

TOWN OF BRASHER

SUBDIVISION REGULATIONS

Adopted:
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1. General Provisions

A. Authority

This Law is adopted under the authority provided to the Town of Brasher by the New York State Town Law, Municipal Home Rule Law and the State Environmental Quality Review Act.

- 1) The Town of Brasher Planning Board shall be authorized and empowered to approve preliminary and final plats of subdivisions showing lots, blocks, or sites, with or without streets or highways, within the Town of Brasher, pursuant to § 276 of the New York State Town Law.
- 2) The Planning Board shall be also authorized and empowered, to approve the development of those plats, filed in the office of the County Clerk where twenty percent or more of the lots are unimproved unless existing conditions such as poor drainage have prevented their development.
- 3) The Planning Board shall be further authorized and empowered, pursuant to §278 of the New York State Town Law pertaining to cluster development and simultaneously with the approval of a plat or plats, to modify applicable provisions of the Town of Brasher Zoning Law, subject to the conditions set forth in §278 and later herein.
- 4) The regulations which follow have been prepared by the Town of Brasher Planning Board and are approved and adopted by the Town Board of the Town of Brasher as local law pursuant to the authority of the New York State Municipal Home Rule Law. Section 276.5(a) of New York State Town Law is hereby specifically superseded so as to permit exemption of certain subdivisions from the requirement to file plats for Planning Board approval, pursuant to Section 1.3 c hereof. The definition of "subdivision" is also superseded to encompass divisions of lands for purposes of immediate or future sale, lease, partition by the court for distribution to heirs or devisee's, transfer of ownership, building or lot development. Finally, the requirement for final plans to be submitted within six months of preliminary approval is superseded to provide for extensions of up to 18 months for this purpose.
- 5) The Planning Board shall not review or approve the subdivision of any parcel with a pending or current violation remaining unresolved.

B. Purposes

This Law is adopted for the following purposes:

- 1) Allowing for the division of land in a way that promotes orderly growth while protecting the health, safety and welfare of the public.
- 2) Affording adequate facilities for the housing, transportation, distribution, comfort and convenience of Town residents.
- 3) Conserving the Town's natural resources and protecting its attractive environment so as to maintain property values and otherwise provide for the general welfare of residents of the Town of Brasher.
- 4) Promoting the orderly growth and development of the Town in accordance with the Town of Brasher Comprehensive Plan, should one exist.
- 5) Maintaining and protecting the character of the community. Minimizing foreseeable maintenance and improvement problems as well as economic burdens associated with development of land.

C. Jurisdiction

- 1) Regardless of whether or not any formal conveyance by metes and bounds shall be made, when any subdivision of land is proposed and before any offer is made to sell any part or all of a subdivision and before any permit for the erection of any structure in such subdivision shall be issued or any grading, clearing, construction or other improvements shall be undertaken, the sub-divider or his authorized agent shall first obtain the appropriate approval of the proposed subdivision in accordance with the requirements of this Law.
- 2) It shall further be the obligation of each prospective purchaser or developer of a lot which forms any part of a subdivision to ensure that appropriate subdivision approval has been obtained. In the absence of such subdivision approval, a prospective purchaser shall not commence the erection of any structure on such lot, nor commence any grading, clearing, construction or other improvements.

D. Interpretation, Conflict and Severability

- 1) The provisions of this Law, in their interpretation and application, shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- 2) This Law is not intended to interfere with, abrogate, or annul any other law, rule or regulation statute or provision of law. Where any of the provisions of these regulations impose restrictions different than any other law, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

- 3) If any part or provision of these regulations is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of these regulations even without such part or provision or application.

E. Waiver of Submission Requirements

1. In certain instances where a subdivision application would otherwise be returned to the applicant as incomplete, the Planning Board, consistent with good planning practices and at its discretion, may by a majority vote waive one or more of the application submission requirements listed in these regulations, with the exception of a preliminary or final plat, or submissions requiring County, State or Federal approval.
2. The granting of a waiver does not apply to dimensional standards, which is subject to referral to the Town Zoning Board of Appeals.

2. Definitions

A. General

As used in this Law, words in the singular include the plural and those in the plural include the singular. The words "shall" and "will" for the purpose of this Law are defined as mandatory. For more definitions, see the Zoning Ordinance.

- 1) For the purpose of this Law, the following terms shall be considered interchangeable:
 - a) The words "Law," "regulation(s)" and "Law."
 - b) The terms "Town" and "Town of Brasher."
 - c) The terms "sub-divider" and "developer" and the terms "subdivision" and "development."
 - d) The terms "State Environmental Quality Review Act" and "SEQRA."
- 2) Unless otherwise expressly stated, the following definitions shall, for the purpose of this Law, have the meaning herein indicated. Any pertinent word or term not a part of this listing shall be construed to have its legal definition, as may be defined in "The Latest Illustrated Book of Development Terms: New Expanded Edition" by Moskowitz and Lindbloom, 2004 CUPR Press.

B. Glossary of Terms

The following is a list of specific terms, found elsewhere in the Law, along with definitions of their intended meaning:

ALLEY – A narrow street or passageway which provides a means of public access to abutting property and not intended for general traffic circulation.

ALL-WEATHER SURFACED - The surfacing of a street, parking area, access or walkway to a dustless, mud-free and otherwise permanently passable condition during all seasons of the year and under adverse weather conditions. Macadam, gravel, crushed stone and shale surfaces will all suffice to meet this test but the depth and installation of the material shall be subject to the approval of the Town Engineer.

APPLICANT - A landowner, developer or sub-divider, as hereinafter defined, who has filed an application for subdivision plat approval, including heirs, successors and assigns.

BERM – A mound of earth or the act of pushing earth into a mound.

BLOCK - A tract of land or a lot or group of lots bounded by streets, public parks, railroad rights-of-way, watercourses, bodies of water, boundary lines of the Town, or by any combination of the above.

BUILDING COVERAGE - That portion of the plot or lot area covered by a building.

CENTRAL SEWAGE or WATER SUPPLY - A sewage system or water supply system designed to serve more than one dwelling unit or building; not including the use of a single well or disposal system for two dwellings on the same parcel of land. See "**ONSITE SEWAGE or WATER SUPPLY**" for further information.

CLEAR SIGHT TRIANGLE - An area of unobstructed vision at a street intersection(s), defined by lines of sight between points at a given distance from the intersecting street centerlines.

CODE ENFORCEMENT OFFICER – An individual who is appointed or hired on a consulting basis to administer and enforce local land use laws and the New York State Uniform Fire Prevention and Building Code.

COMMON OPEN SPACE - A parcel or parcels of land or an area of water, or a combination of land and water, within a subdivision, which parcel or parcels have been designed and intended for the use or enjoyment of residents of the development. It does not include streets, off-street parking areas and areas set aside for utility placement, rights-of-way or similar public facilities.

COMMON PROPERTY - All of the land and improvements part of a subdivision which is to be jointly owned and maintained by the lot owners, lessees and/or members of the subdivision and identified as such by the sub-divider on any plat offered to the Town for approval.

CONSERVATION (CLUSTER) SUBDIVISION - A form of development for single-family residential subdivisions that permits a reduction in lot area and other development standards, provided there is no increase in the number of lots permitted under a conventional subdivision, given the specific site conditions, and no less than 35% of the total land area is devoted to permanent open space.

COUNTY - The County of St. Lawrence, State of New York, and its planning agency.

CUL-DE-SAC - A minor street providing a single access to a group of lots with a turnaround area at the end of such street.

DEC - The New York State Department of Environmental Conservation

DOH - The New York State Department of Health

DEVELOPER - The owner, or authorized agent of the owner; including but not limited to, any individual, partnership or corporation that undertakes a subdivision or any of the activities covered by this Law, particularly the preparation of a subdivision plat showing the layout of the land and the public improvements involved therein. The term "developer" is intended to include the term "sub-divider," even though the personnel involved in successive stages of this project may vary.

DRIVEWAY - A defined private access from an individual lot to a public or approved private right-of way.

DWELLING - One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family.

DWELLING, TWO-FAMILY - A building arranged, designed and intended for and occupied by two families living independently.

DWELLING, MULTI-FAMILY - A building arranged, designed and intended for and occupied by three (3) or more families living independently and having no cooking or sanitary facilities in common with any other dwelling unit; including apartment houses, apartment hotels, flats and garden apartments.

EASEMENT - A right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public or private purpose, and within which the lessee or owner of the property shall not erect any permanent structure, but shall have the

right to make any other use of the land which is not inconsistent with the rights of the grantee.

FENCE - A structure serving as an enclosure, a barrier or a boundary. Usually made of posts or stakes joined by boards, wire or rails.

FRONTAGE - That side of a lot abutting on a street or way and ordinarily regarded as the front lot, but it shall not be considered as the ordinary side of a corner lot.

HEDGE ROW - A row of closely planted shrubs or trees forming a boundary.

HEDGE - A row of closely planted shrubs or trees forming a fence or barrier.

HOUSEHOLD – A family living together in a single dwelling unit, with common access to and common uses of all living and eating areas and all areas and facilities for the preparation and serving of food within the dwelling unit.

LOT, AREA - The area of land contained within the limits of the property lines bounding that lot. Any portion of a lot included in a street right-of-way shall not be included in calculating lot area.

LOT, CORNER - A lot located at the intersection of and fronting on two or more intersecting streets, and having an interior angle at the corner of intersection of less than 135 degrees.

LOT, DEPTH - The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

LOT FRONTRAGE - The length of the front lot line as measured at the street right-of-way line.

LOT, INTERIOR - A lot other than a corner lot.

LOT, LINES - The property lines bounding the lot.

Lot Line, Front- The lot line separating the lot from the street right-of-way.

Lot Line, Rear- The lot line opposite and most distant from the front lot line.

Lot Line Side- Any lot line other than a front or rear lot line.

LOT LINE ADJUSTMENT - The relocation of an existing, common boundary between adjacent parcels where no new lot is created, and where the existing parcels do not exacerbate a non-conformity to zoning requirements, and satisfy the minimum dimensional requirements in the Town's zoning schedule. The Code Enforcement Officer is authorized to approve lot line adjustments.

LOT OF RECORD - a lot which is part of a subdivision recorded in the Office of the County Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

LOT, THROUGH - A lot having frontage on two approximately parallel or converging streets other than a corner lot.

LOT, WIDTH - The distance between side lot lines measured parallel to the front lot line at a distance from the front lot line equal to the front yard specified for the district.

ON-SITE SEWAGE or WATER SUPPLY - Any sewage system designed to; (1) treat sewage by subsurface means or (2) to provide water from a drilled well or spring; within the boundaries of an individual lot. See "CENTRAL SEWAGE or WATER SUPPLY" for further information.

PARENT PARCEL - The original, single area of land that is proposed to be divided to create smaller, individual lot(s).

PAVEMENT - Improvement of the traveled portion of a roadway with a hard, solid surface material conforming to the standards of the Town of Brasher Highway Specifications.

PERFORMANCE or COMPLETION GUARANTEE - A surety bond, certified check or other security meeting the requirements of Section 277 of New York State Town Law, and the terms of which are satisfactory to the Town Attorney, guaranteeing the sub-divider will install all required or planned improvements.

PERSON - Any individual, firm, trust, partnership, public or private association or corporation, or other entity.

PLAT - A drawing, map, chart, plan or plotting indicating the subdivision or re-subdivision of land, which in its various stages of preparation can include the following:

- 1) **SKETCH PLAN** - A general plan, identified as such with the title "Sketch Plan" on the map, indicating existing site features of a tract and its surroundings and the general layout of the proposed subdivision, to be used as a basis for conceptual consideration by the Town, Planning Board site inspection and, in the case of conservation subdivisions, determining allowable density.
- 2) **PRELIMINARY PLAT** - A complete plan prepared by a registered professional engineer or licensed land surveyor, identified as such with the wording "Preliminary Plat" in the title, accurately showing proposed streets and lot layout and such other information as required by this Law.

3) **FINAL PLAT** - A complete and exact plan, identified as such with the wording "Final Plat" in the title, with a professional engineer's or registered surveyor's seal affixed, and prepared for official recording with modifications as required during the review and approval of the Preliminary Plat.

RESERVED PARCEL - A parcel for which no building permit shall be issued except as needed to establish a water supply for a subdivision.

SECRETARY - The clerk or secretary designated to accept applications, plats, fees and correspondence on behalf of the Town of Brasher Planning Board.

SETBACK - The minimum distance by which any building or structure must be separated from a road right of way or property line.

SEQRA – State Environmental Quality Review Act. A State law, 6NYCRR Part 617, that requires the examination of environmental impacts of all actions that are permitted, funded or constructed by a local government.

SHOULDER - That portion of a roadway between the outer edge of the traveled way or pavement and the point of intersection of the slope lines at the outer edge of the roadway, for the accommodation of stopped vehicles and for lateral support.

STREET - A public or private highway or road, intended primarily for the purposes of vehicular traffic, including the following:

- 1) **STREET, MINOR** - A road, the primary purpose of which is, to collect vehicular traffic from individual dwellings or places of business.
- 2) **STREET, COLLECTOR** - A road, the primary purpose of which is, to collect vehicular traffic from minor streets and deliver it major traffic streets.
- 3) **STREET, MAJOR** - A road, the primary purpose of which is, to collect vehicular traffic from collector streets and deliver it to destination points or arterial highways, such as State Highway 37.
- 4) **STREET, MARGINAL ACCESS** - An interior street parallel to a major or Collector Street and serving abutting properties.
- 5) **STREET, PUBLIC** – A road accepted, owned, and maintained by the Town.
- 6) **STREET, PRIVATE** – a road that has not been accepted by the Town.

SUBDIVIDER - Same as DEVELOPER or APPLICANT.

SUBDIVISION - The division; for purposes of immediate or future sale, lease, partition by the court for distribution to heirs or devisees, transfer of ownership, building or lot development; of any parcel of land into two (2) or more lots, plots, sites or other divisions of land; with or without streets or highways.

- 1) **SIMPLE SUBDIVISION** – means the division of any parcel of land into two (2), plots, sites, blocks or other division of land, for the purpose of sale, transfer of ownership or building development and shall include any alterations of lot lines or dimensions of any lots or sites shown on a plat previously approved and filed with the Office of the Saint Lawrence County Clerk. The division of a parcel into two (2) lots shall constitute a minor subdivision if said parcel resulted from a prior division after which a period of six (6) years have not lapsed. The Code Enforcement Officer is authorized to approve simple subdivisions.
- 2) **MINOR SUBDIVISION** - Any subdivision conforming to all the following conditions:
 - a) Containing three (3) lots, including the original or parent parcel, but not more than five (5) lots; and
 - b) Not requiring any new street or road or the extension of municipal facilities; and
 - c) Not adversely affecting the development of the remainder of the parcel or adjoining property; and
 - d) Not in conflict with any provision or portion of the Town Zoning Law or these regulations.
 - e) Notwithstanding these requirements, the Planning Board may, however, by waiver classify any subdivision as minor which does not involve new improvements.
- c) **MAJOR SUBDIVISION** - Any subdivision or land development which is not a simple subdivision, minor subdivision or lot improvement. Any subdivision which involves the utilization of central sewage disposal systems or water supplies, the construction of any streets, or the utilization of conservation subdivision techniques shall also be considered a major subdivision, regardless of the number of lots.

SURVEYOR - A land surveyor licensed by the State of New York.

TOWN - Town of Brasher, St. Lawrence County, New York.

TOWN BOARD - Governing council - the Town of Brasher.

TOWN ENGINEER - A Professional Engineer licensed and registered as such by the State of New York and appointed or hired on a consulting basis at the expense of the developer to provide engineering advice to the Town.

TOWN HIGHWAY SPECIFICATIONS - The standards of the Town of Brasher pertaining to the approval of streets by the Town Highway Superintendent and the acceptance of such streets for formal dedication to the Town.

TOWN LAW - The New York State Town Law which governs the operation of all Towns within the State.

WATERCOURSE - A discernible, definable natural course or channel along which water is conveyed ultimately to streams and/or rivers at lower elevations including intermittent streams but excepting drainage ditches, swales or diversion terraces.

3. Plan Submission and Review Requirements

A. Sketch Plan Review

Prior to filing a subdivision application, the applicant may schedule a sketch plan review with the Planning Board to discuss the general terms of the subdivision proposal. This informal review allows the applicant and Planning Board to: determine whether the project is a minor or major subdivision; satisfies local zoning requirements; identify potential problems and concerns with the proposal; and identify information to include with the subdivision application.

The Sketch Plan should be at a scale sufficient to show the entire tract on one sheet, and include the following:

- 1) The location of that portion which is to be subdivided in relation to the entire tract.
- 2) North arrow, graphic scale, name/address of landowner and sub-divider if different.
- 3) The location of adjoining parcels and the name(s) of property owners as disclosed by the most recent deed or tax records.
- 4) Existing and natural site features including all structures, woods, streams, stone walls, State and Federal wetlands, hydric soils, flood zones, outstanding views and other aspects of the property around which a subdivision plan should be designed.

- 5) All proposed and existing streets or roads, water supply, sewage lines or septic systems, and gas and power lines on the subdivision, on adjacent parcels, and surrounding area.
- 6) The tentative layout of the remainder of the tract owned by the sub-divider.

Minor Subdivisions

Minor subdivisions shall be subject to SEQRA review and the following procedures and requirements shall apply to minor subdivisions of three to five lots. This procedure may not be used to complete a larger project in stages to avoid the procedures and requirements for major subdivisions. All other subdivisions and re-subdivisions, regardless of the total number of lots involved, shall be processed as major subdivisions according to the procedures and requirements specified herein.

- 1) All applications, plans, reports and other required documentation must be submitted a minimum of ten (10) days before a regularly scheduled meeting of the Planning Board. The Planning Board is not required to review or act upon any submissions that do not meet this criteria.
- 2) Application. Any person proposing to create a minor subdivision shall submit along with plans required below, seven (7) hard copies, and/or one digital copy of an application for minor subdivision approval. This application may be in letter form and shall specify and/or be accompanied by:
 - a) The name, address and telephone number of the property owner of record and the sub-divider, if different.
 - b) If the sub divider is not the property owner, evidence that the sub-divider has written permission of the owner(s) to make such application.
 - c) The name or number of the road where the proposed subdivision is to be located.
 - d) The name, address and telephone number of the surveyor or engineer preparing the subdivision plans.
 - e) The type of water supply proposed.
 - f) The type of sewer system proposed.
 - g) The required fee or receipt for the same from the Town Clerk.

- h) A completed Environmental Assessment Form as required by SEQRA.
- i) If the parcel consists of farmland in an Agricultural District, a completed Agricultural Data Statement.

- 4) Preliminary Plat. The sub-divider shall submit seven (7) copies of a Preliminary Plat and required supplementary data for the proposed subdivision. This plat shall be prepared by a Professional Engineer or Surveyor and shall show all the lots proposed to be created.
- 5) Soil tests. Documentation as may be required by the New York State Department of Health, along with a soils evaluation by the percolation test pit method and/or other required supplemental data relating to sewage disposal.
- 4) Street encroachment permits. A completed application to the Brasher Highway Superintendent, the State Department of Transportation or County Highway Department, as the case may be, for a street encroachment permit, shall also be required.
- 5) County Planning Board review. Applications for preliminary or final plat approval shall be subject to referral to the County Planning Board pursuant to Section 239-n of the General Municipal Law, if located within five-hundred (500) feet of:
 - 1) the Town boundaries
 - 2) the boundaries of any existing or proposed County or State park or other recreation area
 - 3) the right-of-way of any County or State highway
 - 4) the right-of-way of any existing or proposed stream or drainage channel owned by the County or for which the County has established channel lines
 - 5) the boundary of any existing or proposed County or State land on which a public building or institution is situated; or
 - 6) the boundary of a farm operation in an Agricultural District.
- 6) Public Hearing and Legal Notice Requirements. The Planning Board shall, within sixty-two (62) days of the receipt of a complete Final Plat by the Planning Board Secretary, hold a public hearing, advertising such hearing at least once in a newspaper of general circulation in the Town at least five

(5) days prior to the hearing and providing such other notice as it deems appropriate. The hearing shall be closed on motion of the Planning Board within one hundred-twenty (120) days after it is opened and be used to guide the Planning Board in acting upon the Environmental Assessment. Notices shall also be mailed at least five days prior to the public hearing to property owners that are adjacent to the proposed subdivision and to clerks of an adjacent municipality if a municipal boundary is within 500' of the proposed subdivision.

7) Action on Preliminary Plat. The Planning Board shall, by resolution, conditionally approve with or without modification, disapprove or grant final approval and authorize signing such plat within sixty-two (62) days of the close of the public hearing, provided it has first acted upon the Environmental Assessment and made a Negative Declaration with respect to environmental impacts. Should the Board be unable to make a Negative Declaration, it shall proceed in the manner provided by New York State Town Law §276.

8) Certification, filing and signing of Preliminary Plat. Within five (5) business days of the adoption of the resolution granting conditional or final approval of the final plat, such plat shall be certified by the Planning Board Chair as having been granted conditional or final approval and a copy of such resolution and plat shall be filed with the Code Enforcement Officer and /or Town Clerk, and shall be mailed to the sub-divider. In the case of a conditionally approved plat, such resolution shall include the requirements which, when completed, will authorize the signing thereof. Upon completion of such requirements the plat shall be signed by a duly authorized officer of the Planning Board, and filed with the Code Enforcement Officer and/or Town Clerk.

9) Time limits on conditional approvals. A conditional approval of a final plat shall expire within one-hundred-eighty (180) days unless all conditions are satisfied and certified as completed. This period may be extended for not more than two additional periods of ninety (90) days where particular circumstances so warrant in the judgment of the Planning Board.

10) Approvals by default. In the event the Planning Board fails to take action on a plat within the time periods prescribed herein or within such extended periods as may have been established by mutual consent of the sub-divider and Planning Board, the subscriber shall be entitled to an approval by default pursuant to the New York State Town Law.

11) Recording of approved plats. All approved plats shall be filed in the Office of the County Clerk within sixty-two (62) days of approval, subject to the provisions of § 276 of the New York State Town Law.

C. Major Subdivisions

Major subdivisions of six or more lots shall be subject to SEQRA review and be processed as follows:

- 1) All applications, plans, reports and other required documentation must be submitted a minimum of ten (10) days before a regularly scheduled meeting of the Planning Board. The Planning Board is not required to review or act upon any submissions that do not meet this criteria.
- 2) A preliminary plat will be used to determine the number of lots permitted, determine whether the subdivision will involve other agencies and make a preliminary classification of the subdivision as a Type I or Unlisted SEQRA action. The Planning Board may also use the preliminary plat to determine lead agency status; arranging and conducting a site inspection of the property; and determining whether the subdivision is located in an Agricultural District.
- 3) When Planning Board is not lead agency or an EIS is required. Should the Planning Board not assume lead agency responsibilities in the SEQRA review of the subdivision, or should an Environmental Impact Statement be required, the provisions contained herein pertaining to public hearings, notices and decisions shall be modified as provided in § 276 of the New York State Town Law.
- 4) When Planning Board is lead agency and no EIS is required. If the Planning Board acts as lead agency and determines an Environmental Impact Statement is not required, the sub-divider shall complete Part 1 of the SEQRA Long Form Environmental Assessment. The Planning Board, within sixty-two (62) days of the receipt of a Preliminary Plat which is complete except for a negative declaration filed pursuant to SEQRA, shall hold a public hearing on this Preliminary Plat, advertising such hearing at least once in a newspaper of general circulation in the Town at least five days prior to the hearing and providing such other notice as it may deem appropriate. The hearing shall be closed on motion of the Planning Board within one-hundred twenty (120) days after it is opened and be used to guide the Planning Board in acting upon the Environmental Assessment.
- 5) Action on Preliminary Plat. The Planning Board shall approve, with or without modifications, or disapprove the Preliminary Plat within sixty-two (62) days of the close of the public hearing, provided a negative declaration has first been filed pursuant to SEQRA. The grounds for modification, if any or the grounds for disapproval shall be stated upon the records of the Planning Board.

- 6) Preliminary Plat certification. Within five (5) business days of the approval of any preliminary plat, such plat shall be certified by the Chair of the Planning Board, as approved, and a copy of the plat and approval resolution shall be filed in the Office of the Town Code Enforcement Officer and/or Town Clerk. Disapproval resolutions shall be filed and mailed in the same manner.
- 7) Modifications or conditioned approvals. When approving a preliminary plat with modifications, the Planning Board shall state in writing any modifications it deems necessary for submission of the Final Plat. If the preliminary plat is approved with no modifications, the Planning Board at its discretion may not require the filing of a final plat as part of the approval process.
- 8) Time to submit final plat. The sub-divider, within six (6) months of approving the preliminary plat subject to modifications, shall install or, pursuant to the "Guarantee of Improvements" section of these regulations, financially guarantee all subdivision improvements and submit the revised plat in final form. The Planning Board may revoke the conditioned approval of a preliminary plat if a final plat is not submitted within six (6) months or grant an extension of the preliminary approval. No preliminary plat requiring modifications shall remain valid if a final plat has not been submitted within five (5) years from the approval date of the preliminary plat.
- 9) Action on final plat. When the final plat is in substantial agreement with the preliminary plat requiring modification, the Planning Board shall, by resolution, conditionally approve with or without modification, disapprove, or grant final approvals and authorize signing of such plat within sixty-two (62) days of its receipt by the Chairman of the Planning Board. No additional public hearing shall be required. When the final plat is not in substantial agreement with the preliminary plat that requires modification, the preliminary plat procedures shall apply to a final plat insofar SEQRA review, public hearing, notices and decision.
- 10) Certification, filing and signing of final plats. Within five (5) business days of the adoption of the resolution granting conditional or final approval of the final plat, such plat shall be certified by the Chairman of the Planning Board as having been granted conditional or final approval and a copy of such resolution and plat shall be filed with the Town Clerk and shall be mailed to the sub-divider. In the case of a conditionally approved plat, such resolution shall include the requirements which, when completed, will authorize the signing thereof. Upon completion of such requirements the plat shall be signed by a duly authorized officer of the Planning Board, filed with the Secretary.

- 11) Final plats by section. The Planning Board may permit any subdivision for which preliminary plat approval has been granted to be submitted in sections for final plat approval.
- 12) Time limits on conditional approvals. A conditional approval of a final plat shall expire within one-hundred-eighty (180) days unless all conditions are satisfied and certified as completed. This period may be extended for not more than two additional periods of ninety (90) days where particular circumstances so warrant in the judgment of the Planning Board.
- 13) Approvals by default. In the event the Planning Board fails to take action on a plat within the time periods prescribed herein or within such extended periods as may have been established by mutual consent of the sub-divider and Planning Board, the subscriber shall be entitled to an approval by default pursuant to the New York State Town Law.
- 14) Recording of approved plats. All approved plats shall be filed in the office of the County Clerk within sixty-two (62) days of approval, subject to the provisions of §276 of the New York State Town Law.

D. Preliminary Plat Requirements

Seven (7) copies of the Preliminary Plat shall be clearly and legibly drawn and ordinarily shall be not less than 11 inches by 17 inches (11"x17"). The Preliminary Plat may be based on concepts presented in a Sketch Plan and contain the following information:

- 1) Name of municipality, date, north arrow, and geographic scale.
- 2) Boundaries of the parent parcel, the acreage contained within it, tax map parcel number, name of the property owner, abutting parcels with the names of property owners and tax map numbers.
- 3) Proposed lot lines shall be drawn to scale and dimensions given in feet and hundredths of a foot. Lot areas shall be shown in acres or square feet. The remaining acreage in the tract from which lots are being taken shall be shown. The plat shall also depict the proposed subdivision as a part of the contiguous holdings of the sub-divider, and show adjacent lots previously subdivided from the parcel.
- 4) Any lots designated for uses other than residential, including reserve lots for water supply shall be indicated.
- 5) Applicable zoning data and building setback lines. Where lots are located on a curve, or side lines are not parallel, the width at the building line shall be shown.
- 6) Soil types, including State and Federal wetlands, hydric soils, and flood zones found on the site shall be shown. Natural Resources Conservation Service Soil Classifications shall be used.
- 7) Proposed layout of streets, alleys and other public rights-of-way, including widths and proposed names which shall not duplicate existing names by spelling or pronunciation. The street proposals shall be accompanied by a submission of plans as required by the Town Road and Street Encroachment Laws, including profiles, cross-sections, and preliminary designs for bridges and culverts.
- 8) Completed applications to Town of Brasher, St. Lawrence County Highway Department, or the New York State Department of Transportation, as the case may be, for street encroachment or highway occupancy permits.
- 9) Existing public roads shall be identified by traffic route numbers and private roads by their posted names and numbers.

- 10) Approximate locations of existing sanitary sewers, public water mains, storm sewers, electric power and transmission lines, gas lines, and all other items above or below ground with direction of flow and pressure.
- 11) Evidence of water supply. In cases where no public water supply is planned as part of the subdivision, the sub-divider shall supply acceptable evidence of the availability of other potable water sources. This evidence may be in the form of drill logs from existing wells established by professional well drillers.
- 12) Documentation as may be required by the New York State Department of Health or the Planning Board, along with a soils evaluation by the percolation test pit method and/or other required supplemental data relating to sewage disposal.
- 13) Letters from each utility servicing the area indicating that the utility company is aware of and will provide service to the proposed subdivision.
- 14) If the proposed subdivision will disturb more than one acre, a stormwater pollution prevention plan prepared in accord with the requirements hereof and DEC guidelines and standards (see "Reducing the Impacts of Stormwater Runoff from New Development").
- 15) Approximate final grades in areas of cut or fill shall be shown.
- 16) An erosion and sedimentation control plan indicating those measures to be employed during construction and as may be necessary to prevent loss of soil from erosion and to prevent resulting property damage, siltation and contamination of water courses or impoundments.
- 17) Detailed landscaping plans for such common areas or improvements as may require new landscaping.
- 18) Parcels to be dedicated to the public, or reserved for their use, or to be reserved by covenant for residents, shall be shown and marked as such. Locations, and where appropriate, dimensions of parks and public grounds, permanent buildings in, or adjacent to, the subdivision, open space easements and other significant existing site features.
- 19) Proposed covenants and restrictions. All drainage easements shall be shown and marked as such.

E. Final Plat Requirements

Each Final Plat submission shall include new submissions of Preliminary Plat data in any instance where there has been a change in the plans or the circumstances surrounding them. The Final Plat shall be prepared on one or more sheets of a uniform size coinciding with requirements of the St. Lawrence County Clerk's office. The Final Plat shall include, in addition to the information required for the Preliminary Plat submission, the following, in seven (7) copies:

- 1) Location by Town, County and State, and proposed name of the subdivision. This name shall not duplicate in spelling or pronunciation any recorded subdivision in St. Lawrence County. The name and address of landowner and sub-divider shall also be provided.
- 2) Blank approval blocks for the Town Planning Board stamp and signatures shall appear on every sheet of the set of plans.
- 3) Locator map. A 1" = 2000' locator map depicting the proposed layout, numbering and approximate dimensions and acreage of the proposed lots. U.S.G.S. quadrangle maps with 10 foot elevation contours delineating the tract boundary may suffice. The Town reserves the right to request greater detail when the scope or nature of the development demands the same.
- 4) The total tract boundary lines of the area being subdivided, with accurate distances to hundredths of a foot and bearings to one minute. These boundaries shall be determined by an accurate survey in the field; provided, however, that the boundary(s) adjoining additional un-platted land of the sub-divider (for example, between separately submitted Final Plat sections) are not required to be based upon a field survey, and may be calculated. The location of all boundary line (perimeter) monuments shall be indicated, along with a statement of the total area of the property being subdivided. In addition, the engineer or surveyor shall certify the placement of the monuments.
- 5) Accurate outlines of any lots or areas to be reserved or dedicated for common use by residents of the subdivision, or for general public use, with the purpose indicated thereon, including all open space, conservation or drainage easements.
- 6) Exact locations, widths and names of all streets and all crosswalks within the subdivision.
- 7) Complete curve data for all curves included in the Plat.

- 8) Copies of street encroachment or highway occupancy permits and complete final construction plans, including agreements as may be required to ensure maintenance of private streets.
- 9) Complete final construction plans and profiles of installed or proposed public sanitary sewage disposal systems and storm drains, with grades and pipe sizes, unless on-site sewage disposal systems are to be used.
- 10) Complete final construction plans of installed or proposed public water distribution systems showing pipe sizes and locations of valves and fire hydrants, if any, unless private wells are to be used.
- 11) Evidence of actual arrangements made with utility companies or agencies for supplying each lot in the subdivision.
- 12) Exact descriptions of all easements being provided for services or utilities in the subdivision, and any limitations placed on the use of such easements.
- 13) A final version of all restrictions and covenants, if any, the sub-divider intends to place in the deeds to the lots in the subdivision. If no such restrictions or covenants are to be imposed, a statement to that effect shall be included.
- 14) In instances where site disturbance exceeds one acre, a statement that Erosion, Sedimentation and Stormwater Pollution Prevention Plans, as required, have been prepared and approved where appropriate by the New York State Department of Environmental Conservation.
- 15) The Final Plat shall contain a certificate signed by the project engineer indicating that all improvements have either been installed and approved by the proper officials or agencies, or that a guarantee in an amount satisfactory to the Town Engineer and sufficient to ensure their installation has been submitted to the Town.

4. Design Standards

A. Application

The design standards and requirements set forth shall be observed as minimums by the sub-divider in the design of each subdivision within the Town of Brasher. The Planning Board shall require more-restrictive standards where necessary to protect the health, safety and welfare of the public, and where circumstances unique to the property so dictate.

B. General Site Requirements

- 1) Those areas which are subject to such hazards of life, health, or property as may arise from fire, flood or noise, or are considered to be uninhabitable for other reasons, may not be subdivided for building purposes unless the hazards have been eliminated or the plans show adequate safeguards correcting the hazards.
- 2) In addition, the Town may rely upon information contained in its adopted Comprehensive Plan should one exist and, in determining and evaluating potential hazards use historical records, soil evaluations, engineering studies, expert opinions, established standards used by licensed insurance companies or in professional practice, and Federal, State, or local policies.
- 3) All portions of a tract being subdivided shall be taken up in lots, streets, public lands, dedicated open space or other proposed uses, so that remnants and land-locked areas shall not be created. The layout of a subdivision shall also be planned with consideration to existing nearby developments or neighborhoods, so that the development is coordinated in terms of traffic movement, drainage, and other reasonable considerations.
- 4) In all subdivisions, care shall be taken to preserve natural features such as trees, water courses, views, and historical features which will add attractiveness and value to the remainder of the land. Where a subdivision of land is on a site that has a slope of more than 15% the Planning Board may require larger lot sizes than the minimum standards set forth herein.
- 5) Damming, filling, relocating or other interference with the natural flow of surface water along any surface water drainage channel or natural water course shall not be permitted except with the approval of the Planning Board and, where appropriate, the DEC.

C. Blocks and Lots

- 1) Blocks shall ordinarily not exceed 1,600 feet in length or be less than 400 feet.
- 2) Pedestrian interior walks or trails may be required, where necessary to assist circulation or provide access to community facilities and open space. Such walks or trails shall have a right-of-way width of not less than 6 feet and be all-weather-surfaced of not less than 3 feet in width.
- 3) Blocks shall be of sufficient width to permit two tiers of lots of appropriate depth, except where an interior street parallels a major street, or where it backs up to a railroad, creek, or other natural barrier un-subdivided area.

- 4) Where a subdivision adjoins a major highway (one which is designated and marked for two lanes or more and carries at least 1,000 vehicles per day), the greater dimension of the block shall front along said highway, and marginal access streets may be required to minimize the number of points of access. Such streets may be required whenever topographic conditions, traffic density or lack of proper sight distance dictate for reasons of health and safety. Any subdivision of five lots or more with frontages averaging less than 300 feet along the highway shall be subject to this requirement, if the Planning Board determines, after inspection, that safety demands restricting access.
- 5) Cul-de-sac streets, permanently designed as such, shall not exceed one-half the length of a proposed block, and shall furnish lot frontage at a minimum ratio of 1 residential lot for every one hundred (100) feet. The Planning Board shall have authority to require the use of loop streets and other alternatives to cul-de-sacs where such alternatives are available and preferable as a means of providing safe access to lots, making street connections or limiting environmental impacts.
- 6) All side lines of lots shall be at approximate right angles to straight street lines and radial to curved street lines, except where a variation to this rule will provide a safer layout.
- 7) Double frontage lots shall ordinarily not be platted unless a planting strip or berm of at least 20 feet in width is constructed along the lot line that fronts the exterior road, and road frontage will be considered along the interior road.
- 8) If remnants of land exist after subdividing, they shall be incorporated in existing or proposed lots, unless designated as common area or dedicated to open space.
- 9) Either of the two sides of a corner lot may be designated as the front, provided the rear yard shall always be opposite the frontage so designated.
- 10) All lots shall front on a public street or private street designed to public street standards (existing or proposed) and the right-of-way of the principal access to any subdivision shall be a minimum of one hundred (100) feet in width.
- 11) Minimum lot frontage. All residential lots shall have a front lot line with a minimum length of one hundred (100) feet.
- 12) Monuments shall be placed at perimeter corners and the corner of each street, and markers set at the corner of each lot, consistent with surveyors' professional practice, to permanently and accurately define the metes and bounds of the block and lots created.

D. Common Open Space

Except where such area would be less than one acre or the Planning Board shall waive the requirement, not less than 10% of the gross area of the entire tract, exclusive of lakes or ponds, shall be reserved for common open space directly accessible from the lots to be created. Such areas as are designated for play, parks and other outdoor recreational facilities and shall be of a size, shape and other physical characteristics so as to be free of health and safety hazards and suitable for the designated use. Such open space shall be suitable for recreational use of the residents of the subdivision or the general community. The following and similar facilities shall meet this requirement: swimming pools, tennis courts, riding and cycling paths, playgrounds, community centers, and other open areas.

No portion of the 10% requirement shall be met with wetlands, slopes exceeding 15% in grade or other otherwise un-developable areas. Sites so dedicated shall not be deemed to be accepted by the Town unless and until the Town Board has taken formal action to accept the same. The sub-divider and the Town may also agree to otherwise provide recreational land for the use of residents pursuant to the authority of § 277 of the New York State Town Law including fees in lieu of dedication.

E. Water Supply

- 1) Where a central water supply is available within 1,000 feet of the proposed residential development, the sub-divider shall, if legally and practically feasible, construct a system of water mains tied to such system and provide a connection for each lot.
- 2) Plans and specifications for central water systems (i.e. extension of an existing system or a proposed new facility) shall be prepared by a professional engineer and shall conform to the requirements of the New York State Department of Health and the local fire district(s). Suitable agreements shall also be established for the ownership and maintenance of such distribution system.
- 3) The applicant proposing a central water supply must demonstrate the ability to provide a minimum of 100 gallons of water per capita per day (GPCD) and/or 400 gallons per day (GPD) for each residential dwelling unit to be serviced. Service to industrial or commercial establishments shall meet standards established by the American Water Works Association or insurance industry underwriting standards.
- 4) New central water supply wells shall be sited, drilled, and tested under the direct supervision of a professional engineer or a professional groundwater

geologist. Wells shall be so located that no potential pollution sources can exist within a 100 foot radius (200 feet if located down slope from the pollution source). Wells shall also be located on reserved parcels where development shall not occur.

F. Sewage Disposal

- 1) All residential lots shall contain suitable areas for on-site sewage disposal system be served by an approved central sewage disposal system. Plans and specifications for central systems, as required by the New York State Department of Health (DOH) shall be submitted with all preliminary subdivision plats and design standards shall meet DOH requirements. Formal approval of DOH shall be required prior to final plat approval.
- 2) When a central sewage disposal system is located within 1,000 feet of the proposed residential development, the sub-divider shall, if legally and practically feasible, provide a system of collection lines to connect to said system. Regardless of this requirement, all subdivision and land developments shall be provided with an adequate sewage disposal system(s). Central sewage disposal systems shall also be required for all residential lots and non-residential developments where on-site soil conditions are unsuitable for on-lot subsurface sewage disposal systems.
- 3) Where connection to a central sewage disposal system is not required, on-site systems shall be provided in accordance with criteria set forth by the New York Department of Health. The applicant's professional engineer, subject to the approval of the Planning Board, shall determine the number and location of test pits and soil percolation tests necessary to determine the general suitability of soils throughout the subdivision for onsite subsurface sewage disposal,.
- 4) Sanitary sewer and stormwater infrastructure shall be used exclusively for its intended purpose. Sanitary sewers and storm water systems shall not be used to carry effluent from other sources

G. Erosion and Sedimentation

In the event that any sub-divider shall intend to make land changes by grading, filling, excavating or the removal or destruction of the natural topsoil or vegetative covering thereon in accordance with a subdivision plan submitted to the Town, the same shall only be approved and accomplished after the developer has submitted to the Town an Erosion and Sedimentation Control Plan. Erosion control measures shall be employed as necessary to prevent loss of soil from erosion and also to

prevent resulting property damage, siltation and contamination of water courses or impoundments. Erosion control measures may include hay bales, silt fences or other provisions or combinations thereof.

H. Storm Drainage

- 1) A stormwater pollution prevention plan shall be required for subdivisions that involve construction activities that disturb one or more acres of soil. Such a plan shall be prepared using DEC guidelines and standards (see "Reducing the Impacts of Stormwater Runoff from New Development"), complying with the following standards.
- 2) Storm water drainage facilities shall be designed to accommodate storms of a 25 year frequency unless a more stringent standard shall be required by the Planning Board. The general performance standard shall be that the amount of uncontrolled storm water leaving the site along any property line after development shall not exceed that estimated for the site prior to development. In instances where stormwater facilities are impractical for engineering reasons the Town may modify this standard as it applies to a particular project but shall provide for the maximum practical reduction in flow which can be achieved under the circumstances. The sub-divider shall provide full information, prepared by a professional engineer, regarding the pre-development stormwater flows and estimates at the time of application.
- 3) The following additional requirements shall apply:
 - a) Lots shall be laid out and graded to prevent cross-lot drainage away from proposed building areas. Natural drainage courses shall be maintained.
 - b) The existing points of natural drainage discharge onto adjacent property shall not be altered, nor shall the rate of water runoff be increased because of development, without the written approval of all affected landowners.
 - c) No storm water runoff or natural drainage water shall be so diverted as to overload existing drainage systems, or create flooding or the need for additional drainage structures on other private properties or public lands, without complete approval of provisions being made by the developer for properly handling such conditions.
 - d) Storm water calculations and design shall be prepared by a professional engineer, land surveyor, landscape architect or others certified to perform such work.

- e) Storm drainage facilities should be designed to handle the anticipated peak discharge from the property being subdivided.
- f) Drainage structures that are located on State highway rights-of-way shall be approved by the New York State Department of Transportation, and evidence of the same shall be provided to the Town prior to final plan approval.
- g) All streets shall be so designed as to provide for the discharge of surface water from their rights-of-way. The slope of the crown on proposed streets shall be 1/4" per foot away from the center line.
- h) All proposed surface drainage structures shall be indicated on the preliminary plan.
- i) Drainage plans shall include all appropriate designs, details and dimensions necessary to clearly explain proposed construction materials and elevations.
- j) Whenever storm drains are required by the Town, such storm sewer systems shall be separate from the sanitary sewer system. Storm drains or storm sewer facilities may be required in any development situation where the Town Board determine that surface drainage facilities are inadequate to prevent excessive erosion and lot or road maintenance problems.
- k) Drainage systems shall be designed in accordance with engineering practice, using hydraulic computations to show effects of the flow of water. The general standard shall be that the amount of storm water leaving the site along any property line after development shall not exceed pre-development stormwater flows for that area. In no case shall any pipe system of less than 15" in diameter be used underneath a street or driveway.
- l) Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided an undisturbed, vegetated drainage easement conforming substantially with the line of such water course, drainage way, channel or stream, and of such width (minimum 25 feet) to minimize soil erosion and manage stormwater run-off.
- m) All drainage systems and structures shall be subject to the approval of the Town Engineer, or any such other qualified person as may be appointed for this purpose by the Planning Board.

I. Street Requirements

- 1) The arrangement, character, extent, width, grade and location of all streets shall conform to the provisions found herein. Every subdivision shall have access to a public right-of-way.
 - a) In general, all streets shall be continuous and in alignment with existing streets and shall compose a convenient system to insure circulation of vehicular and pedestrian traffic.
 - b) Streets shall be logically related to the topography so as to produce usable lots and reasonable grades as required by this Law.
 - c) Dead-end streets shall be prohibited, except as stubs to permit future street extension into adjoining tracts. Easements to the adjoining property lines may be required to ensure the future ability to connect such streets. Cul-de-sacs may only be allowed with turn-about area consisting of an eighty (80) foot diameter right-of-way with a sixty (60) foot diameter of paving.
 - d) Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the extension of streets.
 - e) Streets shall be laid out to intersect as nearly as possible at right angles; in any event, no street shall intersect another at less than sixty (60) degrees. Intersections of more than two streets shall be avoided. Where this proves impossible, such intersections shall be designed with care for safety, and suitable curbs, barriers, signs and other devices as may be required. Streets entering opposite sides of another street shall be laid out directly opposite one another or offset a minimum of one-hundred-twenty-five feet (125').
 - f) Street and driveway intersections with arterial streets shall not be so numerous, nor so close to each other, as to impede the flow of traffic.
 - g) Clear sight triangles shall be provided at all street intersections. Within such triangles, no structure or vision-obstructing object other than utility poles, street lights, street signs, or traffic signs shall be permitted which obscures vision above the height of thirty-six (36) inches and below ten (10) feet measured from the centerline grade of intersecting streets. Such triangles shall be established from a distance of seventy-five (75) feet from the point of intersection of the centerlines.
 - h) Whenever, in connection with a major subdivision, the principal access (whether public or private) to such subdivision, by virtue of bridge weight limits of less than ten (10) tons or other comparable limitations,

would restrict access to the property by emergency vehicles or school buses, the sub-divider shall so indicate in writing on the final plats to be recorded and shall provide for notification to prospective lot buyers through deed covenant provisions which shall be approved by the Planning Board as to form.

- i) Sidewalks shall be located on one side of all minor, and on both sides for major and collector streets that adhere to NYS DOT and federal ADA design standards (minimum accessible sidewalk width of three (3) feet, and a minimum distance of two and a half (2.5) feet between the curb and sidewalk to allow for snow storage. Bike lanes may also be provided on shared roadways with a minimum width of 4.92' (1.5 meters) as measured between the motor vehicle lane and curb, and should also include appropriate signing and pavement markings at intersections to reduce conflicts between users.
- 2) Alleys may be permitted in residential areas under special circumstances, but in no case shall an alley provide the only means of access to a lot. Alleys are required on the rear of all commercial and industrial lots, if no other provisions are made for adequate service access or for parking.
- 3) Profiles: No street grade shall be less than one (1) percent or exceed the following, with due allowance for reasonable vertical curves:

Type	of	Street	or	Way
Maximum Grade				
		Major Streets	4%	
		Collector Streets	6%	
Minor	and	Marginal	Access	Streets
			8%	

Streets shall have a grade not to exceed two percent (2%) for a distance within fifty (50) feet of the street right-of-way line of any intersecting street.

- 4) Cross Section: The cross-section gradients of streets shall be not less than two percent (2%).
- 5) Minimum vertical and horizontal visibility (measured 3.5 feet eye level to tail lights 1.5 feet above ground level), for curves.

Type	of	Street	or	Way
Minimum Visibility Distance				
feet		Major Streets	500	
feet		Collector Streets	300	

feet Streets	shorter	than	500 150 feet	feet

6) The minimum right-of-way widths for streets are as follows:

Type	of	Street	or	Way
Minimum Right-of-Way Width				
		Major Streets	66 feet	
		Collector Streets	66 feet	
		Minor Streets	60 feet	
			Alleys 25 feet	

7) The entire width of the travel way of each street in a proposed subdivision shall be graded and suitably prepared for installation of paving and drainage structures, in accordance with the appropriate standards for the class of street. The subgrade shall be free of sod, vegetative matter, or other similar material. Where poor subsurface drainage conditions exist, adequate drainage shall be installed. The subgrade construction shall conform to minimum standards of the Town Highway Specifications.

8) The width of pavement required shall vary, depending upon the character of the development served and the amount of traffic expected to utilize the street. The following are minimum street pavement widths:

Type of Street	Minimum Shoulder Width (each side)	Minimum Clearance Beyond Shoulder (each side)	Minimum Pavement Width
Major Streets	10 feet	4 feet	24 feet
Collector Streets	10 feet	4 feet	24 feet
Minor Streets	6 feet	4 feet	20 feet

Pavement, in the case of minor streets permanently reserved as private by deed covenants, may consist of an all weather surface as defined herein.

9) Unless otherwise specified herein, pavement construction shall be in accordance with specifications and standards contained in the Town Highway Specifications.

a) Street shoulders shall be constructed with materials as specified by the Town Highway Specifications. The entire shoulder area shall be

uniformly and thoroughly compacted by rolling and must be level with the top of the road paving, or as directed by the Town Engineer.

- b) Embankments at the sides of streets and cross-sections of drainage ditches shall not exceed a maximum slope of three (3) feet horizontally to one (1) foot vertically in a cut or fill section. In special cases, the Town Engineer may require more-rigid standards.
- 10) In commercial or multi-family subdivisions or any other case where other similar intensive uses exist or are anticipated, curbs may be required, if such construction is deemed necessary for public safety by the Planning Board, based on consultation with the Town Engineer and shall be constructed to according to good engineering practice. Curbs shall not be constructed, however, where pavements are less than 22 feet in width.
- 11) Where the grade of the street is above or below the grade of the adjacent land, walls or slopes shall be constructed in a manner satisfactory to the Planning Board, and shall be sufficient to support the street or the adjacent land, as the case may be. Where the grade of the street is three (3) feet or more above the grade of the adjacent land, guards shall be built to protect travel, if required by the Town Engineer.
- 12) All streets, including cul-de-sacs and alleys, shall be constructed as shown on the Preliminary and Final Plat approved by the Planning Board and in conformity with the Town Highway Specifications. Where such Law does not provide a clear standard, the Town may rely upon the standards promulgated by the New York State Department of Transportation for local streets.
- 13) Four-way street name signs of a design approved by the Planning Board will be installed at each street intersection by the sub-divider at his own expense. Streets that are extensions of, or obviously in alignment with, existing streets shall bear the name of existing streets. Street names shall not be repeated within the Town and shall be subject to Planning Board approval.
- 14) Downcast, dark-sky compliant street lighting with fully recessed bulbs and cut-off shields is the responsibility of the applicant to provide, and is the responsibility of the applicant to provide. The Town Engineer will determine when and if street lighting is necessary, evaluating need on the basis of safety considerations and commonly accepted standards of lighting. Whether or not street lights are initially installed, the developer shall be responsible for providing utility easements for future street lighting installation, upon consultation with the public service utility company involved.

- 15) Shade trees and other natural buffers along any proposed street right-of-way shall be retained to the maximum extent possible and cuts and fills which would necessitate removing such cover shall be minimized. Wide swath cuts or removal of natural vegetation shall not be permitted without compelling safety reasons.
- 16) All new tree plantings shall be USDA zone-hardy; be resilient to salt and sand applications when in close proximity to roads and parking areas; should diversify the community's tree canopy; and not consist of Ash or Maple species as they are highly susceptible to the long term threat of invasive species such as the Emerald Ash Borer, the Asian Long-Horned Beetle and the Spotted Lantern Fly.
- 17) No driveway, street or drainage facility or structure shall be constructed or altered within a state right-of-way, and no drainage facility of the New York State Department of Transportation shall be altered or connected onto without first obtaining a permit from the New York State Department of Transportation. No driveway, local road or drainage facility or structure shall be constructed or altered within a Town right-of-way, and no drainage facility of the Town of Brasher shall be altered or connected onto without first obtaining a permit from the Town of Brasher Highway Superintendent.
- 18) Individual driveways serving only one single-family each shall not be subject to street improvement requirements of this Law or on the Town Highway Specifications.
- 19) Nothing contained herein shall be construed in any way to require the Town of Brasher to accept dedication of any street. These regulations are intended, rather, to set standards of construction and a proposed dedication of any such streets shall be subject to the specific dedication requirements of the Town Highway Specifications.

5. Guarantee of Improvements

- 1) After approval of the Preliminary Plat, the sub-divider, in a manner consistent with the New York State Town Law, shall provide for the installation of the required improvements (those physical additions and changes which may be necessary to provide usable and desirable lots). Before requesting Final Plat approval the sub-divider must:
 - a) Install all the improvements approved on the Preliminary Plat or required design standards, or
 - b) File with the Town Board a performance guarantee to insure installation and construction of those improvements at the standards

required. Such guarantee shall meet with the approval of the Town Attorney as to form and procedure.

- 2) The sub-divider shall meet with the Town Engineer to develop a schedule, so that at the time each improvement is to be installed and upon its completion, adequate inspections can be made. The Planning Board may approve the construction build-out of a subdivision in phases.
- 3) Modification of design improvements. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of a Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Engineer may, upon approval by a previously delegated member of the Planning Board, authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to a waiver or substantial alteration of the function of any improvements required by the Board. The Town Engineer 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.
- 4) This Section is designed to be consistent with § 277 of the New York State Town Law and the Town of Brasher hereby incorporate all authorities and requirements contained therein as part of this Law.
 - a) Posting - The performance guarantee must be approved by the Town Board and Town Attorney, with the advice of the Town Engineer, and must:
 - i) Be a corporate surety bond, irrevocable letter of credit from a bank or certified check, provided the same is satisfactory to the Town Board and Town Attorney and meets New York State Town Law § 277 requirements.
 - ii) Be payable to the Town of Brasher.
 - b) Be in an amount sufficient to complete the improvements in compliance with these regulations plus any expected cost increases over the period of the guarantee. Costs shall be assumed to escalate a minimum of 10% per year for purposes of determining the amount of the guarantee.
 - c) In the case of cash or its equivalent, be held in an escrow fund in the name of the Town of Brasher.

- d) Specify a satisfactory completion date for improvements which shall, unless extended by mutual consent of the sub-divider and the Planning Board, be not more than three (3) years from the date of the Final Plat approval. Should an extension be granted the amount of the guarantee shall be increased as may be required to cover further cost increases as provided in sub-section (3) above Provisions may also be made, pursuant to the aforementioned New York State Town Law § 277, for completion of improvements in phases.
 - i) Return - When the improvements have been completed and approved for conformity with these regulations by the Planning Board and Town Engineer or other qualified individual designated by the Town and accepted by the Town Board, the guarantee must be released and returned. When any of the required improvements have been completed and approved or materials for the same have been secured onsite, a portion of the security commensurate with the cost of these improvements, may be released and returned.
 - ii) Default - In the event of default, the obligor and surety shall be liable thereon to the Town of Brasher for the cost of the improvements or parts thereof not installed. If proceeds of such bond, or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the Town Board may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the sub-divider, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other municipal purpose.
- e) Prior to the certification of any improvements or release of any guarantee, the sub-divider shall pay all inspection and related costs (for professional services, meetings, advertisements and expenses) associated with the improvements or guarantees. These costs will be assessed as a special fee apart from the regular fees provided for in this Law. Said payment shall be made to the Town of Brasher.

5) Where improvements are being dedicated to the Town, the sub-divider shall comply with the applicable requirements of any other Town Laws governing dedication of improvements and submit a maintenance bond or other approved performance guarantee to guarantee maintenance and repair of those improvements for eighteen (18) months from the date of dedication.

The maintenance bond shall generally be a maximum of 15% of the costs of improvements, subject to approval of the Town Board. Similar maintenance agreements may be required for private streets and nothing herein shall be deemed to require acceptance of dedication by the Town under any circumstances.

6. Fees

At the time an application for subdivision approval is filed, a fee shall be paid to the Town by the sub-divider; such fee to be determined from a schedule of fees as adopted by the Town Board by resolution. Additional fees may be imposed to cover the costs of inspections, professional reviews and SEQRA compliance, as well as the expenses connected with notices and hearings.

7. Conservation (Cluster) Subdivisions

Conservation subdivisions shall be processed pursuant to the Town of Brasher Subdivision Regulations.

8. Manufactured Home Subdivisions

Manufactured home subdivisions shall be processed pursuant to the Town of Brasher Subdivision Regulations.

9. Planned Unit Developments

Planned unit developments shall be processed pursuant to the Town of Brasher Subdivision Regulations.