b. Fee.** Four (4) copies of the preliminary plat shall be submitted for review the Planning Board at least ten (10) days prior to the Planning Board meeting at which it is to be considered. A processing fee of twenty (20) dollars per lot shall accompany all preliminary submissions.

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

The time of submission of the Major Subdivision Plat shall be considered to be the date of the regular monthly meeting of the Planning Board, at least ten (10) days prior to which the Preliminary Application for plat approval, complete and accompanied by the required fee and all required data, has been submitted to the Planning Board.

- c. **Meeting with Planning Board.** The subdivider, or his authorized representative, shall attend the meeting of the Planning Board to discuss the preliminary plat. 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, and the requirements of the Town Comprehensive Plan.
- d. **Public Hearing.** The Planning Board shall have forty-five (45) days from the time that the preliminary subdivision plat was filed to hold a public hearing on the proposal. The public hearing shall be advertised in the official town newspaper at least five (5) days in advance of the meeting date. Failure of the Planning Board to hold a public meeting within the required time period shall be deemed to be the equivalent to Planning Board approval of the preliminary plat.
- e. **Action on Preliminary Plat.** Within forty-five (45) days from the date of such public hearing, the Planning Board shall take action to approve, with or without modifications, or disapprove such preliminary plat and the grounds for disapproval shall be stated upon the records of the Planning Board. The time in which the Planning Board must take action on such preliminary plat may be extended by mutual consent of the subdivider and the Planning Board.

If the Planning Board disapproves the preliminary plat, it shall direct the chairman to notify the applicant, in writing, of the specific reasons for disapproval.

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

1. The specific changes which will be required in the final subdivision plat;
2. The character and extent of the required improvements for which waivers may have been requested and which, in the Planning Board's opinion, may be waived without jeopardy to the public health, safety, morals and general welfare;
3. The amount of all bonds thereof which will be required as a prerequisite to the approval of the final subdivision plat.

The action of the Planning Board, plus any conditions attached thereto, shall be noted on, or attached to, certified copies of the preliminary subdivision plat. One (1) copy shall be returned to the subdivider and one (1) retained by the Planning Board within five (5) days of the approval.

Approval of a preliminary plat shall not be construed as approval of a final plat. Such acceptance shall merely express the acceptance of the subdivision layout as a guide for the development of the final plat. Failure of the Planning Board to act on the proposal within forty-five (45) days after the public hearing or within the period mutually agreed upon by the owner and the Planning Board shall be equivalent to the Planning Board having given its approval to the preliminary subdivision plat.

- f. **Model Homes.** For the purpose of allowing the early construction of model homes in a subdivision, the Planning Board, in its discretion, may permit a portion of a Major Subdivision, involving no more than three (3) lots, to be created in accordance with the procedures for Minor Subdivisions, provided said portion derives access from existing state, county or town highway, and provided no future road or other improvement is anticipated where said lots are proposed. The subdivision plan for the “Minor” portion shall be submitted to the Planning Board simultaneously with the preliminary plat for the entire major subdivision. After preliminary approval, the model may be constructed, subject to such additional requirements that the Planning Board may require.
- g. **Application.** The subdivider shall, within six (6) months after the approval of the preliminary plat, file with the Planning Board an application in duplicate for the approval of the subdivision plat in final form. If the final plat is not submitted within six (6) months after the approval of the preliminary plat, the Planning Board may refuse to approve the final plat and require re-submission of the preliminary plat. Four (4) copies of the final subdivision plat shall be submitted for review by the Planning Board, together with all construction drawings, any required fees, and the original and two (2) copies of all offers of cession, covenants and agreements. A processing fee of fifty (50) dollars shall accompany the final submission. The time of submission of the final plat shall be considered to be the date of the regular meeting of the Planning Board, at least ten (10) days prior to which the Final Application for plat approval, complete and accompanied by all required data, has been submitted to the Planning Board.
- h. **Public Hearing.** The Planning Board may waive holding a public hearing on a final plat, if it finds that the final plat is in substantial agreement with the preliminary plat. If the hearing is waived, the Planning Board shall act within forty-five (45) days from the date that the final plat was filed.

If the Planning Board does not wish to waive the public hearing, such a hearing shall be held within forty-five (45) days of the date of receipt of the final plat. This hearing shall be advertised at least once in a newspaper of general circulation in the town at least five (5) days before such hearing.

If the Planning Board has been empowered to modify the provisions of the Zoning Ordinance, if such exists, at the time of the final plat approval (according to the provisions of Section 281 of the Town Law) and wishes to do so in the case of the subdivision proposal, a hearing must be held on the final plat; moreover, in carrying out such a modification, a public hearing by the Planning Board on the zoning amendment is required. Separate but parallel notice of the hearing with respect to the zoning modifications should accompany public notice of the hearing with respect to the final plat.

- i. **Review of Final Plat.** Unless extended by the mutual consent of the Planning Board and the subdivider, the Planning Board must act on the final subdivision plat within forty-five (45) days of the receipt of the application if the public hearing is waived or within forty-five (45) days after the date of the public hearing. Failure of the Planning Board to take action within either of these required periods will be deemed an act of approval by the Planning Board granting to the subdivider all of the rights and privileges which such approval conveys.

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

After the public hearing has been held on the final plat, if one is held or within forty-five (45) days of the receipt as specified above, the Planning Board shall meet to take action on the final plat submission. If the Board moves to approve the final plat, as submitted, it shall direct the Planning Board Chair to sign the final plat. The chairman is required to sign the plat subject to the following conditions:

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

The Planning Board may, by resolution, conditionally approve, with or without modifications, the final plat. Upon resolution of conditional approval of such final plat, the Planning Board shall empower a duly authorized officer to sign the plat upon completion of such requirements as may be stated in the resolution. Within five (5) days of such resolution, the plat shall be certified by the clerk of the Planning Board as conditionally approved and a copy retained by the Planning Board and a copy mailed to the subdivider. The copy mailed to the subdivider shall include a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of such requirements, the plat shall be signed by said duly authorized officer of the Planning Board. Conditional approval of a final plat shall expire one hundred eighty (180) days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted in the circumstances, for not to exceed two (2) additional period of ninety (90) days each.

If the final plat is disapproved, the applicant shall be formally notified, in writing, by the Planning Board chairman of the reason (s) for the Planning Board disapproval.

### Section 3.4 Review by County Planning Department

- a. **Plats Requiring County Review.** In conformance with NYS General Municipal Law §239(1) and (m). Plats of real property lying within a distance of five hundred (500) feet from any municipal boundary or from the boundary of any existing or proposed county or state park or other recreation area or from the right-of-way of any existing or proposed county or state parkway, expressway, road or highway or from the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines or from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated shall be reviewed by the Otsego County Planning Department.
- b. **Notification of County Planning Department.** The Town Planning Board immediately after the approval of the preliminary plat of any such subdivision plat shall notify the Otsego County Planning Department of said application and submit one (1) copy of any plans, plats or other accompanying documents for review as per Planning Department procedures.
- c. **County Report.** Within thirty (30) days, the Otsego County Planning Department will report to the municipality its approval, disapproval or approval subject to conditions pursuant to Sections 239-1 and 239-n of Article 12B of the General Municipal Law. The Town Planning Board shall not act contrary to the recommendations of the Otsego County Planning Department except by a vote of a majority plus one of all of the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary actions.

### Section 3.5 Endorsement State and County Agencies

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

### Section 3.6 Filing of Approved Subdivision

- a. **Filing with County Clerk.** Upon satisfaction of the requirements and procedures specified in this article, a subdivision plat shall be deemed to have final approval and shall be properly signed by the duly designated officer of the Planning Board and shall be filed by the applicant in the office of the Otsego County Clerk. Any subdivision plat not so filed or recorded within sixty (60) days of the date upon which such plat is approved or considered approved by reason of the failure of the Planning Board to act shall become null and void.
- b. **Modification of Approved Subdivisions.** No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless the said plat is first resubmitted to the Planning Board, and such Planning Board approves any modifications. In the event that any such subdivision plat is recorded without complying with this requirement, the same shall be considered null and

void, and the Planning Board shall institute proceedings to have the plat stricken from the records of the Otsego County Clerk.

### **Section 3.7 Resubdivision**

A resubdivision, as defined herein, is subject to the same procedures, rules and regulations applicable to an original subdivision.

### **Section 3.8 Documents to be submitted**

**a. Sketch Plan of Proposed Subdivision.** The sketch plan initially submitted to the Planning Board shall be based on tax map information or some other similarly accurate base map at a scale (preferably not less than 200 feet to the inch) to enable the entire tract to be shown on one sheet. A key map, which shall show location of the proposed subdivision within the town, shall accompany the sketch plan. The sketch plan shall be submitted showing the following information:

1. Name and address of subdivision, north arrow, scale and date;
2. Name of the owner of the subdivision and of all adjoining property owners;
3. The specific boundary of the area to be subdivided;
4. The tax map sheet, block and lot numbers;
5. 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, contour shall be indicated at intervals of not more than 20 feet, based upon available US Geological Survey data;
6. All the utilities, streets, and rights-of-way which are existing;
7. All existing restrictions of the use of the land including easements, covenants and/or zoning district boundaries;
8. The proposed pattern of lots, street layout, recreation areas and systems of drainage, sewerage and water supply within the subdivided area;
9. Existing platting, if a resubdivision.
10. Agricultural Data Statement if required
11. SEQRA Environmental Assessment Form if required

**b. Minor Subdivision Plat.** With the exception of sketch plans, all subdivision plats shall be printed or drawn on Mylar and be not less than eight and one-half (8 ½) inches by fourteen (14) inches nor more than thirty (30) inches by forty-two (42) inches in size. Said subdivision plats shall be drawn at a scale of not less than one hundred (100) feet to the inch and shall be oriented with the north point at the top of the map. When more than one sheet is required, an additional index sheet shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible. Also, all subdivision plats shall be accompanied by a key map which shall show the location of the subdivision within the town and the distance to the nearest existing street intersection. Said subdivision plats shall be prepared by a land surveyor licensed by New York State and show the following information:

1. The proposed subdivision name, if any; the name of the town and county, the date the plat was prepared or revised, true north point and scale;
2. The name and address of the owner of the property being subdivided and the subdivider, if different from the owner;

3. The name, address, license number, signature and seal of the surveyor preparing the plat;
4. The name and owner of all adjoining property and the name of any adjacent subdivision;
5. The deed book and page number on which the tract being subdivided is recorded;
6. The tax map sheet, block and lot numbers;
7. All existing structures which are to remain, wooded areas, streams and other significant physical features within the tract and within two hundred (200) feet of the boundaries thereof;
8. All existing or proposed utilities and streets, all mapped but undeveloped streets or roads and all elements or rights-of-way across any parts of the tract;
9. The proposed lot lines, dimensions and area of each lot being created by the subdivision shall be made to indicate the corners of each lot;
10. All restrictions upon the use of land, including covenants and zoning district boundaries;
11. Evidence that all on-site sanitation and water supply facilities are designed to meet the minimum specifications of the New York State Health Department;
12. Any additional information required by the Planning Board to assure compliance with these regulations.

c. **Major Subdivision Preliminary Plat.** In addition to the information required under Section 3.8b, subdivision plats submitted for major subdivision preliminary plat approval by the Planning Board shall show the following:

1. The location and dimensions of all parcels of land proposed to be dedicated to the public use and the conditions of such dedication;
2. The location of existing buildings, rock out-cropping and wooded areas.
3. The location of existing sewers, water mains, storm drains, culverts and drains on the tract with pipe sizes, grades and direction flow; the approximate location and size of all proposed waterlines, valves, fire hydrants, fire ponds, storm drains, and sewer lines; profiles of all proposed water and sewer lines and storm drains; capacity of any storage or treatment facilities;
4. Topographic contours at vertical intervals of not more than five (5) feet; approximate grading plan if natural contours are to be changed more than two (2) feet;
5. The width and location of any streets, or public ways or places within or adjoining the subdivision; the width, location, grades and profiles of all streets or public ways proposed within the subdivision;
6. Plans and cross sections showing construction details of all streets, sidewalks, curbs, water mains, sanitary sewers, storm drains, manholes, basins and underground facilities, necessary to demonstrate compliance with the design standards of these regulations;
7. Preliminary designs of any bridges or culverts required in the subdivision;
8. All lands falling within the 100 year flood limit as depicted on the latest federal Flood Hazard Boundary Maps or Flood Insurance Rate Maps;
9. If septic systems are proposed, the results of soil bearing and soil percolation tests shall accompany the Preliminary Plat. Where on-site water supply systems are proposed, the quality and quantity of water available shall be indicated.

d. **Major Subdivision Final Plat.** In addition to the information required under Section 3.8b and 3.8c subdivision plats submitted for final major subdivision plat approval by the Planning Board shall show the following:

1. Sufficient data, acceptable to the town highway superintendent to determine readily the location bearing and length of every street line, lot line, boundary line, and to reproduce

- such lines upon the ground. Where applicable, these should be referenced to monuments included in the New York State system of plane coordinates and in any event should be tied to reference points previously established by a public authority;
2. The length and bearing of all straight lines, radii, length of curves and central angles of all curves, tangent bearings for each street; all dimensions and angles of the line of each lot;
  3. All public open spaces for which deeds are included and those spaces title to which is reverted by the developer; for any of the latter, there shall be submitted with the subdivision plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefor;
  4. Construction drawings including plans, profiles and typical cross sections of streets, sidewalks, curbs, water supply and sewage disposal systems, storm drains, manholes, catch basins and other facilities as required.
- e. The following additional documents shall be submitted with any major or minor subdivision plat under review for final approval;
1. Offers of cession and covenants governing the maintenance of unceded open space which shall bear the certificate of the town attorney as to their legal sufficiency;
  2. Copies of any covenants or deed restrictions being applied to any lots in the subdivision;
  3. Any certification required by these regulations to verify that the proposed subdivision complies with applicable local and state laws.
- f. Where these regulations require the submission of multiple copies of any plans or plats, these may be paper prints or reproductions of originals conforming to the foregoing specifications.
- g. All plats shall have provided a space not less than three (3) inches square for the Planning Board endorsement of approval.

### **Section 3.9 Required Improvements and Performance Bond**

- a. **Performance Bond.** Prior to final approval of a subdivision plat by the Planning Board, the subdivider shall complete all required improvements or file a performance bond or certified check to assure completion of all required improvements in accordance with the following procedures:
1. The subdivider shall complete all required improvements to the satisfaction of the representative designated by the Town Board to fulfill such duties (hereafter referred to as Development Administrator) who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Planning Board; if the office of Development Administrator is not filled, the Town may hire a Licensed Professional Engineer (P.E.) whose fee will be paid by the applicant to fulfill the prescribed duties.
  2. In lieu of completing some or all required improvements, the subdivider shall either file with the town clerk a certified check to cover the full cost of the required improvements or the subdivider shall file with the town clerk a performance bond to cover the full cost of the required improvements. Any such bond shall be satisfactory to the Town Board and town attorney as to form, sufficiency, manner of execution and surety. A period of one (1) year or such other period as the Planning Board may determine appropriate, not to exceed three (3) years, shall be set forth in the bond within which required improvements must be completed;

- 3.** The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Town Highway Superintendent or Development Administrator and a map satisfactory to the Planning Board has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements, then said map shall be submitted prior to endorsement of the plat by the appropriate Planning Board office. However, if the subdivider elects to provide a bond or certified check for all required improvements, such bond or check shall not be released until such a map is submitted.
- b. Modification of Requirement Improvements.** If any time before or during construction of the required improvements it is demonstrated to the satisfaction of the Town Development Administrator or P.E. that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Development Administrator or P.E. may, upon approval by the Planning Board, authorize modifications provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Planning Board. The Development Administrator or P.E. shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at their next regular meeting.
- c. Final Inspection.** A final inspection of all improvements will be made to determine whether the work is satisfactory and in agreement with the approved final plat and construction drawings. Upon a satisfactory final inspection report, action will be taken to release the performance bond covering such improvements and utilities, if a bond was filed. The Town Development Administrator or P.E. shall also notify the Planning Board that all work has been completed to his satisfaction.
- d. Unacceptable Improvements.** If the Town Development Administrator or P.E. shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Town Board and Planning Board. The Town Board shall then notify the subdivider and, if necessary, the bonding company and take all necessary steps to preserve the town's rights under the bond. No plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plat.
- e. Inspection Fee.** An inspection fee related to the estimated cost of improvements as determined by the Planning Board or to the amount of the performance bond, if filed, shall be paid to the town prior to the time that the Planning Board signs the final plat.

### **Section 3.10 Streets and Recreation Areas**

- a. Acceptance of Streets.** The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the town of any street, easement or other open space shown on such subdivision plat. In the event that no offer of cession to the public is made for any street, easement or other open space shown on the plat, there shall be

submitted with the application for plat approval copies of agreements or other documents providing for a fixing responsibility for suitable maintenance of such facilities and statements of all rights which exist with respect to the use of such property (ies). The adequacy of such documents shall be subject to Planning Board approval, based upon recommendations of the Town Attorney.

- b. Acceptance of Recreation Areas.** When a park, playground or other recreation area shall have been shown on a plat, the approval of said plat shall not constitute an acceptance by the town of such area. The Planning Board shall require the plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement, between the applicant and the Town Board or other documents covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of such recreation area.

## **ARTICLE 4 DESIGN STANDARDS**

### **Section 4.1 General**

- a. Character of Land.** Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.
- b. Conformance.** Subdivisions shall conform to the Official Map of the Town and shall be in harmony with the Town Comprehensive Plan or Master Plan, if such exists.
- c. Town Specifications.** All required improvements shall be constructed or installed to conform to the town's specifications.

### **Section 4.2 Lot Size, Layout and Monumentation**

- a. Natural Limitations.** Lots shall be laid out so as to avoid conflict with the natural limitations of the land. Buildable portions of lots shall not include Special Flood Hazard Areas, stream beds, swamps or marshlands, or slopes in excess of fifteen (15) percent (see Section 4.7c) Such areas shall be shown on the subdivision plat and clearly labeled as being unbuildable. Where these restrictions and the regulations regarding setbacks and required yards would result in unbuildable lots, the Planning Board may require that the proposed subdivision be treated as a cluster development under these regulations.
- b. Design Specifications.** The following design specification shall be followed in laying out lots, except where the shape of the parcel being subdivided, the natural limitations of the site or efficient use of the land require otherwise:
  - 1.** Side lot lines shall be at right angles to straight lines and radial to curved street lines;
  - 2.** Lots should not be of such a depth as to encourage creation of a second building lot in the front or rear portion of a lot;
  - 3.** Corner lots should be larger than interior lots to provide for proper building setback from each street.

- c. **Future Resubdivisions.** Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Planning Board may require the lots to be laid out so as to permit future resubdivision in accordance with these regulations.
- d. **Street Access.** Every lot being created, with the exception of lots created for the purposes of combination with adjacent properties pursuant to 4 2a2, shall have access to a public street or highway. Access from private streets shall be acceptable only if such streets are designed and improved in accordance with these regulations.
- e. **Monuments.** Permanent monuments meeting specifications approved by the Town Highway Superintendent or Development Administrator as to size, type and installation shall be set at such block corners, angle points, points of curves in streets and other points as the Town Highway Superintendent or Development Administrator may require. The location of these monuments shall be shown on the subdivision plat.
- f. **Driveways.** For driveways with steep grades (portions of driveway with grade of twelve percent (12%) or more the Planning Board may require one or more off-street parking spaces at the base of the driveway to facilitate parking in inclement weather. Driveways that intersect town, county or state roadways shall meet the requirements and design standards for a driveway permit to be issued by the jurisdictional agency.
- g. **Soil Preservation.** Land to be subdivided shall be designated in reasonable conformity to existing topography in order to minimize grading, cut and fill, to retain the natural contours, to limit storm water runoff, and to conserve the natural vegetative cover and soil. No trees, topsoil or excavated material shall be removed from its natural position except where necessary to the improvement of lots and the construction of streets and related facilities in accordance with the approved plan. Topsoil shall be restored to its original depth and properly seeded and fertilized in those disturbed areas not occupied by buildings or structures.

#### **Section 4.3 Street Layout and Design**

- a. **Street Layout.** Streets shall be suitably located to accommodate prospective traffic created by the subdivision and afford access for firefighting, snow removal and other road maintenance equipment. The arrangement of streets shall conform to the street design requirements of subsection 4.3b of these regulations and the following requirements:
  - 1. Arrangement of streets shall provide for the continuation of principal streets of adjoining properties or subdivisions and for proper projections of principal streets into adjoining properties which are not yet subdivided;
  - 2. Minor streets shall be so laid out that their use by through traffic will be discouraged;
  - 3. The creation of dead-end or loop residential streets will be encouraged wherever the Planning Board finds that such type of development will not interfere with normal traffic circulation in the area. In the case of dead-end streets, where needed or desirable, the Board may require the reservation of a twenty (20) foot wide easement to provide for the continuation of pedestrian traffic and utilities to the next street. Subdivisions containing

- twenty (20) lots or more shall have at least two (2) streets shown on an approved submission plat for which a bond has been filed;
4. Blocks shall not be less than four hundred (400) feet nor more than twelve hundred (1200) feet in length, and no block width shall be less than twice the normal lot depth. In blocks exceeding eight hundred (800) feet in length, the Planning Board may require the reservation of a twenty (20) foot wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify at its discretion that a foot path be included;
  5. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided;
  6. All streets shall join each other so that for a distance of at least one hundred (100) feet the street is approximately at right angles to the street it joins;
  7. The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.
- b. Street Design.** Streets shall be designed to conform to the specifications of the Town Highway Superintendent.
- c. Intersections with County Roads and State Highways.** All proposed intersections between streets in a subdivision and any county highway shall be submitted to and approved by the Otsego County Highway Superintendent. All proposed intersections between streets in a subdivision and any state highway shall be submitted to and approved by the Otsego County Resident Engineer of the New York State Department of Transportation.
- d. Intersections.** No more than two (2) streets shall intersect or meet on any point. No street shall intersect or meet at any angle of less than seventy-five (75) degrees or more than one hundred twenty (120) degrees.
- e. Street Improvements.** Streets shall be graded and improved with pavements, curbs and gutters, sidewalks, storm drainage facilities, water mains, sewers, street lights and signs, street trees, and fire hydrants, except where waivers may be requested, and the Planning Board may waive, subject to appropriate conditions, such improvements as it considers may be omitted without jeopardy to the public health, safety and general welfare. Pedestrian easements shall be improved as required by the Town Development Administrator or P.E. Such grading and improvements shall be approved as to design and specifications by the Town Highway Superintendent or Development Administrator.
- f. Street Names.** All street names shall be shown on a preliminary plat or subdivision plat and shall be subject to approval by the Planning Board. Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names within the town.
- g. Underground Utilities.** The Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and street line to

simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved. Where topography is such as to make impractical the inclusion of utilities within the street right-of-way, perpetual unobstructed easements at least twenty (20) feet in width shall be otherwise provided with satisfactory access to the street. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easement shall be cleared and graded where required.

- h. Commercial Streets.** Paved rear service streets of not less than twenty (20) feet in width, or in lieu thereof, adequate off-street loading space, suitably surfaced, shall be provided in connection with lots designed for commercial use.
- i. Watercourses.** Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Town Highway Superintendent or Development Administrator. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way as required by the Town Highway Superintendent or Development Administrator and in no case less than twenty (20) feet in width.
- j. Debris and Waste.** No cut trees, stumps, timber, debris, junk, rubbish or other waste materials of any kind shall be buried under any proposed street.
- k. School Bus Pickup Areas.** Where a subdivision contains or abuts a major or collector street, the Planning Board may require that the subdivider reserve, clear, grade, pave or otherwise improve an area of such size and location as will provide a safe and suitable place for use by children awaiting school buses. In general, the size of such area shall not be less than one hundred (100) square feet, and no dimension shall be less than ten (10) feet. Such area shall be included within the street right-of-way and shall be maintained by the holder of fee title to the street. The layout and design shall be subject to Planning Board approval.

#### **Section 4.4 Drainage**

- a. Removal of Spring and Surface Water.** The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist either previous to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible or in perpetual unobstructed easements of appropriate width.
- b. Accommodation of Upstream Drainage Areas.** A culvert or other drainage facility shall in each case be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside the subdivision. The Town Highway Superintendent or Development Administrator shall approve the design and size of the facility based on anticipated run-off from

a “ten (10) year” storm under conditions of total potential development permitted by the zoning law in the watershed.

- c. **Direction of Drainage.** Drainage facilities proposed for any subdivision shall direct run-off into any established storm drain or into any existing natural stream channel and in no case shall drainage be directed onto any abutting property except within such drain or channel.

#### **Section 4.5 Parks and Open Spaces**

- a. **Recreation Areas Shown on Plats.** The Planning Board may require that sites of a character, extent and location suitable for the development of a park, playground or other recreational purpose be shown on the subdivision plat. Such areas shall be required for all cluster developments and may be required for any other proposed subdivision involving the creation of fifty (50) or more lots of any size or the creation of five (5) or more lots less than one half (1/2) acres in size. Except for cluster developments, required park, playground and recreation areas shall not exceed ten (10) percent of the total area of the subdivision and such areas may be dedicated to the town, subject to the acceptance by the Town Board. In lieu of such dedication of such required park, playground and recreational areas may be held in common ownership among the purchasers of lots within the subdivision in accordance with the conditions specified for common open space for cluster developments.
- b. **Payment in Lieu of Dedication.** Where the Planning Board finds that land for park, playground or other recreational purpose cannot be properly located in a subdivision, or if in the opinion of the Planning Board, provision of such land would result in areas too small or of insufficient layout to achieve the objective of providing recreational facilities for purchasers of lots within the subdivision, the Planning Board may require a payment in lieu of dedication. Moneys from such payments in lieu of dedication shall be held by the Town Board in a special Town Recreation Site Acquisition and Improvements Fund to be used for the purpose of acquisition or improvement of parks, playgrounds or recreational areas serving the general neighborhood in which the subdivision is located. Such money may also be used for the physical improvement of existing parks or recreation areas serving the general neighborhood in which the land show on the plat is situated.

#### **Section 4.6 Fire Protection and Emergency Access**

- a. **Fire Protection.** Subdivisions containing twenty (20) or more lots or building sites or any number of lots for commercial or industrial development shall provide a supply of water for firefighting purposes. This supply may be provided through fire hydrants connected to a community water supply system or by means of fire ponds. Such hydrants and ponds shall conform to the following specifications and shall be acceptable to the chief of the fire department in whose district the subdivision is located.
  - 1. Installation of fire hydrants shall be in conformity with all requirements of standard thread and not as specified by the New York Fire Insurance Rating Organization and the New York State Office of Fire Protection and Control;

2. Fire ponds, tanks or other water storage facilities shall have a capacity of not less than thirty thousand (30,000) gallons plus two thousand (2,000) gallons for every lot or building site served. Said ponds, tanks or storage facilities shall be provided with a hydrant, the design and location of which is acceptable to the local fire chief;
  3. Hydrants at any fire ponds, tanks or other water storage facilities or community water supply system shall be readily accessible from a street. Where such hydrants are located outside of any existing street right-of-way, access to such hydrants shall be provided by a twenty (20) foot wide right-of-way and a service drive of at least ten (10) feet in width. Such a service drive shall be of construction and design suitable for use by firefighting equipment and shall be posted by a permanent sign restricting use to emergency vehicles only;
  4. Hydrants or sources of water supply shall be located so that no buildable portion of a lot is located more than fifteen hundred (1,500) feet from any such hydrant or source of water supply.
- b. **Emergency Access.** Where the physical arrangement of lots or building sites is such that the emergency access would be unreasonably difficult in the opinion of the chief of the fire department in whose district the subdivision is located, the Planning Board may require that the subdivider provide for alternative means of emergency access.
- c. **Water Supply.** Fire Hydrants and sources of water supply shall be capable of sustaining a flow of five hundred (500) gallons per minute for at least one (1) hour, except that where multiple family, commercial or industrial use of lot is anticipated, the chief of the fire department in whose district the subdivision is located may specify a higher minimum standard.
- d. **Maintenance.** When any fire hydrants, fire ponds or emergency access roads shall have been shown on a plat, the approval of said plat shall not constitute an acceptance by the town of such facilities or areas. The Planning Board shall require the plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board or other documents covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of such facilities or areas.

#### **Section 4.7 Environmental Considerations**

- a. **Preservation of Natural Features.** Land to be subdivided shall be designed in reasonable conformity to existing topography in order to minimize grading, cut and fill, and to retain, insofar as possible, the natural contours, to limit storm water run-off, and to conserve the natural vegetation cover and soil. No trees, topsoil or excavated material shall be removed from its natural position except where necessary and incidental to the improvement of lots and the construction of streets and related facilities in accordance with the approved plan. Existing natural features which are of ecological, aesthetic or scenic value to residential development or to the town as a whole, such as wetlands, water courses, water bodies, rock formations, stands of trees and individual trees, historic spots, views and vistas, man-made features indigenous to the area, such as stone walls and similar irreplaceable assets, shall be preserved, insofar as possible, through harmonious design of the subdivision and where appropriate, the Planning Board may require the inclusion of such features in permanent reservations.

- b. Flood Areas.** Land subject to serious or regular flooding shall not be subdivided for residential occupancy or for such other uses as may increase danger to life or property or aggravate the flood hazard, but such land may be used for such uses, subject to any zoning regulations, or in such a way that the flood danger to this property and other upstream or downstream properties will not be increased and periodic or occasional inundation will not be a substantial threat to life or property. The provision of this section shall apply to all land falling within the 100 year flood limit as shown on maps prepared by the town and the Federal Emergency Management Agency (FEMA) as periodically amended.
- c. Steep Slopes.** Development of steep slope over fifteen percent (15%) sites will be conditionally acceptable only if there is no prudent or feasible alternative site, and erosion and sedimentation control measures are incorporated in the design, construction, and operation of the development according to standards set by the US Soil Conservation Service.
- d. Sediment Control.** The subdivider shall provide effective sediment control measures for planning and construction of subdivisions. Use of the following technical principles shall be applied as deemed appropriate by the County Soil and Water Conservation District:
1. The smallest practical area of land shall be exposed at any one time during the development;
  2. When land is exposed during development, the exposure shall be kept to the shortest practical period of time;
  3. Temporary vegetation and/or emulsion shall be used to protect critical areas exposed during development;
  4. Sediment basins, debris basins, silting basins or silt traps shall be installed and maintained to remove sediment from run-off waters on land undergoing development;
  5. Provision shall be made to effectively accommodate the increased runoff caused by changing soils and surface conditions during and after development;
  6. Permanent final vegetation and structures should be installed as soon as practical in the development;
  7. The development plan should be fitted to the type of topography and soils so as to create the least erosion potential;
  8. Wherever feasible, natural vegetation should be retained and protected.
- e. Performance Standards.** The interpretation and regulations of this Subdivision Regulation will be guided by the following performance criteria;
1. Will not result in undue water or air pollution;
  2. Has sufficient water available for the reasonable foreseeable needs of the subdivision or development;
  3. Will not cause unreasonable burden on an existing water supply, if one is to be utilized;
  4. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
  5. Will not cause unreasonable highway congestion or unsafe condition with respect to use of the highway, existing or proposed.

## Section 4.8 Cluster Development

- a. If the application of this procedure results in a plat showing lands made available for common open space, park or recreational areas, or public use, such lands shall be clearly identified and labeled on the subdivision plat and shall be subject to the following requirements for dedications, ownership or maintenance:
  1. Lands shown as proposed for dedication shall be accepted by the Town Board or shall be held in ownership by a property owners' association subject to approval of the Town Attorney and Town Board;
  2. The property owners' association shall be organized as one of the following
    - a. A Homes Association approved by the Federal Housing Administration for mortgage insurance as "Planned Unit Development"
    - b. A non-profit corporation, membership in which is automatic upon the purchase of any lot in the proposed subdivision, which shall gain title to all such common open space, park or recreation areas, or public use and which, once established, shall retain responsibility for the operation and maintenance of such areas;
    - c. The Town Attorney shall review and approve the articles of incorporation and character of any such association.
  3. Where an owner's association fails to properly maintain any required open space, the town shall be authorized to enter and repair or maintain such areas and assess said owners for the cost thereof. For the purposed of this subsection, "proper maintenance" may include the removal of brush and weeds, mowing of grass, removal of waste, refuse or garbage, or maintenance of workable drainage facilities. In areas designated as "unimproved", proper maintenance shall consist of keeping the area free of waste, refuse or garbage and prevention of any hazards to health.
    - a. In the case of a residential plat, the dwelling units may be, at the discretion of the Planning Board, in single family, two family or multi-family structures.
    - b. The provisions of this section shall not be deemed to authorize a change in the permissible use of land as provided in the town zoning law applicable to such lands as may be included in the proposed subdivision.
    - c. Upon filing of the subdivision plat with the Otsego County Clerk, the subdivider shall file a copy with the town clerk who shall make an appropriate note or reference on the town zoning map, if such exists.

## ARTICLE 5 INSPECTIONS AND ENFORCEMENT

### Section 5.1 Inspection

- a. **Notification by Developer.** All permanent improvements, as herein defined, shall require an inspection by the Town Development Administrator or P.E. The owner, developer or his agent shall inform the Town Development Administrator at least twenty-four (24) hours before such inspection is required and shall not conceal, cover, hide or in way render invisible any portion of a permanent improvement until such inspection has been made and approved.

- b. **Street Inspection.** All street grades and methods of construction shall require inspection before acceptance of same for future maintenance. The street inspection shall be conducted by the Town Highway Superintendent of Development Administrator.
- c. **Failure to Inspect.** If the Town Highway Superintendent, Development Administrator or P.E. does not carry out the inspection of required improvement during construction, the subdivider or the bonding company shall not in any way be relieved of its responsibilities.

## Section 5.2 Enforcement

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

## ARTICLE 6 WAIVERS

### Section 6.1 Waivers

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

### Section 6.2 Amended (6-8-98) Application of Regulations on Subdivisions in more than one jurisdiction.

Any subdivision within the Town, which is part of a subdivision located both within and outside of the Town shall conform in all respects to the provisions of the subdivision regulation of the Town of Butternuts.

## **ARTICLE 7 AMENDMENTS, SEPARABILITY AND EFFECTIVE DATE**

### **Section 7.1 Amendment**

These regulations may be amended from time to time by the Planning Board after a public hearing. If approved by the Planning Board, such amendments shall be reviewed and approved by the Town Board before becoming effective.

### **Section 7.2 Separability**

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

### **Section 7.3 Effective Date**

These regulations shall be effective on the 10<sup>th</sup> day of September 1987  
These regulations, amended, effective on the 8<sup>th</sup> day of February 1995  
These regulations, amended, effective on the 10<sup>th</sup> day June 1998