**LOCAL LAW NUMBER ___ OF 2015**

# SUBDIVISION RULES AND REGULATIONS OF THE TOWN OF LANSING

**History** – This Local Law hereby supersedes prior rules and regulations pertaining to subdivisions as previously adopted by the Town of Lansing and the Town of Lansing Planning Board. This Local Law was originally adopted May 18, 2005, amended April 16, 2008 by Local Law Number 2 of 2008, and is hereby amended again and wholly replaced by this Local Law Number __of 2015.

The Town Board of The Town of Lansing, New York, pursuant to Resolution dated _____, 2015, does hereby adopt and pass a Local Law, and therefore, be it so enacted as follows:

**SECTION 1 - AUTHORITY & PURPOSE:** This Local Law is adopted pursuant to the authority granted the Town of Lansing by § 10 of the Municipal Home Rule Law, §§ 130 and 276 of the Town Law, and Article 16 of the Town Law, and other laws empowering the Town to regulate subdivisions and land divisions within the Town.

A. Pursuant to the New York State Town Law §§ 271 and 276 the Town of Lansing hereby empowers the Town of Lansing Planning Board, and other Town of Lansing officials as herein named, to act pursuant to this Local Law and to review and, where appropriate, approve the subdivision of land in the Town of Lansing.

B. It is declared to be the policy of the Town of Lansing to consider land divisions as part of a plan for the orderly, efficient, and economical development of the Town of Lansing. Subdivision classification and development should be consistent with the Town of Lansing's Comprehensive Plan and, accordingly, the purpose of these rules, regulations, and standards are: (i) to promote the safe, sanitary, and efficient subdivision of land; (ii) regulate the subdivision of land in a manner which will result in orderly growth and development, provide for adequate municipal services, and result in the safe movement of vehicular and pedestrian traffic; and (iii) to establish minimum standards and requirements by which land in the Town of Lansing is to be subdivided.

C. As to Major Subdivisions, it is further declared to be the policy of the Town to consider Major 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 must be of such character that it can used safely for building purposes without danger to health, or peril from fire, flood, or menace; that proper provision must be made for drainage, water supply, sewerage, and other needed improvements; that all proposed lots must be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed roads must compose a convenient system conforming to the official map and the comprehensive plan, and must be of such width, grade, and location as to accommodate the prospective traffic, to facilitate fire protection, and to provide access of fire-fighting equipment to buildings; and that proper provision must be made for open spaces for parks and playgrounds.

**SECTION 2 - SUPERSESSION AND CONSTRUCTION:**

A. Pursuant to Municipal Home Rule Law § 22, the Town hereby states that its intent is to supersede, to the extent of any conflict in definitions, procedures, or filing and approval requirements: (i) Town Law §276 (adopted as Laws of 1992, Chapter 727, §1, and amended by Laws of 1994, Chapter 486, §§ 10 to 13, Laws of 1995, Chapter 423, § 7 to 11, Laws of 1996, Chapter 235, §6, Laws of 1997, Chapter 458 §25), and subdivisions 4, 5, 6, 7, 8 and 11 of such §276, mainly to the extent that the Town has adopted different definitions, different timelines, additional or differing requirements and responsibilities of Town employees and the Town Planning Board relative to the review of subdivision and related applications, the creation of an exempt subdivision category, additional or different requirements for subdivisions and related applications, and differing standards of review, approvals, and approval procedures; and (ii) Town Law §277 (adopted as Laws of 1997, Chapter 485 and Laws of 1992, Chapter 727), including Subdivision 7 thereof, and also including the supersession of Subdivision 2 to the extent that the Town has added additional requirements.

B. All nouns and pronouns shall be construed in the singular, plural, masculine, feminine, or neutered context when the provisions hereof so demand or admit. Capitalized words shall have their defined meanings and all words, capitalized or otherwise, shall have standard meanings as applied within the context of the clause in which such terms appear. Subject headings are for convenience and shall not be construed or applied to limit or restrict the subject matter and terms appearing under such subject heading. Whenever any reference is made to any section of law or regulations, such reference shall be interpreted to include such law or regulation as later amended, renumbered, or re-codified, and a mere typographical citation error shall not be given effect.

**SECTION 3 - DEFINITIONS:** Words used in this Local Law shall, when capitalized have the following meanings.

APPLICANT – all Applicants for Subdivisions must be the owners of the land in question, have a sufficient ownership interest in such land, or be appointed agents for such owner; and such term shall also mean anyone who applies for Subdivision approval or amendments to any prior Subdivision and any subdivider or related land developer working with an owner or subdivider.

CONSERVATION DESIGN MAPPING – a process used for Conservation Subdivisions to help identify clustering lot designs to arrange such lots and site improvements in a manner as protects land conservation values, minimizes cut and fill operations, conserves mature trees, promotes the preservation or conservation of open spaces, and facilitates safe vehicle, pedestrian, and bicycle circulation. Such Conservation Design Mapping is comprised of two basic components:

1. Using access management techniques, such as shared driveways, to minimize curb cuts on rural highways, and transportation demand management (TDM) plans, to examine parking, motion, anticipated mode-shares, and incentives for traffic and travel at the site. TDM plans shall be deemed sufficient for Conservation Design Mapping if prepared in accord with the TDM Handbooks and Manuals, National TDM and Telework Clearinghouse, Center for Urban Transportation at the University of South Florida, and preference shall be given for performance based criteria and TDM plans that favor solutions that do not result in mere infrastructure improvements, such as wider streets, more parking, and other improvements that consume land resources.

2. A site-based land use and conservation analysis consisting of an examination of existing building and flora densities and open spaces on and near the site, the existing natural resources and soil characteristics on and near the site, making housing more affordable, the use of shared Infrastructure and the reduction of land resource consumption. This analysis shall take into account existing resources and the existing visual and other characteristics of an area, such as an open farmland vista, and seek to preserve such "look and feel" by mapping all ground-level improvements and features, all natural and underground resources, and all cultural and historic areas or buildings, and then examine the most suitable area for development and ground disturbances as to compliment desirable features, ecological resources, and the existing character of the area.

The delineation of standards for Conservation Design Mapping are not intended to signal detailed, exacting, or lengthy studies; nor a need for geological, ecological, or significant resource or species analyses concerning the land. Conservation Design Mapping is intended to be a tool to help guide the placement and design of Conservation Subdivisions to help preserve existing neighborhood characteristics and existing land and other resources. Dogmatic adherence to saving tress can mean using arable fields and open spaces for housing, and the impacts from building in such areas are often far more significant than building in mature hardwoods. Thus, the scope and detail needed for any Conservation Design Mapping shall be determined by the Planning Board based upon factors such as location, neighborhood, roadway and access characteristics, existing natural communities, and such other factors as the Planning Board may deem relevant or required during the sketch plan and preliminary plat phases of Conservation Subdivision review.

CONSERVATION SUBDIVISION - a Subdivision in which the otherwise applicable area and bulk regulations of zoning are modified to encourage flexibility of design and development of land in such a manner that the layout, configuration, and design of lots, structures, driveways, roads, parks, trails and landscaping are designed to preserve important natural resources and scenic qualities of the site. A Conservation Subdivision is a cluster development as authorized by Town Law § 278 and this Local Law.

ENFORCEMENT OFFICER - the Town's Zoning and Code Enforcement Officer(s) and any other person designated as an Enforcement Officer hereunder by resolution of the Town Board.

FEAF – a full, or long-form, environmental assessment form, usually used for Type I Actions under SEQRA.

INFRASTRUCTURE – roads (public or private), culverts, bridges and utilities, stormwater facilities, and other and similar appurtenances designed, built, installed, or used to support development of lots and Subdivisions.

LOT LINE ADJUSTMENT - the adjustment of one or more lot lines between two or more existing and adjoining lots which does not result in the creation of new lots or any non-conforming lot. While not a subdivision, Lot Line Adjustments shall be approved in the same manner as Exempt Subdivisions under this Local Law.

PERFORMANCE GUARANTEE - a form of security approved by the Town that has the effect of providing assurance or a guarantee that all Improvements will be made and constructed in accord with the requirements of this Local Law, applicable codes and requirements, the requirements of the Town, and the terms and requirements of any approved Subdivision or plat. A Performance Guarantee may include performance bonds, escrow agreements, letters of credit, cash, and other or similar collateral or surety agreements. No such Performance Guarantee shall be deemed acceptable or in compliance with the requirements of this Local Law if the Person posting the bond or other undertaking is a guarantor or surety to any underwriter of such bond or undertaking, or if such Person provides for indemnity to any underwriter or issuer with respect to such bond or undertaking. Bonds shall comply with the requirements of Town Law § 277 and shall be acceptable to the Town Board and Town Attorney as to form, sufficiency, manner of execution, and surety. A period of one year (or such other periods as the Planning Board may determine appropriate, not to exceed three years) shall be set forth in the bond within which required improvements must be completed.

PERSON - any individual, firm, partnership, agency, association, corporation, company, board, official, or entity or organization of any kind.

PLANNING BOARD - the Planning Board of the Town.

SEAF – a short-form environmental assessment form, usually used for Unlisted Actions under SEQRA.

SEQRA – the State Environmental Quality Review Act, codified at Environmental Conservation Law Article 8 and implemented in part through regulations at 6 NYCRR Part 617. Where and as required, a reference to SEQRA shall include compliance with NEPA (the National Environmental Policy Act).

SKETCH PLAN – means a drawing based upon a survey or other accurate base map drawn at a scale of not less than 1:2,400 showing the proposed Subdivision and: (i) the location of the Subdivision as an entire tract; (ii) the distance to the nearest existing street intersections; and (iii) existing structures, wooded areas, streams, wetlands, flood hazard areas, and other significant physical features within the Subdivision and within 200' of the boundaries thereof. If the Subdivision is a Major Subdivision, a Minor Subdivision, or a Conservation Subdivision, a Sketch Plan shall also include: (iv) topographic information showing 10' elevation intervals or related elevation information; (v) the name of the owner and adjoining property owners, as well as the name of the project, if any; (vi) the tax map, block, and lot numbers of all lots shown on the plat; (vi) the locations of all

utilities and roads; (vii) the lot locations and dimensions, roadway layouts (if any), recreation areas (if any), water supplies and sewerage services, stormwater and drainage facilities (if required); (viii) any existing restrictions upon the use of the land, such as easements, covenants, and development district boundary lines; and (ix) any other information requested by the Enforcement Officer or the Planning Board.

SMO – a Town Stormwater Management Officer.

SUBDIVISION - the division of any parcel into two or more lots by any means regardless of whether intended for improvement or sale, and regardless of whether any existing improvements occupy any lots. Notwithstanding this definition, a Lot Line Adjustment shall not be a Subdivision if no new lots or gores of land are created and no lot is made non-conforming.

SUBDIVISION, EXEMPT – the division of any parcel into 3 or fewer lots, where each of the following requirements is strictly met: (i) each lot is not less than 1 acre; (ii) no lot is non-conforming; (iii) each lot has not less than 150 feet of frontage on a public highway; (iv) no Infrastructure is proposed, required or created, including extensions of public water or sewer mains; (v) there has not been any other prior subdivision of any lot affected by such proposed Exempt Subdivision and no variances are needed by any Person to qualify as an Exempt Subdivision.

SUBDIVISION, MAJOR - any Subdivision which creates 5 or more lots, including the counting of the parent lot(s) as one of the lots in such Subdivision, or which is less than 5 lots but not a Minor Subdivision or Exempt Subdivision. The calculation of the number of lots shall include the gross, total number of lots resulting from Subdivision, and Appendix A shall be used as a guideline.

SUBDIVISION, MINOR - any Subdivision that creates less than 4 lots where there is no Infrastructure needed for such Subdivision. Infrastructure that relates to stormwater facilities that is not significant in terms of structural complexity, land area disturbance, does not require dedication, and which is wholly contained upon each individual lot of the Subdivision, such a water gardens and on-site treatment, will not, standing alone, preclude classification as a Minor Subdivision.

SWPPP – a Stormwater Pollution Prevention Plan as defined by and under the United States Environmental Protection Agency and Phase 2 Stormwater requirements, the New York State Department of Environmental Conservation and its SPDES programs and rules, and the Town's stormwater local laws and requirements. Such term, as used in this Local Law, is intended to cover all aspects of stormwater review and control, from certifications to basic and full plans.

TOWN - the Town of Lansing, in Tompkins County, New York, and whenever applicable or the context so permits or requires, the elected officials, officers, superintendents, assistant superintendents, employees and agents of the Town.

TOWN BOARD - the Town Board of the Town.

**SECTION 4 - UNDEVELOPED SUBDIVISIONS:** The Planning Board may review, for purposes of revision, those Subdivisions and Subdivision plats already on file with the County Clerk if 20% or more of the plat is undeveloped for reasons other than terrain, drainage, soil conditions, or the like. Legislative authority for such review is found in Town Law § 276.

**SECTION 5 - EXEMPT SUBDIVISIONS:**

A. An Applicant shall submit the following to the Enforcement Officer: (i) a Sketch Plan of the proposed Exempt Subdivision; (ii) proof that all qualifications for an Exempt Subdivision are met; (iii) at least 3 copies of a signed and certified survey of the affected land showing all proposed lot boundaries; and (iv) a proposed

SEAF. If there is a potential to disturb more than 2 acres of land as determined by the SMO, then the SMO shall require stormwater review and compliance. If a SWPPP is required it submitted to and approved by the Town prior to approval of the Exempt Subdivision.

B. If for any reason the Enforcement Officer believes that there are special circumstances involved with any proposed Exempt Subdivision, such as unique topography, the presence of creeks or streams, prior subdivisions of any one or more involved, adjacent, or related lots, the effects upon agricultural districts, the effects upon Cayuga Lake and its tributaries, highway safety, or any hazard or potential hazard to life, property or public peace or welfare, the Enforcement Officer may refuse Exempt Subdivision status and refer the proposed Subdivision and sketch plan to the Planning Board for review and classification.

C. Lots that were involved in any prior Exempt Subdivision shall not be permitted further division as Exempt Subdivisions, whether by the same or any other Person and regardless of the timeframe between any such proposed Subdivisions. Similarly, lots involved in any Major Subdivision or Minor Subdivision shall not be permitted to be further divided as Exempt Subdivisions.

D. The Enforcement Officer shall review the SEAF and classify the action for purposes of SEQRA. If classified as a Type I Action, the Applicant shall submit a FEAF for review. If there are no other involved agencies the Town shall conduct an uncoordinated review and the Town may make a determination of environmental significance following a requisite hard look at potential environmental impacts and consequences. No approval of any Exempt Subdivision shall be made until the SEQRA process is properly concluded.

E. If a Subdivision meets the definition of and rules for an Exempt Subdivision then, after and upon a review and approval thereof, the Enforcement Officer may place a zoning seal upon at least two surveys and approve such Exempt Subdivision. At least one such sealed survey shall be given to the Applicant, and at least one such sealed survey shall be delivered to the Chair of the Planning Board.

**SECTION 6 - MINOR SUBDIVISIONS:** Whenever any Minor Subdivision is proposed, and before any contract for the sale of, or any offer to sell any lot in such Subdivision is made, and before any permit for the erection of a structure in such Subdivision shall be granted, the Applicant shall apply in writing for approval of such Subdivision in accordance with this section. Minor Subdivisions shall not require preliminary plat approvals.

A. The Applicant shall provide at least 2 copies of a Sketch Plan of the proposed Subdivision and the meet informally with the Planning Board to discuss the Sketch Plan and the Subdivision of the property, including the conformity of the plans, to the maximum extent practicable, with this Local Law, zoning requirements, and the Town's comprehensive plan. The Planning Board shall classify the Subdivision, and if it is a Minor Subdivision the provisions of this section shall apply.

B. After such meeting the Applicant may submit a formal application, consisting at a minimum of the following: (i) a SEAF; (ii) an explanation of the manner in which water service and sewer service will be provided, the availability of existing utility services, the manner of access and traffic flows, and conformance with zoning and other requirements; (iii) at least 3 copies of a draft survey of the affected lots showing the proposed boundary lines therein, and containing such other information as is typical to a professional land survey or as reasonably required by the Planning Board. If there is a potential to disturb more than 2 acres of land as determined by the SMO, then the SMO shall require stormwater review and compliance. If a SWPPP is required it shall be submitted to and approved by the Town prior to approval of the Minor Subdivision.

C. The Planning Board shall review the SEAF and classify the action for purposes of SEQRA. If classified as a Type I Action, the Applicant shall promptly submit a FEAF for review. The Planning Board shall be the lead agency for environmental review, unless otherwise determined under SEQRA. The Planning Board shall conduct an environmental review of the proposed action and may make a determination of environmental

significance following a requisite hard look at potential environmental impacts and consequences. No approval of any Minor Subdivision shall be made until the SEQRA process is properly concluded.

D. The Planning Board shall also review the application and advise the Applicant in writing or by resolution whether the survey and documentation meet the requirements of this Local Law. The Planning Board shall provide in writing its determination of what, if any, modifications are necessary for approval of the Final Plat. The Planning Board may also impose such conditions as may be required to ensure the safe and orderly development or division of land, as permitted by law.

E. If modifications are needed the survey shall be modified into a final form and submitted for final review and approval by the Planning Board as the minor subdivision final plat within 180 days of the determination(s) of the Planning Board under subsection E, failing which such submission shall be treated as a Sketch Plan by the Planning Board. The "submission date" of the Minor Subdivision final plat is the date when the application for final plat approval is accepted by the Enforcement Officer. An application shall be deemed final when all application materials identified below have been submitted and an environmental determination has been made, unless such environmental determination is to be considered with or at the time of the public hearing:

1. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.

2. An actual field survey of the boundary lines of the plat, and each lot therein, giving complete descriptive data by bearings and distances as made and certified to by a licensed land surveyor. The corners of the plat shall also be located on the ground and marked by monuments referenced on the final plat.

3. All on-site sanitation and water supply facilities (if any) shall be designed to meet the minimum specification of the Tompkins County Sanitary Code, and a note to this effect shall be stated on the final plat and signed by an officer of the County Health Department.

4. The proposed subdivision name (if any), name of the town and county in which it is located, and a date, north point, map scale, and the name and address of the owner of record and the Applicant shall be listed upon such final plat.

5. Compliance with any conditions imposed by the Planning Board shall be demonstrated upon the final plat or listed specifically upon such final plat as conditions.

6. Compliance with stormwater requirements, any SWPPP, and SPDES permits, if required, shall be demonstrated.

F. The Planning Board shall hold a public hearing within 62 days of the filing of the Final Plat in accord with Town Law § 276.

G. The Planning Board shall approve, approve with conditions, or deny approval of the final plat within 62 days as required by Town Law § 276.

**SECTION 7 - MAJOR SUBDIVISIONS:** Whenever any Major Subdivision is proposed, and before any contract for the sale of, or any offer to sell any lot in such Subdivision is made, and before any permit for the erection of a structure in such Subdivision shall be granted, the Applicant shall apply in writing for approval of such Major Subdivision in accordance with the applicable provisions of Town Law §§ 276 and 277. Major Subdivisions shall be required to have preliminary plats and preliminary plat approvals.

A. The Applicant shall provide at least 7 copies of a Sketch Plan of the proposed Subdivision and meet informally with the Planning Board to discuss the Sketch Plan and the Subdivision of the property, including the conformity of the plans, to the maximum extent practicable, with this Local Law, zoning requirements, and

the Town's comprehensive plan. The Planning Board shall classify the Subdivision, and if it is a Major Subdivision the provisions of this section shall apply. Based upon the potential complexity and size of the Subdivision, the amount of Infrastructure and any necessary dedications thereof, the scope of any SEQRA review and the complexity of the SWPPP and compliance with stormwater requirements, the Planning Board shall also determine the amount of the initial deposit required to cover the fees and expenses reasonably anticipated to be incurred by the Town in connection with the review of the Subdivision and its environmental and stormwater reviews. The recommended amount shall be then included in an escrow deposit or developer's agreement and the terms thereof shall be referred to and approved by the Town Board as required by Town Law § 64.

B. At or after such meeting the Planning Board may approve, approve with conditions, or deny the Sketch Plan, taking into account the manner in which water service and sewer service will be provided, the availability of existing utility services, the manner of access and traffic flows, and conformance with zoning and other requirements. If the Sketch Plan generally meets the requirement of this Local Law and the Planning Board approves the Sketch Plan, such approval shall be in writing and the Planning Board shall provide a preliminary list of modifications appropriate for the preliminary plat and its review. The Planning Board may also list conditions pertaining to the approval or the improvement of any one or more lots within the Subdivision, and the Planning Board shall also classify the action for purposes of SEQRA. The Planning Board shall be the lead agency for environmental review, unless otherwise determined under SEQRA.

C. An application for preliminary plat approval shall be submitted within 180 days after the approval of the Sketch Plan (after said 180 days the Sketch Plan approval expires). The preliminary plat application shall contain the following information or consist of the following documents:

1. Proposed subdivision name, name of the town and county in which it is located, date, true north point, scale, name and address of owner of record, the name of the Applicant, the engineer or surveyor providing the survey and plat (including license number and seal), and the name(s) of all subdivisions immediately adjacent and the name of the owners of record of all such adjacent properties with tax map numbers listed thereupon. The plat shall be or contain an actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor, and the corners of the tract shall monumented in a manner as approved by the Planning Board and so shown on the plat. If the application covers only a part of the Applicant's lands, a map of the entire tract drawn at a scale of not less than 1:4,800 showing an outline of the platted area with its proposed streets, an indication of the probable future street system, with grades and drainage in the remaining portion of the tract, and a probable future drainage layout of the entire tract. Mapping shall also display contours with intervals of 10' (or less, as required by the Planning Board), including elevations on existing roads and approximate grading plans if natural contours are to be changed by more than 2' in any areas.

2. An analysis of existing soils, any potential or existing permanent or intermittent wetlands, any flood plains or intermittently flooded areas, whether any environmental spill reports or hazardous materials are known to exist or have migrated onto the site, and a statement as to the depth to bedrock and any known seasonal or other water tables and aquifers.

3. Special, benefit, or development district information (such as the Consolidated Water District), including exact boundaries of any existing districts, the proposed boundaries of district expansions or extensions, or the boundaries of proposed new districts, together with any special regulations or improvements needed to connect to, establish, or properly serve the Subdivision with district services. Also including the location of sewer and water mains and related infrastructure.

4. All parcels of land proposed to be dedicated to public use and the purposes of each such dedication, together with identification of any lands proposed to remain as open spaces or serve public purposes even if not dedicated, such as playgrounds and private recreational facilities.

5. Locations of existing property lines, easements, buildings, water courses, marshes, rock outcrops, wooded areas, single trees with a diameter of 8" or more as measured 3' above the base of the trunk, and other significant natural existing features of the proposed Subdivision.

6. Locations of existing drain sewers, culverts, swales, watercourses, waterbodies, and other drainage areas on the property, with a description of applicable piping or culvert sizes, grades, and directions of water or drainage flows. Also including a stormwater and drainage plan indicating the approximate location and size of facilities to manage or treat stormwater, including connections to existing drainage ways or facilities or alternate means of disposal and stormwater management, and including a completed stormwater assessment or SWPPP (if required).

7. The width and location of any existing streets or public ways, together with all dimensions for any proposed roads (including width, location, grades, profiles, etc.) and information as to the type of road and any dedication of any public highways or other Infrastructure or improvements. Also including plans and cross-sections showing the proposed location and types of trails, pathways or sidewalks, street lighting standards, street trees, curbs, and storm drains, and the size and type thereof, each if and as applicable, together with the character, width, and depth of pavements and subbases thereof and the location of manholes, basins, and underground conduits, and including preliminary designs of any bridges or culverts which may be required.

8. A copy of any covenants or deed restrictions intended to cover all or part of the tract.

9. A SEAF or FEAF with Part 1 filled in, and an Agricultural Data Statement, if required.

10. If to be completed in phases or approved in sections, a statement defining and describing each such phase and its proposed timing, or such section(s) and the reasons supporting approval in sections.

11. A preliminary plat application fee for major subdivisions.

D. The provisions of Town Law § 276(5) govern the basic procedures for approval of preliminary plats and the coordination of Planning Board review with SEQRA, and the date of submission shall be the date that the Planning Board receives all required documentation to conduct a review. Town Law shall be controlling except as expressly altered by this Local Law and a public hearing shall be required for the approval of a preliminary plat. If the final plat is not in substantial accord with the preliminary plat, then a public hearing shall also be required for the final plat, as required under Town Law. In connection with any public hearing all Persons owning land within 600' of the boundary of any lot proposed to be subdivided shall be given mailed notice of the public hearing. The determination of which Persons are entitled to notification shall be based upon the land ownership records of the Tompkins County Assessment Office.

E. The Planning Board shall promptly refer the Preliminary Plat and the FEAF or SEAF to the County Planning Department in compliance with General Municipal Law §§ 239-l, *et seq*. In addition, the Planning Board shall refer the Preliminary Plat to the Town Board for a review of the roads and Infrastructure, particularly if dedication is to be considered, so as to assure compliance with Town specifications, planning, and requirements.

F. If the Subdivision is also located within, partially in, or near a designated Agricultural District, any applicable requirements of the Agriculture and Markets Law shall apply, together with any rules or regulations of the New York State Commissioner of Agriculture, including the obligation of the Applicant to file an Agricultural Data Statement and to submit, if required, a Notice of Intent.

G. At and after the public hearing, the Planning Board shall study the practicability of the preliminary plat, taking into consideration the requirements of the community and the best use of the land being subdivided.

Particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the location of existing trees and other natural features, the presence of historic buildings and sites, the future development of adjoining lands as yet not subdivided, and the requirements of the zoning ordinance and the Town's comprehensive plan.

H. As part of the public hearing or otherwise, the Planning Board shall conduct an environmental review of the proposed action and may make a determination of environmental significance following a requisite hard look at potential environmental impacts and consequences. No approval of any Major Subdivision or any preliminary or final plat shall be made until the SEQRA process is properly concluded.

I. Within 62 days after the close of the public hearing, and after the conclusion of the environmental review, the Planning Board shall approve, approve with modifications, or disapprove the preliminary plat. The grounds for modifications, if any, or the grounds for disapproval, shall be stated in records of the Planning Board. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the Applicant and the Planning Board. When approving a preliminary plat the Planning Board shall state in writing the conditions, if any, it deems necessary for submission of the Plat in final form. An approval of a preliminary plat shall not constitute approval of the final subdivision plat, as it is only an expression of approval of the design submitted on the preliminary plat as a guide to the preparation of the final plat.

J. Once a preliminary plat approval is issued the Applicant, upon implementation of modifications and compliance with any conditions, may submit an application for review of the final plat. Such submission must be made within 180 days of the date of approval of the preliminary plat, and if this deadline is not met the preliminary plat approval expires and shall automatically be deemed revoked without need of any formal action by the Town. The provisions of Town Law § 276(6) govern the procedures for approval of a final plat and the Applicant shall be required to submit at least 3 copies of the proposed final plat.

K. The Planning Board shall review the Final Plat and by resolution set forth the grounds for its action on the Final Plat. If the Final Plat does not contain the approvals of all other governmental agencies having jurisdiction over the Subdivision (such as the Tompkins County Health Department) the Planning Board may grant conditional approval of a Final Plat. In granting such conditional approval the Planning Board shall specify the requirements which, when completed, will authorize the signing of the final plat. The application fee for final plat review shall be paid at the time the final plat is filed. In addition, the following requirements apply to all final plats for Major Subdivisions:

1. All proposed Final Plats shall be prepared, signed, and sealed by a land surveyor or engineer duly licensed in the State of New York, and surveying shall show the exact boundary lines of the tract to be subdivided, all lot lines and dimensions to the nearest one-hundredth of a foot, all angles to the nearest one-half minute (if required) and all bearings, and the area of each lot to the nearest hundredth of an acre.

2. The Final Plat shall conform substantially to the approved preliminary plat, taking into account any modifications and conditions imposed or required by the Planning Board.

3. Final roadway drawings and cross-sectional drawings, surveys thereupon and therefor, and construction specifications shall be provided that show: (i) all right-of-way lines with center lines showing angles of deflection; (ii) angles of intersection; (iii) curve radii; (iv) lengths of tangents and arcs; and (v) degrees of curvature, with the basis of curve data. Lengths and distances shall be to the nearest one-hundredth foot and angles shall be to the nearest half-minute. All new roads shall be named by the Planning Board in coordination with County 911. All roads, public or private, shall be extended to the boundaries of the Subdivision to facilitate connections to potential future roads and access ways.

4. A completed Stormwater Pollution Prevention Plan that is consistent with the Town's Local Laws for Stormwater and Erosion Control and approved by the SMO and the Town's engineering consultant shall be supplied in final form, together with any proposed easements, in a form as approved by Town counsel, to be dedicated in connection therewith, whether to the Town or any drainage district.

5. The Applicant shall provide all necessary, required, or requested approvals from the New York State or the Tompkins County Health Department relative to the proposed water supplies and sewage disposal systems to be used in the Subdivision, and the seal thereof shall be endorsed upon the proposed final plat.

6. When connection to an existing public water or sewer system is proposed, construction details showing the following items shall be included: (i) the location, size, invert elevations, type, and class of pipes on all sanitary and storm sewers and manholes; (ii) the location, sizes, and type of pipes for all water mains; (iii) the location of all valves, hydrants, blowoffs, etc.; (iv) the profiles with detailed information on all storm sewers, sanitary sewers and water main crossings. All such details, drawings, specifications, and plans shall conform to Town requirements and shall be subject to the approval of the Town's engineer.

7. An accurate survey and layout of all property that is to be offered for dedication for public use, with the purpose indicated thereon, or to be held in private ownership but permanently dedicated for recreation or open space use shall be provided. Additionally, all deed covenants, legal agreements, or other easements or restrictions that legally create or dedicate such public use or rights of use shall be supplied in a form as approved by the Town Board.

8. Construction details for sidewalks, street lighting, pathways, playgrounds, sidewalks, driveways, and fire protection, as required, shall be provided. All such details are subject to the approval of the Town's engineer, or other designated official, as appropriate. Access points, curb cuts, and driveways of all types shall be designed to provide safe access to roads, with adequate line-of-sight distances.

9. The location, dimensions, and purposes of all easements and rights-of-way proposed by the Applicant or required by the Planning Board shall be supplied. All such easements and rights-of-way are subject to the approval of the Town's attorney, or other designated official, as applicable.

10. The final form of all covenants or deed restrictions that will be applied to the Subdivision or any lot shall be supplied. Such covenants and restrictions are subject to the approval of the Town Board.

11. As a condition of final plat approval, the Planning Board shall require the Applicant to file with the Town Clerk certified "as built" plans of all public utilities and roads within the Subdivision. Information to be shown on the "as built" plan shall be in accordance with requirements of the Town's engineer.

L. Formal offers of cession to, or dedications of, the Town of all roads, streets, rails, sidewalks, recreation areas, or open spaces that are proposed to be public property, in a form acceptable to the Town Board, are required. However, the mere act of offering dedication or making an offer of cessation shall not create any presumption that the Town has accepted the same. All such offers are, however, non-revocable for 360 days and each such street, recreation area, or open space, etc., shown on the final subdivision plat shall be deemed to be private until such time as each of the same have been formally accepted by the Town. The Applicant shall, for all lots or areas marked for future use or dedication, provide to the Town title documents and conveyances of title or rights-of-way or easements, as applicable or required, in a form acceptable to the Town's attorney, together with such tax searches, abstracts, resolutions, or other documents as such attorney may reasonably require to verify good title.

M. No plat, map, survey, sketch plan, drawing, or like document that shows or displays any subdivision of land shall be accepted for filing by the County Clerk unless it has been duly approved and endorsed by the Chair of the Planning Board (or other designated public official). No Person may rely upon any unendorsed plat,

survey, map, sketch plan, drawing, or like document for any reason, and each such unendorsed document shall be invalid. Further, nothing but a final plat may be endorsed. Endorsed Final Plats must be filed by the Applicant with the Planning Board, the County Assessor, and the County Clerk within 62 days of endorsement (or default approval under Town Law § 276(8)). The Applicant shall notify the Enforcement Officer in writing when the final plat has been filed with the County Clerk, and all original filed documents with the County Clerk's filing receipt(s) shall be returned to the Town.

N. No final plat or related document shall be altered or revised after it has been approved, conditionally approved, certified, sealed or endorsed. Any such alterations or revisions shall cause said document to be, become, and remain invalid, null and void.

O. The Town shall not issue any building permits for any construction in any Subdivision unless the Subdivision has been duly approved and the final plat sealed and filed, the final plat has not been the subject of rescission or had its approval invalidated for any reason, and there is compliance with the requirements of law, including Town Law § 280-a.

P. In the event an Applicant or Applicant elects to seek review of or construct a Subdivision in phases, or to approve a plat in sections, each phase and each section shall be separately submitted for Final Plat approval, and each phase and each section shall be substantially completed (or have approved and accepted performance guarantees for completion) within 2 years from the date of final plat approval. Phases or sections that do not comply with this requirement may, by resolution of the Planning Board, with the concurrence of the Town Board, have the final plat approval withdrawn and cancelled. In such cases, the Applicant shall begin the Subdivision approval process anew. Each subsequent phase and section shall be reviewed under and pursuant to the then current Town requirements at the time the subsequent phase or section is submitted. If any subsequent phase or section is submitted for approval more than 2 years after any prior final plat approval for the phase or section which it preceded, the Planning Board may require that the prior preliminary plat be re-submitted for review as if the prior approval of the preliminary plat had not occurred.

Q. An amendment to any endorsed and filed final plat may only be allowed for good cause, and any such amendment that proposes any further Subdivision or the creation of any new lot(s) shall be classified as a Major Subdivision. Otherwise, any amendment shall, if significant, be subject to public hearings and environmental reviews as required by law.

**SECTION 8 - CONSERVATION SUBDIVISIONS:**

A. Whenever any Subdivision of land in a Conservation Subdivision is proposed, and before any contract for the sale of, or any offer to sell any lot in such Subdivision is made, and before any permit for the erection of a structure in such Subdivision shall be granted, the Applicant shall apply in writing for approval of such Subdivision in accordance with the applicable provisions of this section of this Local Law and Town Law §§ 276 through 279, inclusive. Conservation Subdivisions are allowed in all zoning districts where residences are allowed and they shall be considered cluster developments per Town Law § 278.

B. Conservation Subdivisions shall be designed using Conservation Design Mapping as a resource, but such Conservation Design Mapping data shall not be controlling, is but one factor the Planning Board may consider, and may be disregarded by the Planning Board in its discretion. The procedures for review of a Conservation Subdivision shall be the same as for a Major Subdivision, except as specifically modified by the provisions of this section. The Planning Board may approve a Conservation Subdivision upon only a portion of a parent parcel if Conservation Design Mapping is provided for the entire parcel. Where suitable, the Planning Board may require the conservation of buffer and open space areas in the balance of the parent parcel to achieve the design and clustering standards of a Conservation Subdivision, including as to help buffer any areas of increased density or use and to anticipate future development of neighboring lands or the balance of the parent lot as Conservation Subdivisions or as more traditional land divisions.

C. The total number of residential dwellings or units in a Conservation Subdivision may not exceed the density allowed by the underlying zoning regulations, including due to frontage or dimensional standards, and this number may not be varied or increased by variance or waiver procedures. Nor does cluster development allow any land not permitted by zoning.

D. Other than as required by the Tompkins County Sanitary Code, there shall be no minimum lot size in a Conservation Subdivision. The Planning Board shall determine appropriate lot sizes in the course of its review of a Conservation Subdivision. Where a proposed lot abuts an existing residence lot a suitable buffer area may be required by the Planning Board. This buffer shall be at least the same as the minimum rear or side yard setbacks in the zoning district in which the existing residence is located. However, the Applicant may propose all other dimensional requirements for the Conservation Subdivision lots, including setbacks.

E. In order to facilitate and permit a clustered lot configurations wells and septic systems may be located in areas of protected open space if there are easements or other rights or means to assure maintenance of these facilities and Infrastructure. Shared septic systems or wells may be utilized with approval of the agencies having jurisdiction over the same, and shared driveways in accordance with the standards set forth herein or by Town or County Highway Departments are encouraged. Proposed roads (public or private) and common driveways within a Conservation Subdivision shall be designed and constructed to ensure their suitability for access to the lots based on projected traffic, terrain and other relevant safety factors. The design of such roads and common driveways shall be approved by the Planning Board and the Town's Highway Superintendent, and easements or covenants shall ensure the future maintenance of any such private Infrastructure, whether by cost sharing, homeowners' associations, on site management, improvement districts, or other like means and methods as approved by the Town.

F. Conservation Subdivisions shall provide for an open space management plan, and allowing fields to remain fields with cutting only once or twice a year, similar to conservation reserve program field operations, may be a sufficient plan. The Applicant shall consider or propose easements, land rights or title transfers, covenants, and other means by which to protect and manage the open spaces and conservation values identified for such Conservation Subdivision.

**SECTION 9 - EXPIRED PLATS AND APPROVALS:** In addition to any other provisions of law governing the expiration of subdivision approvals a subdivision approval will also terminate under the following circumstances:

A. If the proposed subdivision requires construction of any Infrastructure and within in 3 years of the date the Planning Board issued an approval of the final plat the owner or developer fails to commence material work and diligently pursue the same to completion, then the subdivision approval(s) (both the final plat and the preliminary plat) shall expire and the permissible uses and construction on the property shall revert to those that would otherwise be in effect in the absence of such subdivision approval unless, during such 3 years, at least 20% of the lots have been sold and deeds reflecting such transfers are duly recorded in the Tompkins County Clerk's Office. Notwithstanding the foregoing, if final subdivision approval was granted prior to December 1, 2015, the time for work to materially commence or such lots to be sold shall be extended to December 1, 2018.

B. If the proposed Subdivision does not require the construction of any Infrastructure the Subdivision approval (both final and preliminary) shall expire within the time limits set forth above with the consequences set forth above and subject to the ability to obtain extensions as set forth below, unless at least one lot of the subdivision has been transferred.

C. For the purposes of this section work will not have "materially commenced" unless, at a minimum: (i) a building or roadway permit, if required, has been obtained for at least one structure in the Subdivision; and (ii)

construction equipment and tools consistent with the size of the proposed work have been brought to and been used on the site; and (iii) significant construction of roads or utilities, or significant framing, erection, or construction of a material structure, has been started and is being diligently pursued. In addition, if such 3 years has passed and construction has been materially commenced and diligent completion is stopped or the completion of all Infrastructure is not completed within 6 years of such final approval, then the Subdivision approvals shall likewise terminate as to any non-transferred lots, and the future transfer or sale of the same shall be allowed only upon approval of a new Subdivision application.

D. For the purposes of this section lots will not have been "sold" or "transferred" unless: (i) conveyed by a deed, duly executed and recorded in the Tompkins County Clerk's Office; to (ii) a Person unrelated and not affiliated with the Applicant (or then current owner or developer); and (iii) the transfer or sale is a good faith, arms-length transaction for fair value transferring title to such third parties. The unrelated or non-affiliated third party rule referenced in this subsection will not apply where a sale is to a relative for less than fair value in accordance with circumstances related to the Planning Board as part of the Subdivision review and approval (e.g., a Subdivision where the intention is to convey a lot to a relative or to convey a lot to an adjacent landowner for less than full value).

E. The Planning Board, upon the request of the owner or Applicant, and after a public hearing, may extend the time limits for such additional periods upon such conditions as the Planning Board may reasonably determine. An application for such extension may be made at no later than six months after the expiration of the time limits set forth above. The Planning Board shall grant the request for such extension if the Board finds: (i) the imposition of the time limits set forth above would create significant hardship; and (ii) there has not been a significant change in zoning, subdivision, engineering, stormwater, environmental, or other relevant review requirements or standards since the initial approval or any subsequently granted extensions. For the purposes of this subsection a "significant hardship" includes, but is not limited to: (i) a significant economic loss that the Applicant would suffer if an extension were not granted; or (ii) an owner or Applicant suffers an inability to timely proceed because of a generally adverse economic climate, the owner or Applicant suffers a personal financial crises that detrimentally affect the ability to proceed, or there has been a significant adverse event or events in the personal affairs of the owner or Applicant.

F. In the event of any termination of Subdivision approval(s) pursuant to these provisions the Code Enforcement Officer shall cause a notice of such termination to be either delivered personally to the Applicant and owner, or forwarded by certified mail, return receipt requested, to the Applicant and owner at the last address for the Applicant on file at the Town or at the County Assessment Office. Such notice shall include an affidavit of service (personally or by mail) and such notice shall be recorded in the Tompkins County Clerk's Office and indexed to the applicable lands. The Town shall have no liability for any such filing made in good faith. Any Applicant or owner who believes the termination of approval is not warranted may file an application for a hearing before the Planning Board. Such application shall be filed within 30 days of the delivery of the notice referred to above (for this purpose "delivery" shall be deemed to occur on the date the notice is personally delivered or the day it is delivered to the postal service for mailing). The Planning Board shall hold a public hearing thereupon within 60 days of receipt of such application, on at least five days prior notice given in the same manner as required for subdivision approvals. The burden of establishing that the approval should not be terminated shall rest upon the Applicant. If the Planning Board determines that the approval was improperly terminated, it shall render a decision so stating and shall cause a notice to that effect to be forwarded to the Tompkins County Clerk's Office for recording indexing the same property as the prior notice which it shall rescind. Any determination of the Planning Board regarding such termination may be reviewed by a proceeding brought pursuant to Article 78 of the Civil Practice Law and Rules. Such proceeding shall be commenced no later than 30 days after the decision being reviewed has been filed by the Planning Board.

G. Nothing in this section is intended to alter the effect of Town Law § 265-a on lots in a Subdivision when zoning is changed to increase lot sizes or other requirements thereby render an existing Subdivision's lots nonconforming.

**SECTION 10 - DEVELOPMENT AND DESIGN STANDARDS:** The purpose of this section is to establish basic design principles and minimum standards that should be applied to all Exempt Subdivisions, Minor Subdivisions, and Major Subdivisions in the Town. These principles and standards are intended to promote and ensure sound, consistent, efficient, and safe long-range development throughout the Town.

A. Subdivisions and Subdivision plats shall be designed so as to promote efficient and beneficial land development patterns within the Town. Plats shall conform to the proposals and conditions shown on the Comprehensive Plan and official map of the Town. Roads, drainage ways, rights-of-way, school sites, public playgrounds, and open spaces shown on any Comprehensive Plan of the Town shall be considered in review of Subdivisions. Roads shall be built in accordance with the current requirements of the Town Highway Department. The layout of new roads, public or private, shall be designed to provide for the appropriate extension of existing roads and utilities, and shall take into consideration topography, drainage, views, public convenience and safety, and the proposed uses of the land to be served by such roads. All roads shall require the permanent dedication of easements, in a form approved by the Town, so as to permit utilities and related appurtenances and Infrastructure to be provided for the benefit of each lot and adjacent owners. Roads shall also be designed and built to meet the following general goals:

1. Roads whose primary function is to provide access to abutting residential property shall be designed to discourage through traffic, and Subdivisions that abut primary and county roads shall be designed to provide an adjacent service road, or reverse frontage, or to otherwise minimize the number of lots that will require direct access to said primary or county roads.

2. Road right-of-way widths shall not be less than 60 feet. Those Roads that are designated in the Comprehensive Plan as primary roads shall have a 75-foot right-of-way to accommodate future widening, walkways, and utilities.

3. Road grades shall not exceed 10% for primary roads, and 12% for secondary and local roads. Except as may be necessary at the bottom or crest of a vertical curve, no road shall have a grade less than 0.5%. Horizontal and vertical curves shall be designed with a minimum radius of 150 feet to provide a safe sight distances.

4. Permanent dead-end roads shall be no longer than 10 times the narrowest frontage of lots along such dead-end Road. All permanent dead-end Roads shall provide a turnaround at the end with a pavement radius or design that meets current Town specifications. The distance from the edge of pavement to the right-of-way shall be no less than 15 feet. Alternative designs for a turnaround that are equally effective may be considered by the Planning Board. Roads that may be continued at a later date shall provide a temporary turnaround.

5. Any continuation of an existing road shall have the same name and, to the extent possible, continuations of existing roads shall be of the same width, design, and construction parameters as the existing road.

6. All Roads shall intersect as nearly at right angles as possible, and in no case shall they intersect at an angle of less than 60°. Road grades at intersections shall not exceed 5% for a distance of 80′ from the center of the intersection. The intersections of local roads with primary roads shall be kept to a minimum in Subdivision design so that hazards and delays to traffic movement on the primary roads can be reduced. Turning lanes shall be provided when determined to be necessary by the Planning Board.

B. Insofar as possible all proposed Subdivisions shall be designed to allow for future access to adjacent properties and to roads in adjacent Subdivisions. When adjacent land is undeveloped the Planning Board shall require the building of all Subdivision roads to the property lines. When this is not possible or feasible the

Planning Board may require the establishment of permanent rights-of-way to allow for future connections to such adjacent properties.

C. The size and shape of blocks shall be determined on the basis of convenient pedestrian and vehicular traffic, circulation, control, safety, and a pleasing physical design. Block lengths should not exceed 1,500' nor be under 400 feet' and should take into account topography, traffic control and safety, and the provision of utilities and public services. Side lot lines should be perpendicular or radial to road lines. Double frontage lots and lots with extreme lot depth (3 or 4 times width) should be avoided if possible. Corner lots should have extra width to permit front yard setbacks from both streets. Where there is a question as to the suitability of a lot for its intended use due to factors such as slope, rock formations, flooding conditions, sight distances, etc., the Planning Board may require modification of the design of such lot.

D. All natural features such as trees, streams, hilltops, and views shall be preserved whenever possible in designing and laying out any Subdivision. The Planning Board may require changes in the layout to assure that natural features will be preserved, undisturbed, or incorporated into the Plat or design. Where a Subdivision contains a pond or stream that is not a designated wetland, the natural flow and course of drainage or any waterbody shall be preserved unless the Planning Board determines that realignment will enhance the Subdivision without adverse impacts to adjoining properties, the environment, and flora and fauna. Land subject to serious or regular flooding shall not be subdivided for residential occupancy or for any other use that may increase danger to life or property or that may aggravate the flood hazard. Such land may be used, however, for such uses, or in such a way, that the flood danger to the property and other upstream or downstream properties will not be increased, and periodic or occasional inundation will not be a threat to life or property.

E. Wherever possible, electrical, communications, and utility services shall be located underground or along rear property lines. In areas where public water and sewer lines exist, the Applicant shall install all necessary lines and connections as required and approved by the Town's engineer. Installation of water and sewer lines may be required in areas where water or sewer districts have been established or where the Planning Board has determined that such districts can reasonably be expected. If a Subdivision is located in an existing or proposed water district, the Applicant shall install fire hydrants no more than 400-600 feet apart, at every intersection, or as otherwise specified by the Town's engineer.

F. All drainage improvements shall be constructed in accordance with sound engineering principles and, where required, an approved SWPPP.

G. All road signs shall be provided and installed by the Town at the Applicant's expense upon approval of the Town Highway Superintendent.

H. Land shall be reserved for parks, playgrounds, open spaces, or other recreational purposes, in all locations so designated in the Town Comprehensive Plan, or elsewhere when the Planning Board deems that such reservation would be appropriate. Such reservation shall be of an area equal to approximately 5% of the gross area of the Subdivision. Land reserved for recreation purposes shall have physical characteristics suitable for such intended purpose and it shall be suitably improved by the developer or Applicant to appropriately serve its intended purpose(s). If the reservation of land for recreation or open space purposes is deemed necessary but the available lands are deemed unsuitable by the Planning Board, or the Town Board declines to approve or accept such proposed dedicated or reserved land, the Applicant shall make a payment in lieu of land in accordance with the Fee Schedule, with such funds to be used for the acquisition or upkeep of park, recreation, and open space facilities in the Town.

## SECTION 11 - IMPROVEMENTS & INFRASTRUCTURE:

A. Before the Planning Board grants final approval of any final plat, the Applicant shall provide a Performance Guarantee in an amount set by the Planning Board for the full cost of the required improvements and Infrastructure. Alternately, the Applicant may complete all required improvements to the satisfaction of the Town and stipulate in writing that no building permits or certificates of occupancy may be issued unless required improvements and Infrastructure have first been timely completed. If the Applicant commences installation of the improvements but has or will not complete them, the Applicant may still opt to thereafter proceed by posting a Performance Guarantee.

B. In all cases, the required improvements and Infrastructure shall not be considered to be completed until properly inspected and "as built" and "where built" surveys, diagrams, and maps, as applicable, are filed with the Town, including surveys mapping actual road locations, the locations of all underground utilities, and the location of all monuments as actually installed. Permanent monuments (1-1/2" galvanized pipe, 1" iron pins, or their equal, each being a minimum of 36" long) shall be set at all block corners or, if no complete blocks are involved, at each corner of the Subdivision. Each corner of each lot in the Subdivision shall also be marked by iron pipes or pins.

C. No new road, Infrastructure, recreation area, easement, or other proposed public space shown in any Subdivision or upon on an approved final plat shall become Town property until formally accepted by the Town Board. Prior to final acceptance of roads or utilities the Highway Superintendent and Town Engineer shall determine that all public utilities, roads, and required improvements have been completed in accordance with the approved plans and specifications and applicable requirements and regulations.

## SECTION 12 - VARIANCES AND MODIFICATIONS:

A. Where the Planning Board finds that due to the special circumstances of a particular application or case a waiver of certain requirements or procedures is justified, a waiver may be granted. In all cases, no waiver shall be granted unless the Planning Board finds and records in its minutes that: (i) granting the waiver would be keeping with the intent and spirit of this Local Law, and is in the best interests of the community; (ii) there is no adverse effect upon the character, appearance, or welfare of any neighborhood or the environment; (iii) there are special circumstances involved in the particular case; (iv) denying the waiver would result in undue hardship, provided that such hardship has not been self-imposed; and (v) the waiver is the minimum necessary degree of variation from the requirements of this Local Law.

B. When the Planning Board finds that due to the special circumstances of a particular area the provision of certain required improvements or Infrastructure is not necessary or in the interest of public health, safety, and general welfare, or is inappropriate due to the inadequacy or lack of existing or proposed connecting facilities in the area of a proposed Subdivision, the Planning Board may waive such requirements subject to such appropriate conditions as it may wish to impose.

C. All variances shall be exclusively within the jurisdiction of the Zoning Board of Appeals and nothing in this local law is intended to supersede, abridge, or vary the requirements of Town law §§ 267, 267-a and 267-b.

D. It is not the intent of this Local Law to effect uniformity or standardization in the development of Subdivisions in the Town. When imaginative and beneficial design concepts are proposed by an Applicant the Planning Board may grant waivers to permit the accomplishment of such concepts as long as such waivers do not violate any other applicable laws or regulations.

E. No waiver shall exempt or alter the requirements of SEQRA or the Town's Stormwater laws and requirements.

**SECTION 13 - VIOLATIONS AND PENALTIES:** Each and all remedies and rights provided to the Town under this section shall be cumulative and the Town's pursuit of any one right or remedy does not effect a waiver or an election of remedies, and the Town may thereafter pursue or continue to pursue any other right or remedy it may have in law, equity, or in admiralty. The rights and remedies herein stated are not the exclusive rights and remedies of the Town. The violation of this Local Law shall permit enforcement in any one or more of the following manners:

A. When any term, provision, or requirement of this Local Law is violated the Enforcement Officer may issue a written notice of violation to the Applicant (or other Person in violation hereof). The notice of violation shall contain; (i) the name and address of the Person alleged to have violated this Local Law; (ii) the address, when available, or a description of the building, structure or parcel upon which the violation occurred or is occurring; (iii) a brief statement specifying the nature of the violation; (iv) a statement of the fine or penalty that may or could be assessed against any Person to whom the notice of violation is directed; and (v) a clear statement identifying whether the notice commences or may commence a civil or criminal proceeding. The failure to comply with a written notice of violation by correcting the violation is in itself a separate violation of this Local Law and may be further enforced as such.

B. The Enforcement Officer may issue stop work orders for violations of this Local Law. Any Person receiving a stop work order shall be required to halt all clearing, grading, and construction until the Enforcement Officer or a court of competent jurisdiction allows work to re-commence.

C. Town may also maintain actions or proceedings in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision or requirement of this Local Law.

D. This Local Law may be enforced civilly or criminally by seeking fines, penalties, and like punishments to deter future violations and sanction offenders, and the following civil and criminal fines and penalties shall apply to any violation of the requirements or terms of this Local Law:

1. For a first offense, any Person that violates any of the provisions of this Local Law shall be (i) guilty of a violation and subject to a fine of not more than $500, or (ii) subject to a civil penalty of not more than $500 to be recovered by the Town in a civil action. Every such Person shall be deemed guilty of a separate offense for each week that such violation, disobedience, omission, neglect or refusal shall continue. Similarly, a separate civil penalty shall apply and be assessable for each week that such violation, disobedience, omission, neglect or refusal shall continue.

2. For a second offense, being any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any violation of this Local Law, a Person shall be (i) guilty of an unclassified misdemeanor and subject to a fine of not more than $2,500, or (2) subject to a civil penalty of not more than $2,500 to be recovered by the Town in a civil action. Every such Person shall be deemed guilty of a separate unclassified misdemeanor for each week that such violation, disobedience, omission, neglect, or refusal shall continue. Similarly, a separate civil penalty shall apply and be assessable for each week that such violation, disobedience, omission, neglect, or refusal shall continue.

All provisions of New York law and process generally applicable to misdemeanors shall apply to any criminal proceeding brought upon any violations of this Local Law, including for purposes of jurisdiction.

E. Upon any violation of this Local Law by an Applicant or any Person, the Enforcement Officer may decline and refuse to issue any approvals, endorsements, certifications, building permits, certificates of occupancy, certificates of compliance, and any similar or other document or approval until the Applicant or Person rectifies and cures such violation.

F. Any Person violating this Local Law may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town may take necessary corrective action, the cost of which shall become a lien upon the property until paid. In addition, the Town may commence any one or more civil proceedings in the Town Court, or any other court or tribunal of competent jurisdiction, to recover the costs of such restoration.

**SECTION 14 - SAVINGS:** If any provision of this Local Law, whether as written or applied, shall be adjudged by any court or tribunal of competent jurisdiction to be invalid or unenforceable, such judgment or determination shall not affect, impair or invalidate the remainder of this Local Law and shall be confined in its operation and interpretation only to the circumstances, Persons, and provisions of this Local Law directly involved in the controversy in which such judgment or determination shall have been rendered, and such invalidity or unenforceability shall not be applied to other Persons or circumstances. If such provision may not be so saved then it shall be deemed severed from this Local Law and the balance hereof shall survive.

**SECTION 15 - LIMITATION UPON TOWN LIABILITY:** The Town, and its officers, employees, and agents shall not be liable or responsible for any injuries to Persons or damages to property due to the Town's actions, or failures to act, under or pursuant to this Local Law unless it is proven to a reasonable degree of certainty that such injury or damage was a primary cause of such injury, loss, or damage and was principally caused by a willful or intentional act of the Town, its officers and agents. This provision shall be construed and applied to the maximum extent permitted by law, does not waive any sovereign or governmental immunity of the Town, and does not create any theory or claim of liability where none exists at law or in equity.

**SECTION 16 - FEES & EXPENSES:** Any fees referenced in this Local Law may be set and periodically updated by the Town Board by resolution. Without limiting the requirements of this Local Law, fee schedules may be developed for Subdivision and permit applications, their review or renewal, any related amendments, inspections, approvals and reviews by the Town and its agents, including title reviews, roadway inspections reviews and dedications, SEQRA reviews, stormwater review, and any other incurred expense of the Town; subject only the rule that such expense or fee be reasonable and lawfully chargeable to the Person charged by law. All such fees shall be reasonably determined in accord with law and periodically reviewed by the Town Board to assure reasonableness and legality. Whenever the Town incurs any expenses in relation to any application, review, or approval or permit issuance process, such as but not limited to, postage, publication, photocopying, or consulting (including legal and engineering consulting), the reasonable cost of such expenses shall be reimbursed to the Town by the Applicant when permitted by law, including pursuant to the federal, state, and local laws and regulations pertaining to environmental and stormwater review.

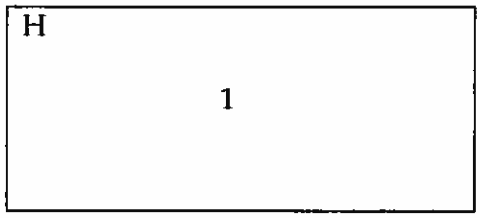
**SECTION 17 - ARTICLE 78:** Any Person aggrieved by any decision or determination of the Town may have said decision or determination reviewed by the Supreme Court in the manner provided by Article 78 of the Civil Practice Law and Rules. This provision shall not, however, expand the jurisdiction, scope, or applicability of said Article 78, create a right of standing where such right does not otherwise exist, or waive any claims, rights, or defenses the Town may have regarding questions of law or fact pertaining to the judicial and legal concepts of ripeness, standing, timeliness, governmental immunities, or of any other matter. Further, all administrative remedies and appeals must be fully exhausted before any Person may commence any proceeding under said Article 78.

**SECTION 18 - EFFECTIVE DATE:** This Local Law shall be effective immediately and shall be filed with the Town Clerk and the New York State Secretary of State.

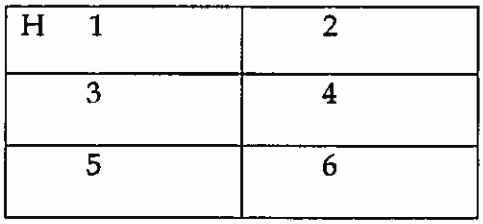
## APPENDIX A

The following diagrams serve as a guide for determining the number of lots in any Subdivision. For purposes of the Town's Subdivision Local Law the total number of lots existing after subdivision shall be the number of lots counted for purposes of classifying a subdivision, regardless of whether such lots are for sale, proposed for development, or already developed.

A single parent parcel of 12 acres with an existing home at the "H" looks as follows:

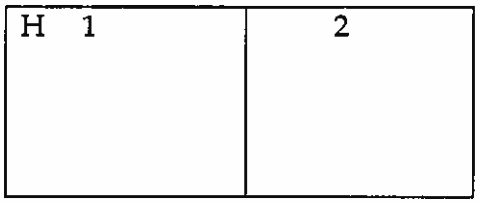



If the landowner wants to create 6 equally-sized 2 acre lots by subdivision, then the drawing looks thusly:



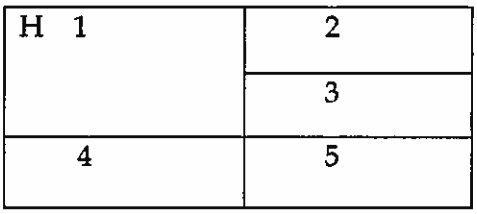

This is 6-lot subdivision - 5 new lots being carved off the parent lot. If there was no existing home there would still be the remnant of a parent lot and you thus still have a 6-lot subdivision for purposes of classification.

If the landowner wanted to create but 2 equally-sized lots of 6 acres apiece, the drawing would look thusly:




This is a 2-lot subdivision (1 new lot carved off the parent lot).

If the owner wanted to create 4 lots of 2 acres apiece, and keep 4 acres for his home lot, the drawing might look thusly:




This is a 5-lot subdivision for purposes of classification, and thus a major subdivision, even though there are only 4 new lots created.

Subdivision lots are thus counted by counting the total number of lots created in relation to any project, with due regard for, and the proper application, of timing rules relative to whether any subsequent subdivision or re-subdivision occurs.