

## Chapter 191

### SUBDIVISION OF LAND

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**[HISTORY: Adopted by the Town Board of the Town of Massena 5-20-2009 by L.L. No. 2-2009.<sup>1</sup> Amendments noted where applicable.]**

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1. Editor's Note: This local law also repealed former Ch. 191, Subdivision of Land, adopted 6-14-2007 by L.L. No. 2-2007.

**GENERAL REFERENCES**

**Flood damage prevention** — See Ch. 131.

**Zoning** — See Ch. 207.

**Sewers and sewage disposal** — See Ch. 181.

**Highway specifications** — See Ch. A215.

**ARTICLE I**  
**General Provisions**

**§ 191-1. Authority.**

- A. This chapter is adopted under the authority provided to the Town of Massena by the New York State Town Law, Municipal Home Rule Law and the State Environmental Quality Review Act.
- B. The Town of Massena 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 Massena, pursuant to § 276 of the Town Law.
- C. The Planning Board shall also be authorized and empowered to approve the development of those plats, filed in the office of the County Clerk prior to September 10, 1975, where 20% or more of the lots are unimproved unless existing conditions such as poor drainage have prevented their development.
- D. The Planning Board shall be further authorized and empowered, pursuant to § 278 of the Town Law pertaining to cluster development and simultaneously with the approval of a plat or plats, to modify applicable provisions of the Town of Massena Zoning Law, subject to the conditions set forth in § 278 and later herein.
- E. The regulations which follow have been prepared by the Town of Massena Planning Board and are approved and adopted by the Town Board of the Town of Massena as local law pursuant to the authority of the New York State Municipal Home Rule Law. They repeal previously enacted subdivision regulations. Section 276, Subdivision 5(a), of New York State Town Law is hereby specifically superseded so as to permit exemption of certain subdivisions from the requirement to file plats for Planning Board approval, pursuant to § 191-3C hereof. The definition of "subdivision" is also superseded to encompass divisions of lands for purposes of immediate or future sale, lease, partition by the court for distribution to heirs or devisees, transfer of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 five years for this purpose.
- F. The Planning Board shall not review or approve the subdivision of any parcel with a pending or current violation remaining unresolved.

**§ 191-2. Purposes.**

This chapter is adopted for the following purposes:

- A. Promoting the orderly growth and development of the Town in accordance with the Town of Massena Comprehensive Plan.
- B. Affording adequate facilities for the housing, transportation, distribution, comfort, convenience, health and safety of Town residents.
- C. Minimizing foreseeable maintenance and improvement problems as well as economic burdens associated with development of land.
- D. 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 Massena.
- E. Maintaining and protecting the character of the community.

**§ 191-3. Jurisdiction.**

- A. 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 subdivider or his authorized agent shall first obtain the appropriate approval of the proposed subdivision in accordance with the requirements of this chapter.
- B. 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.
- C. The regulations of this chapter shall not apply to lot improvements as defined herein (see § 191-18) or to natural subdivisions where the parcels are already delimited by streets, railroads or other similar physical features effectively separating a parcel into different building lots. The Planning Board shall be authorized, where requested and for legal recording purposes, to indicate in writing on any qualifying plat presented that "These plans are acknowledged by the Town of Massena, and for recording purposes only, to represent an exempt lot improvement in accord with § 191-18 of the Town of Massena Subdivision Regulations. No subdivision approval is required or given." No plat so submitted, however, shall indicate that a subdivision is being created or approved through action of the Planning Board.

**§ 191-4. Interpretation, conflict and severability.**

- A. The provisions of this chapter, in their interpretation and application, shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- B. This chapter 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 from any other law, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. This chapter, however, shall repeal and replace in their entirety the Subdivision Regulations approved by the Town Board on September 10, 1975, including all amendments thereto preceding the enactment of this chapter as local law.
- C. 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 chapter 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.

**§ 191-5. Waivers and modifications.**

- A. Applications for waivers of standards or procedures shall ordinarily be submitted in writing by the subdivider at the time the preliminary plat is filed. The application shall state fully the grounds on which it is made.
- B. The Planning Board may, by resolution, authorize a waiver or modification of the regulations of this chapter when, in its opinion, unreasonable restriction will result from strict compliance.
- C. Waiver applications shall, in those instances where the Planning Board determines they could, if

granted, have an impact on adjoining properties, be subjected to a public hearing at the applicant's expense.

- D. Any resolution by the Planning Board authorizing a waiver of these regulations shall include the basis for its finding that unreasonable hardship will result from strict compliance with this chapter.
- E. In authorizing a waiver, the Planning Board shall attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objectives of these regulations. No waiver shall be granted which would substantially change the character of an area or compromise the purposes of these regulations.

#### **§ 191-6. Appeals.**

Any person or persons jointly or severally aggrieved by the decision of the Planning Board or Town in regard to the administration of this chapter may apply to the Supreme Court for review under Article 78 of the Civil Practice Law and Rules.

#### **§ 191-7. Penalties for offenses.**

- A. Any person who shall lay out, construct or open any street, sanitary sewer, storm sewer, water main or other improvements for public use, travel, or other purposes or for the common use of occupants of buildings located or abutting thereon, or who sells, transfers, rents, leases, conveys by other means, or agrees or enters into an agreement to do the same with any land in a subdivision, unless and until a final plat has been prepared, approved and recorded in full compliance with the provisions of this chapter, shall be deemed to have committed a violation of this chapter and shall be liable for such violation.
- B. Any person found in violation of this chapter shall be subject to a fine adopted by the Town Board by resolution. All fines collected for such violations shall be paid over to the Town of Massena.
- C. Each day that a violation continues shall be a separate violation, but nothing herein shall require the Town to post separate notice each day that a violation continues.
- D. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.
- E. The Town shall be authorized to initiate and maintain a civil action to obtain a writ of injunction against subdividers who attempt the improper sale, lease, or conveyance of land, or to set aside and invalidate any conveyance of land made prior to Town approval. It shall take other action as necessary to prevent or remedy any violation.

#### **§ 191-8. Amendments.**

Amendments to this chapter shall be made pursuant to the New York State Municipal Home Rule Law. Also, should provisions of New York State Town Law be amended to require actions different from those specified herein, the state requirements shall prevail.

#### **§ 191-9. When effective.**

This chapter shall be effective immediately upon enactment.

**ARTICLE II**  
**Definitions****§ 191-10. Word usage.**

As used in this chapter, 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 chapter are defined as mandatory. For more definitions, see Chapter 207, Zoning.

- A. For the purpose of this chapter, the following terms shall be considered interchangeable:
  - (1) The words "Law," "regulation(s)" and "Law."
  - (2) The terms "Town" and "Town of Massena."
  - (3) The terms "subdivider" and "developer" and the terms "subdivision" and "development."
  - (4) The terms "State Environmental Quality Review Act" and "SEQRA."
- B. Unless otherwise expressly stated, the following definitions shall, for the purpose of this chapter, 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.

**§ 191-11. Terms defined.**

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

**ALLEY** — A permanent service roadway providing a means of 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 subdivider, 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 any combination of the above.

**BUILDING** — A structure formed of any combination of materials which is erected on the ground and permanently affixed thereto and designed, intended or arranged for the housing, shelter, enclosure or structural support of persons, animals, or property of any kind.

**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 "on-site 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 center lines.

**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 a 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 subdivider 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 that 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.

**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 chapter, 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 "subdivider," 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** — A building arranged, intended, designed, or used as the living quarters for one or more families living independently of each other upon the premises. The term "dwelling" shall not be deemed to include hotel, motel, rooming house or tourist home.

- A. **DWELLING, SINGLE-FAMILY** — A building arranged, designed and intended for and occupied exclusively by one family.
- B. **DWELLING, TWO-FAMILY** — A building arranged, designed and intended for and occupied by two families living independently.
- C. **DWELLING, MULTIFAMILY** — A building arranged, designed and intended for and occupied by three 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.

**DWELLING UNIT** — One or more rooms designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

**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.

**FLAG LOT** — A lot not meeting minimum frontage requirements and where access to the public road is by a private right-of-way or driveway.

**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.

**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.

**LOCAL WATERFRONT REVITALIZATION PROGRAM** — A planning program that has been jointly undertaken by the Towns of Louisville and Massena and the Village of Massena and approved by the New York State Department of State. One of the key features of the program is the articulation of coastal policies that apply in the waterfront revitalization area and with which actions must be consistent.

**LOT** — A tract or parcel of land held in single or joint ownership, not necessarily shown on a duly recorded map, which is occupied or capable of being occupied by buildings, structures and accessory buildings, including such open spaces as are arranged, designed, or required. The term lot shall also mean parcel, plot, site, or any similar term.

- A. **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.
- B. **LOT IMPROVEMENT** — A division or redivision of land wherein lot area is shifted from one parcel to another so to improve the shape or dimension of each. See § 191-18 for further clarification.
- C. **LOT WIDTH** — The average of the widths of a lot at the building setback line and the rear lot line.
- D. **LOT FRONTAGE** — The length of the front lot line as measured at the street right-of-way line.

**NATURAL SUBDIVISION** — Any division of land where the parcels are already delimited by streets, railroads or other similar physical features, or by a natural land feature, such as a river, stream or cliff, and therefore effectively separating a parcel into different building lots.

**ON-SITE SEWAGE OR WATER SUPPLY** — Any sewage system designed to treat sewage by subsurface means or 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 Massena Highway Specifications (Chapter A215).

**PERFORMANCE OR COMPLETION GUARANTEE** — A surety bond, certified check or other security meeting the requirements of § 277 of the Town Law and the terms of which are satisfactory to the Town Attorney, guaranteeing the subdivider 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 resubdivision of land, which in its various stages of preparation can include the following:

- A. **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.

- B. 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 chapter.
- C. 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.

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

SEQRA — The State Environmental Quality Review Act, a state law, 6 NYCRR 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 highway or road, intended primarily for the purposes of vehicular traffic, including the following:

- A. STREET, MINOR — A road the primary purpose of which is to collect vehicular traffic from individual dwellings or places of business.
- B. STREET, COLLECTOR — A road the primary purpose of which is to collect vehicular traffic from minor streets and deliver it to major traffic streets.
- C. 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.
- D. STREET, MARGINAL ACCESS — An interior street parallel to a major or collector street and serving abutting properties.
- E. STREET, PUBLIC — A road accepted, owned, and maintained by the Town.
- F. STREET, PRIVATE — A road that has not been accepted by the Town.

SUBDIVIDER — Same as "developer."

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 or more lots, plots, sites or other divisions of land; with or without streets or highways, excepting lot improvements as defined in § 191-18 of this chapter.

A. MINOR SUBDIVISION —

- (1) Any subdivision conforming to all the following conditions:
  - (a) Containing two lots, including the original or parent parcel, but not more than four lots; and
  - (b) Not requiring any new street or road or the extension of municipal facilities; and
  - (c) With all lots fronting on an existing approved and improved street, excepting that in

situations where a minor subdivision is located more than 300 feet from the nearest Town road, in which case the Planning Board may vary this requirement to allow a fifty-foot-wide right-of-way with a twelve-foot-wide travel way; and

- (d) Not adversely affecting the development of the remainder of the parcel or adjoining property; and
- (e) Not in conflict with any provision or portion of Chapter 207, Zoning, or this chapter.

(2) Notwithstanding these requirements, the Planning Board may, however, by waiver classify any subdivision as minor which does not involve new improvements.

B. MAJOR SUBDIVISION — Any subdivision or land development which is not a 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 — The Town of Massena, St. Lawrence County, New York.

TOWN BOARD — Governing council of the Town of Massena.

TOWN ENGINEER — A professional engineer licensed as such by the State of New York and appointed or hired on a consulting basis to provide engineering advice to the Town.

TOWN HIGHWAY SPECIFICATIONS — The standards of the Town of Massena 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.

WATERFRONT REVITALIZATION BOUNDARY — A portion of the waterfront revitalization boundary that extends along coastal areas from the Village of Massena and the Town of Louisville that is located within the Town of Massena's municipal limits. The boundary was adopted as part of the Local Waterfront Revitalization Planning Program. Refer to the Waterfront Revitalization Overlay Map.

WATERFRONT REVITALIZATION OVERLAY DISTRICT — A zoning district placed over portions of the Town's underlying zones and requires all uses to satisfy Waterfront Revitalization District standards that are specified in Chapter 207, Zoning, of the Town Code.

**ARTICLE III**  
**Plan Submission and Review Requirements**

**§ 191-12. Procedures and requirements for minor subdivisions.**

The following procedures and requirements shall apply to minor subdivisions only (see definitions).<sup>2</sup> Classification as a minor subdivision refers to the ultimate buildout of a parcel, as determined by the characteristics of the parcel and judgment of the Planning Board. 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 resubdivisions, regardless of the total number of lots involved, shall be processed as major subdivisions according to the procedures and requirements specified herein.

- A. All applications, plans, reports and other required documentation must be submitted a minimum of 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.
- B. Sketch plan required. Submission of a sketch plan showing existing site features and a tentative layout of the subdivision shall be required as part of the plat approval process for all minor subdivisions. The Planning Board shall use the sketch plan for determining the number of lots permitted, arranging and conducting a site inspection of the property and establishing whether the subdivision is located in an agricultural district.
- C. Application. Any person proposing to create a minor subdivision shall submit, along with plans required below, nine copies of an application for minor subdivision approval. This application may be in letter form and shall specify and/or be accompanied by:
  - (1) The name, address and telephone number of the property owner of record and those of the subdivider, if different.
  - (2) If the subdivider is not the property owner, evidence that the subdivider has written permission of the owner(s) to make such application.
  - (3) The name or number of the road where the proposed subdivision is to be located.
  - (4) The name, address and telephone number of the surveyor or engineer preparing the subdivision plans.
  - (5) The type of water supply proposed.
  - (6) The type of sewer system proposed.
  - (7) The required fee or receipt for the same from the Town Clerk.
  - (8) A completed environmental assessment as required by SEQRA.
  - (9) A completed coastal assessment form if the proposed subdivision lies within the Waterfront Revitalization Overlay District, defined in Chapter 207, Zoning, in the Massena Town Code.<sup>3</sup>
- D. Final plat. The subdivider shall submit nine copies of a final 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. Said submission must be at least 10 days before a regularly

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2. **Editor's Note:** See the definition of "minor subdivision" under the definition of "subdivision" in § 191-11, Terms defined.

3. **Editor's Note:** See also the definition of "Waterfront Revitalization Overlay District" in § 191-11, Terms defined.

scheduled meeting of the Planning Board. The final plat shall meet the following requirements:

- (1) The subdivision plat shall, ordinarily, be not less than 8 1/2 inches by 11 inches.
- (2) The names of all abutting property owners and the size of any remaining acreages in the tract from which lots are being taken shall be shown.
- (3) The plat shall show the name of the municipality, name of the owner of record, North point, graphic scale, and date.
- (4) Soil types found on the site shall be shown unless the lots involved are lot improvements or contain existing sewage systems. Natural Resources Conservation Service classifications shall be used.
- (5) Existing public roads shall be identified by traffic route numbers and private roads by their posted names and numbers.
- (6) Proposed lot or parcel 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 plat shall depict the proposed subdivision as a part of the contiguous holdings of the subdivider and show adjacent lots already taken from the parcel.

E. Soil tests. Documentation as may be required by the New York State Department of Health, along with a soils evaluation by the test pit method and/or other required supplemental data relating to sewage disposal, shall be submitted.

F. Street encroachment permits. A completed application to the Massena 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.

G. Public hearing. The Planning Board shall, within 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 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 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 feet of the proposed subdivision.

H. Action on final plat. The Planning Board shall, by resolution, conditionally approve, with or without modification, disapprove or grant final approval and authorize signing such plat within 62 days of the close of the public hearing, provided that 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.

I. Certification, filing and signing of final plat. Within five business days of the adoption of the resolution granting conditional or final approval of the final plat, such plat shall be certified by the Secretary as having been granted conditional or final approval and a copy of such resolution and plat shall be filed in such Secretary's office and with the Town Clerk and shall be mailed to the subdivider. 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 Secretary.

- J. Time limits on conditional approvals. A conditional approval of a final plat shall expire within 180 days unless all conditions are satisfied and certified as completed. This period may be extended for not more than two additional periods of 90 days where particular circumstances so warrant in the judgment of the Planning Board.
- K. 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 subdivider and the Planning Board, the subscriber shall be entitled to an approval by default pursuant to the Town Law.
- L. Recording of final plats. All final plats shall be filed in the office of the County Clerk within 62 days of approval, subject to the provisions of § 276 of the Town Law.
- M. County Planning Board review. Applications for preliminary or final plat approval shall be subject to referral to the County Planning Board pursuant to § 239-n of the General Municipal Law, if located within 500 feet of:
  - (1) The Town boundaries; or
  - (2) The boundaries of any existing or proposed county or state park or other recreation area; or
  - (3) The right-of-way of any county or state highway, or
  - (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; or
  - (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.

#### **§ 191-13. Procedures for major subdivisions.**

Major subdivision plat submissions shall be subject to SEQRA review and be processed as follows:

- A. All applications, plans, reports and other required documentation must be submitted a minimum of 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.
- B. Sketch plan required. Submission of a sketch plan as provided in § 191-14 shall be required as part of the preliminary plat approval process for all major subdivisions. This plan shall 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 shall also use the sketch plan for purposes of determining lead agency status, arranging and conducting a site inspection of the property and establishing whether the subdivision is located in an agricultural district. A sketch plan shall be considered filed at the first regular meeting of the Planning Board following the Secretary's receipt of the plan, and all determinations with respect to the plan shall be made within 20 days of said meeting.
- C. Coastal assessment form. The applicant shall submit a completed coastal assessment form if the proposed subdivision lies within the Waterfront Revitalization Overlay District, defined in Chapter 207, Zoning, of the Massena Town Code.<sup>4</sup>
- D. 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 Town Law.

- E. 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 subdivider shall complete preparation of the preliminary plat as required by § 191-15 and provide Part 1 of the SEQRA long form environmental assessment. The Planning Board, within 62 days of the receipt by the Secretary 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 120 days after it is opened and be used to guide the Planning Board in acting upon the environmental assessment.
- F. Action on preliminary plat. The Planning Board shall approve, with or without modifications, or disapprove the preliminary plat within 62 days of the close of the public hearing, provided that a negative declaration has first been filed pursuant to SEQRA.
- G. Grounds for action. The grounds for modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the final plat.
- H. Preliminary plat certification. Within five business days of the approval of any preliminary plat, such plat shall be certified by the Chairman of the Planning Board, as approved, and a copy of the plat and approval resolution shall be filed in the office of the Town Clerk. Disapproval resolutions shall be filed and mailed in the same manner.
- I. Time to submit final plat. The subdivider, within six months of the approval of the preliminary plat, shall install or, pursuant to § 191-16, financially guarantee all subdivision improvements and submit the plat in final form as provided in § 191-17. The Planning Board may revoke the preliminary plat approval if a final plat is not submitted within six months or grant an extension of the preliminary approval. No preliminary plat shall remain valid if a final plat has not been submitted within five years from the approval date of the preliminary plat.
- J. Action on final plat. When the final plat is in substantial agreement with the preliminary plat, the Planning Board shall, by resolution, conditionally approve, with or without modification, disapprove, or grant final approvals and authorize signing of such plat within 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, the preliminary plat procedures shall apply to a final plat insofar as SEQRA review, public hearing, notices and decision.
- K. Certification, filing and signing of final plats. Within five 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 subdivider. 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 Secretary.

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4. **Editor's Note:** See also the definition of "Waterfront Revitalization Overlay District" in § 191-11, Terms defined.

- L. 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.
- M. Time limits on conditional approvals. A conditional approval of a final plat shall expire within 180 days unless all conditions are satisfied and certified as completed. This period may be extended for not more than two additional periods of 90 days where particular circumstances so warrant in the judgment of the Planning Board.
- N. 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 subdivider and the Planning Board, the subscriber shall be entitled to an approval by default pursuant to the Town Law.
- O. Recording of final plats. All final plats shall be filed in the office of the County Clerk within 62 days of approval, subject to the provisions of § 276 of the Town Law.
- P. County planning agency review. Applications for preliminary or final plat approval shall be subject to referral to the county planning agency pursuant to § 239-n of the General Municipal Law, if located within 500 feet of:
  - (1) The Town boundaries; or
  - (2) The boundaries of any existing or proposed county or state park or other recreation area; or
  - (3) The right-of-way of any county or state highway; or
  - (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; or
  - (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.

#### **§ 191-14. Sketch plans for major subdivisions.**

The sketch plan should be at a scale sufficient to show the entire tract on one sheet and should show or include the following:

- A. The location of that portion which is to be subdivided in relation to the entire tract.
- B. An existing and natural site features analysis which depicts all structures, wood area, streams, natural features, stone walls, wetlands, outstanding views and other aspects of the property around which a subdivision plan should be designed.
- C. The name of the owner and of all adjoining property owners as disclosed by the most recent deed or tax records.
- D. All streets or roads, streams, water, sewage and gas and power lines within 500 feet of the subdivision.
- E. The tentative layout of the remainder of the tract owned by the subdivider.
- F. North point, graphic scale, date and name/address of subdivider and landowner.

G. A location map with sufficient information to enable the locating of the property.

H. Proposed open spaces.

**§ 191-15. Preliminary plat requirements for major subdivisions.**

A. The preliminary plan shall be clearly and legibly drawn and ordinarily shall be not less than 11 inches by 17 inches and should, when possible, show the entire tract to be divided. Nine copies of all plans and materials shall be provided.

B. The plat shall be based on the concepts presented in the sketch plan and contain the following information:

- (1) Proposed name of the subdivision. This name shall not duplicate in spelling or pronunciation any recorded subdivision within St. Lawrence County. The name and address of landowner and subdivider shall also be provided.
- (2) Location by town, county and state. The plan shall also include Tax Map numbers for affected and adjacent parcels and a one-inch>equals=two-thousand-feet location map.
- (3) North point, date and graphic scale.
- (4) Boundaries of total tract and acreage contained within it. [Also see § 191-17A(7).]
- (5) 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.
- (6) 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 the ground, with direction of flow and pressure.
- (7) Names of owners of abutting properties, and lines showing where they intersect.
- (8) Existing contours at intervals of at least every 20 feet. USGS maps may suffice for the basis of this item. The Town reserves the right to request greater detail when the scope or nature of the development demands the same.
- (9) 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.
- (10) The proposed layout, numbering and approximate dimensions and acreage of lots.
- (11) 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.
- (12) 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.
- (13) All drainage easements shall be shown and marked as such.
- (14) Approximate final grades in areas of cut or fill shall be shown.

- (15) Any lots designated for uses other than residential shall be indicated.
- (16) Proposed covenants and restrictions.
- (17) Evidence of water supply. In cases where no public water supply is planned as part of the subdivision, the subdivider shall supply acceptable evidence of the availability of other potable water source. This evidence may be in the form of drill logs from existing wells established by professional well drillers.
- (18) Letters from each utility servicing the area indicating that the utility company is aware of and will provide service to the proposed subdivision.
- (19) 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 watercourses or impoundments.
- (20) A stormwater management plan prepared in accord with the requirements hereof and DEC guidelines and standards (see "Reducing the Impacts of Stormwater Runoff from New Development").
- (21) Documentation as may be required by the New York State Department of Health or the Planning Board, along with a soils evaluation by the test pit method and/or other required supplemental data relating to sewage disposal.
- (22) All applicable zoning data.
- (23) Completed applications to the Town of Massena, the County of St. Lawrence or the New York Department of Transportation, as the case may be, for street encroachment or highway occupancy permits.
- (24) Detailed landscaping plans for such common areas or improvements as may require new landscaping.

**§ 191-16. Requirements for guarantee of improvements.**

- A. After approval of the preliminary plat, the subdivider, 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 subdivider must:
  - (1) Install all the improvements approved on the preliminary plat or required by Article IV, Design Standards; or
  - (2) 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.
- B. The subdivider 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.
- C. This section is designed to be consistent with § 277 of the New York State Town Law, and the Town of Massena hereby incorporates all authorities and requirements contained therein as part of this chapter.

- (1) Posting. The performance guarantee must be approved by the Town Board and the Town Attorney, with the advice of the Town Engineer, and must:
  - (a) Be a corporate surety bond, irrevocable letter of credit from a bank or certified check, provided that the same is satisfactory to the Town Board and the Town Attorney and meets Town Law § 277 requirements.
  - (b) Be payable to the Town of Massena.
- (2) 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 a guarantee.
- (3) In the case of cash or its equivalent, be held in an escrow fund in the name of the Town of Massena.
- (4) Specify a satisfactory completion date for improvements which shall, unless extended by mutual consent of the subdivider and the Planning Board, be not more than three 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 Subsection C(3) above. Provisions may also be made, pursuant to the aforementioned Town Law § 277, for completion of improvements in phases.
  - (a) Return. When the improvements have been completed and approved for conformity with these regulations by the Planning Board and the 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 on site, a portion of the security commensurate with the cost of these improvements may be released and returned.
  - (b) Default. In the event of default, the obligor and surety shall be liable thereon to the Town of Massena 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 subdivider, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other municipal purpose.
- (5) Prior to the certification of any improvements or release of any guarantee, the subdivider 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 chapter. Said payment shall be made to the Town of Massena.

D. Where improvements are being dedicated to the Town, the subdivider 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 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.

**§ 191-17. Final plat requirements for major subdivisions.**

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. Final plat attachments and exhibits shall be numbered and labeled in accordance with the requirements of this section and a "subdivision checklist" to be developed by the Town.

A. The final plat shall include, in addition to the information required for the preliminary plat submission, the following, in nine copies:

- (1) Exact locations, widths and names of all streets and all crosswalks within the subdivision.
- (2) Complete curve data for all curves included in the plat.
- (3) Exact descriptions of all easements being provided for services or utilities in the subdivision, and any limitations placed on the use of such easements.
- (4) 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.
- (5) Front building lines, shown graphically with dimensions.
- (6) A final version of all restrictions and covenants, if any, the subdivider 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.
- (7) 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 accurate survey in the field; provided, however, that the boundary(s) adjoining additional unplatte land of the subdivider (for example, between separately submitted final plat sections) is(are) not required to be based upon 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.
- (8) 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.
- (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) A key map for the purpose of locating the site to be subdivided, at a scale of not less than 2,000 feet to one inch, showing the relation of the property to adjoining property and to all streets, roads and municipal boundaries existing within 4,000 feet or any part of the property proposed to be subdivided. USGS quadrangle maps may suffice as a base for such a key map.
- (13) Blank approval blocks for the Town Planning Board stamp and signatures shall appear on every sheet of the set of plans.
- (14) A statement that erosion and sedimentation and stormwater management plans, as required, have been prepared and, where appropriate, approved by the St. Lawrence County Soil and Water Conservation District.
- (15) 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.

B. Each final plat submission shall, in addition to the items required above, include new submissions of preliminary plat data in any instance where there has been a change in the plans or the circumstances surrounding them.

#### **§ 191-18. Lot improvements and natural subdivisions.**

Lot improvements, and natural subdivisions where the parcels are already delimited by streets, railroads or other similar physical features effectively separating a parcel into different building lots, shall be exempt from the requirements contained herein, provided that nine copies of a plan prepared by a licensed land surveyor or professional engineer have been submitted describing the conveyances involved by metes and bounds and in sufficient detail to determine the situation fits the criteria below. To qualify as a lot improvement, the parcels shall:

- A. Involve the addition of land to an existing parcel so as to:
  - (1) Improve ability of that parcel to comply with setback or other building standards; or
  - (2) Increase suitability of the parcel for building development; or
  - (3) Add to the availability of open space; or
  - (4) Resolve a boundary line dispute or produce a corrected deed if a map reflecting the same is desired for recording purposes.
- B. Not substantially reduce the ability of the lot, from which the lot improvement parcel is taken or reconfigured, to comply with the applicable standards of this chapter.
- C. Include a map restriction to the effect the improvement parcel will never be considered a separate building lot apart from the tract to which it is being added. The Planning Board shall, within 31 days of the receipt of the lot improvement plans, determine whether they comply with the exemption criteria found above. Should the Planning Board fail to act in the provided time or make a finding that the plans do not meet the criteria; such plans shall be deemed rejected unless an extension is granted by the Planning Board. If the Planning Board finds they do qualify as a lot improvement, the Board shall sign the plans with the following notation: "These plans are acknowledged by the Town of Massena, and for recording purposes only, to represent an exempt lot improvement or natural subdivision in accordance with § 191-18 of the Town of Massena Subdivision Regulations. No

subdivision approval is required or given." No person shall record plans for any lot improvement without so first obtaining the Planning Board's clearance.

**§ 191-19. Fees.**

At the time an application for subdivision approval is filed, a fee shall be paid to the Town by the subdivider; 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.

## ARTICLE IV

### Design Standards

#### **§ 191-20. Application.**

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

#### **§ 191-21. General site requirements.**

- A. 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.
- B. In addition, the Town may rely upon information contained in its Comprehensive Plan 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.
- C. 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 landlocked 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.
- D. In all subdivisions, care shall be taken to preserve natural features such as trees, watercourses, 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.
- E. Damming, filling, relocating or other interference with the natural flow of surface water along any surface water drainage channel or natural watercourse shall not be permitted except with the approval of the Planning Board and, where appropriate, DEC.

#### **§ 191-22. Blocks and lots.**

- A. Blocks shall ordinarily not exceed 1,600 feet in length or be less than 400 feet.
- B. 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 six feet and be all-weather surfaced for not less than three feet in width.
- C. 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 unsubdivided area.
- D. 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.

- E. Cul-de-sac streets, permanently designed as such, shall not exceed 1/2 the length of a proposed block and shall furnish lot frontage at a minimum ratio of one residential lot for every 60 feet. The Planning Board shall have authority to require the use of loop streets and other alternatives to culs-de-sac where such alternatives are available and preferable as a means of providing safe access to lots, making street connections or limiting environmental impacts.
- F. 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.
- G. Double frontage lots shall ordinarily not be platted, except as specifically provided herein. In that event, a planting strip of at least 20 feet in width may be required along the back of the lot.
- H. 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.
- I. Either of the two sides of a corner lot may be designated as the front, provided that the rear yard shall always be opposite the frontage so designated.
- J. 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 60 feet in width. However, upon written request by the subdivider, the Planning Board may grant a waiver from this and other street requirements of this chapter to permit access to no more than two single-family residential lots from a single private drive, provided that a release has been given the Town and approved by the Town Board making clear that the Town is exempted from all responsibility for the maintenance of the same and that the lot in question is not capable of being subdivided further or is so restricted. Such private drive shall be owned and maintained by one of the lot owners. The requirement for a single private drive may be waived in instances where the front lot is already developed. See § 191-28R hereof.
- K. Minimum lot frontage. All residential lots shall have a front lot line with a minimum length of 60 feet.
- L. Flag lots. The development of interior lots with limited lot frontage consisting of only an access right-of-way shall be permitted, provided that:
  - (1) The right-of-way is a minimum of 50 feet in width, is improved according to the requirements of this chapter and meets the requirements of the Town Driveway Law.
  - (2) The lot area shall be exclusive of that portion used as a right-of-way for purposes of meeting minimum lot area and all other development standards for the district.
  - (3) No right-of-way shall be established over an existing parcel of land to reach a new lot to the rear which would reduce the length of the front lot line of the existing parcel to less than 60 feet.
  - (4) All flag lot access rights-of-way shall be titled in fee simple ownership to the flag lot property owner and shall not be used to access any property not part of the original tract. Such owner shall bear responsibility for maintenance of the improvements.

(5) No more than two additional such lots shall be created from an existing parcel, a cumulative total of three lots, including the original. This restriction shall be incorporated in deed covenants and placed on the recorded plat map at the time any flag lot is created.

M. 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.

#### **§ 191-23. 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 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. Such areas as are designated for play lots, parks and other outdoor recreational facilities 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. No portion of the ten-percent requirement shall be met with wetlands, slopes exceeding 15% in grade or other otherwise undevelopable 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 subdivider and the Town may also agree to otherwise provide recreational land for the use of residents pursuant to the authority of § 277 of the Town Law, including fees in lieu of dedication.

#### **§ 191-24. Water supply.**

A. Where a central water supply is available within 1,000 feet of the proposed residential development, the subdivider shall, if legally and practically feasible, construct a system of water mains tied to such system and provide a connection for each lot.

B. 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 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.

C. The applicant proposing a central water supply must demonstrate 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.

D. 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 one-hundred-foot radius (200 feet if located downslope from the pollution source). Wells shall also be located on reserved parcels.

#### **§ 191-25. Sewage disposal.**

A. All residential lots shall contain suitable areas for on-site sewage disposal systems [also see §§ 191-12E and 191-15B(21)] or be served by an approved central sewage disposal system. Plans and specifications for central systems, as required by the New York State Department of Environmental Conservation (DEC), shall be submitted with all preliminary subdivision plats, and design standards

shall meet DEC requirements. Formal approval of DEC shall be required prior to final plat approval.

- B. When a central sewage disposal system is located within 1,000 feet of the proposed residential development, the subdivider 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 nonresidential developments where on-site soil conditions are unsuitable for on-lot subsurface sewage disposal systems.
- C. 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 on-site subsurface sewage disposal.
- D. Sanitary sewer and stormwater infrastructure shall be used exclusively for its intended purpose. Sanitary sewers and stormwater systems shall not be used to carry effluent from other sources.

#### **§ 191-26. Erosion and sedimentation.**

In the event that any subdivider 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 watercourses or impoundments. Erosion control measures may include hay bales, silt fences or other provisions or combinations thereof.

#### **§ 191-27. Storm drainage.**

- A. A stormwater drainage plan shall be required for major subdivisions. 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.
- B. Stormwater drainage facilities shall be designed to accommodate storms of a twenty-five-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 stormwater 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 subdivider shall provide full information, prepared by a professional engineer, regarding the pre-development stormwater flows and estimates at the time of application.
- C. The following additional requirements shall apply:
  - (1) Lots shall be laid out and graded to prevent cross-lot drainage away from proposed building areas. Natural drainage courses shall be maintained.
  - (2) 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.

- (3) No stormwater 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.
- (4) Stormwater calculations and design shall be prepared by a professional engineer, land surveyor, landscape architect or others certified to perform such work.
- (5) Storm drainage facilities should be designed to handle the anticipated peak discharge from the property being subdivided.
- (6) 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.
- (7) 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 inch per foot away from the center line.
- (8) All proposed surface drainage structures shall be indicated on the preliminary plan.
- (9) Drainage plans shall include all appropriate designs, details and dimensions necessary to clearly explain proposed construction materials and elevations.
- (10) 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 determines that surface drainage facilities are inadequate to prevent excessive erosion and lot or road maintenance problems.
- (11) 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 stormwater 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 inches in diameter be used underneath a street or driveway.
- (12) Where a subdivision is traversed by a watercourse, drainageway, channel, or stream, there shall be provided an undisturbed, vegetated drainage easement conforming substantially with the line of such watercourse, drainageway, channel or stream, and of such width (minimum 25 feet).
- (13) 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.

#### **§ 191-28. Street requirements.**

- A. 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.
  - (1) 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.
  - (2) Streets shall be logically related to the topography so as to produce usable lots and reasonable grades as required by this chapter.
  - (3) Dead-end streets shall be prohibited, except as stubs to permit future street extension into

adjoining tracts or when designed as culs-de-sac. Easements to the adjoining property lines may be required to ensure the future ability to connect such streets.

- (4) Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the extension of streets.
- (5) 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 60°. 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 125 feet.
- (6) 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.
- (7) Clear sight triangles shall be provided at all street intersections. Within such triangles, no structure or vision-obstructing object other than utility poles, streetlights, street signs, or traffic signs shall be permitted which obscures vision above the height of 36 inches and below 10 feet measured from the center-line grade of intersecting streets. Such triangles shall be established from a distance of 75 feet from the point of intersection of the center lines.
- (8) 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 10 tons or other comparable limitations, would restrict access to the property by emergency vehicles or school buses, the subdivider 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.
- (9) Sidewalks shall be located on one side of all minor streets and on both sides for major and collector streets that adhere to NYSDOT and federal ADA design standards (minimum accessible sidewalk width of three feet, and a minimum distance of 2 1/2 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 feet (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.

B. 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.

C. Profiles.

(1) No street grade shall be less than 1% or exceed the following, with due allowances for reasonable vertical curves:

Type of Street or Way	Maximum Grade
Major streets	4%
Collector streets	6%
Minor and marginal access streets	8%

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

D. Cross section: The cross-section gradients of streets shall be not less than 2%.

E. Minimum vertical and horizontal visibility (measured 3.5 feet eye level to taillights 1.5 feet above ground level), for curves.

Type of Street or Way	Minimum Visibility Distance (feet)
Major streets	500
Collector streets	300
Minor streets	300
Streets shorter than 500 feet	150

F. The minimum right-of-way widths for streets are as follows:

Type of Street or Way	Minimum Right-of-Way Width (feet)
Major streets	66
Collector streets	66
Minor streets	60
Alleys	25
Private drives	See § 191-28R.

G. On all dead-end roads, as allowed in § 191-28A(3), a turnaround area with an eighty-foot-diameter right-of-way and sixty-foot-diameter traveled portion shall be provided.

H. The entire width of the travelway 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.<sup>5</sup>

I. 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.

(1) The following are minimum street pavement widths:

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5. Editor's Note: See Ch. A215 in this Code.

Type of Street	Minimum Shoulder Width (feet)	Minimum Clearance Beyond Shoulder (feet)	Minimum Pavement Width (feet)
Major streets	6	2	24
Collector streets	6	2	24
Minor streets	6	2	24
Private drives	See § 191-28R.	None	See § 191-28R.

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

J. Unless otherwise specified herein, pavement construction shall be in accordance with specifications and standards contained in the Town Highway Specifications.<sup>6</sup>

(1) 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.

(2) Embankments at the sides of streets and cross sections of drainage ditches shall not exceed a maximum slope of three feet horizontally to one foot vertically in a cut or fill section. In special cases, the Town Engineer may require more-rigid standards.

K. In commercial or multifamily 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 according to good engineering practice. Curbs shall not be constructed, however, where pavements are less than 22 feet in width.

L. 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 feet or more above the grade of the adjacent land, guards shall be built to protect travel, if required by the Town Engineer.

M. All streets, including culs-de-sac 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.<sup>7</sup> 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.

N. Four-way street name signs of a design approved by the Planning Board will be installed at each street intersection by the subdivider 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.

O. Streetlighting is the responsibility of the applicant to provide and the lot owners to maintain and

6. Editor's Note: See Ch. A215 in this Code.

7. Editor's Note: See Ch. A215 in this Code.

operate. The Town Engineer will determine when and if streetlighting is necessary, evaluating need on the basis of safety considerations and commonly accepted standards of lighting. Whether or not streetlights are initially installed, the developer shall be responsible for providing utility easements for future streetlighting installation, upon consultation with the public service utility company involved.

- P. 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.
- Q. 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 Massena shall be altered or connected onto without first obtaining a permit from the Town of Massena Highway Superintendent.
- R. Driveways and private drives.
  - (1) Individual driveways serving only one single family each shall not be subject to street improvement requirements of this chapter or on the Town Highway Specifications. Also, private drives to service no more than two single-family dwellings shall be permitted (see § 191-22J hereof), provided that the Town is given satisfactory evidence, in the form of declaration of restrictive covenants, that the private status of said road is permanent and the following standards are met:

Standard	Minimum Width (feet)
Minimum right-of-way	50
Minimum pavement width	16
Minimum shoulder width	3
Streets shorter than 500 feet	50

- (2) Pavement may consist of any all-weather surface satisfactory to the Town Engineer (if one shall be appointed) and the Town Highway Superintendent. All drainage plans shall also be subject to approval of the Town Engineer (if one shall be appointed) and the Town Highway Superintendent.
- S. Nothing contained herein shall be construed in any way to require the Town of Massena to accept dedication of any street. These regulations are intended, rather, to set standards of construction for private streets, and a proposed dedication of any such streets shall be subject to the specific dedication requirements of the Town Highway Specifications.<sup>8</sup>

### § 191-29. Conservation (cluster) subdivisions.

Conservation subdivisions shall be processed pursuant to § 207-36 of the Town of Massena Code.

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8. Editor's Note: See Ch. A215 in this Code.

**§ 191-30. Manufactured home subdivisions.**

Manufactured home subdivisions shall be processed pursuant to § 207-59 of the Town of Massena Code.

**§ 191-31. Planned unit developments.**

Planned unit developments shall be processed pursuant to § 207-37 of the Town of Massena Code.

**§ 191-32. Subdivisions located inside Waterfront Revitalization Overlay District.**

The following special standards apply to all subdivisions within the Waterfront Overlay District (see the Waterfront Revitalization Overlay Map):

- A. Vegetative buffer strips are required along shorelines that meet the following criteria:
  - (1) Are maintained along the shore from the high-water mark and extending landward a minimum horizontal distance of 25 feet.
  - (2) Preferably consist of native vegetation, but can consist of cultivated species that are adapted to wet conditions or unmowed grass.
- B. Shoreline erosion shall be preferentially managed by the use of vegetative buffers, unless site characteristics are such that armoring, ripraping, gabions, walls or similar heavy reinforcement is needed to achieve erosion control.
- C. The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least 30 years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.
- D. The construction or reconstruction of docks, boathouses, boat hoists, public access facilities, and other shoreline structures shall be undertaken in a manner which will, to the maximum extent practicable, protect against or withstand the destructive forces of wave or current action, changing water levels and/or ice movement.
- E. Activities and development, including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development or at other locations.