

## Chapter 152

### SUBDIVISION OF LAND

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**ARTICLE VIII**  
**Performance Bonds and Fees**

**§ 152-46. Performance bonds.**

**[HISTORY: Adopted by the Town Board of the Town of Pierrepont 12-27-1995 by L.L. No. 1-1995; as amended through 4-26-2000. Subsequent amendments noted where applicable.]**

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

**§ 152-1. Enactment.**

Be it enacted by the Town Board of the Town of Pierrepont as follows: The Town Board hereby adopts and enacts this chapter (the "Subdivision Law" or, alternatively, "this chapter") pursuant to the authority and provisions of § 276 of the New York State Town Law.

**§ 152-2. Authorization of Planning Board.**

Pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Town Planning Board is authorized and empowered under § 276 of the Town Law to:

- A. Review and approve or conditionally approve, with or without modifications, or disapprove preliminary plats.
- B. Review and approve or conditionally approve, with or without modifications, or disapprove final plats.
- C. Pass and approve the development of entirely or partially undeveloped plats already filed in the office of the County Clerk.
- D. Adopt such additional rules and regulations as it deems necessary, consistent with the New York State Town Law, to approve plats.

**§ 152-3. Title.**

This chapter shall be known for all official purposes as the "Subdivision Law of the Town of Pierrepont." In this chapter, it is referred to as "the Town Subdivision Law" or, alternatively, "this chapter."

**§ 152-4. Use of the term "Town." [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The use of the term "Town" in this chapter shall be deemed to refer to all of the Town of Pierrepont, which includes the Hamlets of Hannawa Falls, Crary Mills, Browns Bridge, and Pierrepont Center.

**§ 152-5. Intent and purpose.**

The purpose of this chapter is to ensure that any subdivision be done so that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace, that proper provision shall be made for drainage, water supply, sewerage and other needed improvements, that all proposed lots shall be laid out and of such size as to be in harmony with the development pattern of the neighboring properties; and that the proposed streets or roads shall compose a convenient and logical system conforming to the Town Plan.

**§ 152-6. Penalties for offenses.**

- A. Any person, corporation or other business entity who commits an offense against, disobeys, neglects or refuses to comply with or resists the enforcement of any of the provisions of this chapter shall, upon conviction, be deemed guilty of a violation, punishable by a fine of not more than \$1,000. Each week an offense is continued shall be deemed a separate violation of this chapter.

B. In addition to the penalties provided above, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

#### **§ 152-7. Amendments.**

The Town Board may, on a petition properly brought by any resident or property owner of the Town; or on recommendation of the Planning Board; or on its own motion and following provision of appropriate public notice and conduct of a hearing, amend this chapter by a majority vote of the Town Board. All proposed amendments originating by petition, or by motion of the Town Board, shall be referred to the Planning Board for a report and recommendation. The Planning Board shall submit its report to the Town Board within 30 days after receiving such referral.

#### **§ 152-8. Power to modify or waive.**

When, in the opinion of the Planning Board, undue individual hardship may result from the strict compliance with this chapter, it may, at its discretion, modify the application of its provisions with regard to the specific matter under consideration so that substantial justice may be done and the public interest secured, provided that such modifications will not have the effect of nullifying the intent and purpose of § 152-5 of this chapter or of the general development policies of the Town. In the case of a subdivision proposal involving large-scale development, which would include provisions for housing, shopping, and recreation facilities, the Planning Board may likewise modify the application of the provisions of this chapter, provided that such development shall include covenants, restrictions and other legal provisions necessary to guarantee full achievement of any development plan approved by the Planning Board. The Planning Board may waive, subject to appropriate conditions, the provision of any or all of such improvements and requirements as, in its judgment of the special circumstances of a particular plat or plats, are not requisite in the interest of public health, safety or general welfare or which, in its judgment, are inappropriate because of the inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.

#### **§ 152-9. Effect on other laws and regulations.**

This chapter in no way affects any provision, function or operation of any other federal, state, or county law or regulation. Where any provision of this chapter is in conflict with any other such law or regulation, the federal, state or county law shall take precedence, with the conflicting provision of this chapter, where permitted, being regarded as supplemental.

#### **§ 152-10. Definitions.**

Words and phrases used in this chapter shall be defined as follows in this section. Words and phrases that are not defined in this § 152-10 shall be deemed to be used as defined in the New York State Uniform Fire Prevention and Building Code.

**ACCESS** — Any point of vehicular or pedestrian ingress and egress to or from a property or lot.

**AGRICULTURAL USE** — A land use involving, on a more or less continuous basis, the growing and harvesting of agricultural crops, the raising of livestock, or the conduct of dairy farming operations, with the intent of selling all or the substantial part of any production for profit, without regard as to whether any actual profit is made. The term includes the necessary ancillary and appurtenant farm structures, to include residences of tenant and seasonal workers, and the storage of equipment used on the premises.

**APPLICANT** — The person or persons, corporation, agency, or other legal entity who submits a plat of

a proposed subdivision along with the application at Appendix "A" to this chapter<sup>1</sup> to the Town Planning Board for approval pursuant to this chapter.

**BERM** — A mound of earth, generally curvilinear between two points. Berms are used to screen, shield and buffer uses such as parking areas, and to separate incompatible uses. They also serve to control the direction of water flow and act as dams. The design of any specific berm is related to the characteristics of the particular site where used, but, in general, berms are two feet to six feet high and planted with vegetation.

**BUFFER** — An undeveloped area of property, or of a parcel of property, that is specifically intended and designed to separate and thus minimize the effects of a land use activity on contiguous properties. Buffers are generally used in combination with other screening techniques to further promote the desired separation. See "berm" and "heavy vegetative screening."

**BUFFER AREA** — A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

**BUILDING** — A structure designed to be used as a place of occupancy, business, storage, or shelter.

**BUILDING, PRINCIPAL** — See "principal building."

**CERTIFICATE OF SUBMISSION** — A certification, furnished by the Town Clerk at the request of an applicant, that a final plat was duly filed with the Town of Pierrepont.

**CODE ENFORCEMENT OFFICER** — Any person appointed, designated or otherwise retained by the Town Board to carry out the functions assigned to such person according to this chapter.

**COMMERCIAL USE** — Any land use that involves, as a primary activity, without limitation, the selling of bulk and individual goods, merchandise, products, food, prepared meals, and services of any nature, but excluding any land use that can otherwise be deemed an industrial use.

**COMMON USE, COMMON OPEN SPACE** — Open space within or related to a development, not in individually owned lots or dedicated for public use, but which is designed and intended for the common use and enjoyment of the residents of the development.

**CONDITIONAL APPROVAL OF A FINAL PLAT** — The approval by the Planning Board of a final plat subject to conditions set forth by the Planning Board in a resolution conditionally approving such plat. Such conditional approval does not qualify a final plat for recording nor authorize issuance of any building permit prior to the:

- A. Signing of the plat by the officer of the Planning Board duly authorized to do so under § 152-24 of this chapter; and
- B. Recording of the plat in the office of the County Clerk in accordance with § 152-24 of this chapter.

**COUNTY** — St. Lawrence County, New York.

**COUNTY CLERK** — The St. Lawrence County Clerk.

**CURB CUT** — A defined opening, not dependent upon the presence of a curb or other improvements, to provide vehicular access from a public road to a parcel or a property.

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

**DRIVEWAY** — A road, internal to a subdivision lot, that provides access to the lot from an internal road, or from a public highway.

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1. **Editor's Note:** Said appendix is included as an attachment to this chapter.

**ENVIRONMENTAL ASSESSMENT FORM (EAF)** — A form used to determine whether a project will have significant environmental impacts under the State Environmental Quality Review Act (SEQRA).

**FACILITY** — Any improvement that is constructed, or must be constructed, such as, without limit, roads, culverts, bridges, retention basins, and water and sewer systems.

**FIELD ENTRANCE** — A point of access onto a field or otherwise undeveloped portion of property that is designed for use by agricultural equipment or construction equipment, or for intermittent use by vehicles or pedestrians, or both, in connection with some event taking place on the field or with the use of the field as a temporary parking area.

**FILING DATE** — The date the Planning Board determines is the date that a filed subdivision application constitutes a complete subdivision application.

**FINAL PLAT** — A drawing or set of drawings prepared according to the provisions of §§ 152-34 and 152-36 of this chapter, that shows the final layout and design of a proposed subdivision.

**FINAL PLAT APPROVAL** — The signing of a plat in final form by the officer of the Planning Board duly authorized to do so under § 152-24 of this chapter after adoption of a resolution by the Planning Board granting final approval to the plat, or after conditions specified in a resolution granting conditional approval of the plat are completed. Such final approval qualifies the plat for recording in the office of the County Clerk.

**FINAL PLAT FILING DATE** — The date on which the final plat, application, and all supporting information and materials, for a subdivision is filed with the Planning Board.

**FLAG LOT** — A lot shaped, in general, like a flag on a pole, where a buildable area (the "flag") is entirely landlocked except for a long narrow strip of land (the "pole") that provides access to a road.

**FORESTRY USE** — The for-profit operation, on a more or less continuous basis, of timber tracts, tree farms, forest nurseries, including the gathering and harvesting of forest products. See, however, "sawmilling" operations, that are, for the purpose of this chapter, an industrial use rather than a forestry use.

**HALF ROAD** — A road that is to be constructed from one curb or edge to the center line, generally because the road is on the edge of one subdivision, and abutting another.

**HEAVY VEGETATIVE COVER** — An area planted with white pine or northern white cedar, or with a species providing comparable screening density at eye level. The spacing of individual trees shall be close enough to limit visibility onto the site screened, and the trees shall be three to four feet tall at the time planted.

**IMPROVEMENTS** — Any man-made structure, located or undertaken on a parcel or lot.

**INDUSTRIAL USE** — Any use of land that involves:

- A. The mining, milling or other extraction or primary processing of raw materials, minerals or other substances taken from the earth, along with all ancillary operations; or
- B. The basic processing and manufacturing of materials or products predominately from extracted or raw materials; or
- C. The storage of, or manufacturing processes using, flammable or explosive materials; or
- D. Storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions; or

E. The manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution.

**INTERNAL ROAD** — A road or network of roads that must be constructed, or is otherwise proposed by the applicant to be constructed, on the parcel to be subdivided for the purpose of providing access to the lots that are to be created.

**LAND USE** — Activities involving land and improvements to land. Land uses are further characterized as being residential, commercial, agricultural or industrial in nature.

**LANDLOCKED LOT** — A lot that does not have direct access to a road.

**LEAD AGENCY** — The agency, or other body that, pursuant to SEQRA, has primary responsibility for conducting a review of proposed land use activities for environmental impacts.

**LOADING AREA** — An off-street space or berth, no smaller than a parking space, used for loading or unloading of vehicles.

**LOCAL STREET OR ROAD** — A street or road intended to serve primarily as an access to abutting properties.

**LOT** — A parcel of property that is created, or proposed to be created, for the specific purpose of being used or sold as a building site for a residential or commercial use.

**OPEN MEETINGS LAW** — The New York State Public Officers Law, Article 7. The Open Meetings Law sets out the requirements for public notice, access and participation in the proceedings of public bodies.

**OPEN SPACE** — A parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment.

**PARCEL** — A contiguous area of land that has boundaries that have been established by some legal means, such as a recorded deed or map, and which is recognized as a separate, legal entity for the purposes of transfer of title.

**PARKING SPACE** — An area reserved for the parking of a motor vehicle that measures a minimum of nine feet in width and 18 feet in length, not including any space required for maneuvering aisles and vehicle circulation.

**PLANNING BOARD** — The Planning Board of the Town of Pierrepont.

**PLAT** — A drawing or drawings showing the layout of a proposed subdivision as specified in this chapter.

**PRELIMINARY PLAT** — A drawing or set of drawings prepared according to the provisions of §§ 152-34 and 152-35 of this chapter, that shows the preliminary layout and design of a proposed subdivision including, without limit, road and lot layout and approximate dimensions, key plan, topography and drainage, all proposed facilities unsized, including preliminary plans and profiles.

**PRELIMINARY PLAT APPROVAL** — The approval by the Planning Board of the layout of a proposed subdivision as set forth in a preliminary plat, but subject to the approval of the plat in final form in accordance with Article V of this chapter.

**PRINCIPAL BUILDING** — The building that houses the principal use on a parcel of land.

**PRINCIPAL USE** — The use of property, or of a parcel of property, that a reasonable person would deem to be the primary use.

**PROPERTY** — A contiguous area of land, consisting of one or more deeded parcels, that is under the same ownership.

**PROPERTY LINE** — The legal boundaries of a parcel of property, whether drawn on a plat or recorded map or expressed as metes and bounds in a deed.

**PUBLIC HEARING DATE** — The date on which a public hearing is held pursuant to this chapter.

**PUBLIC ROAD** — A public thoroughfare or right-of-way dedicated, deeded or condemned for use as such, that affords public access to property proposed to be subdivided.

**REQUIRED IMPROVEMENT** — Any activities or improvements required by this chapter, including, but not limited to streets and roads, utility installations, road ditches, drainage facilities and culverts, monuments, parks and recreation areas, and revegetation.

**RIGHT-OF-WAY** — An area of land defined on a plat, deed, easement or other legal instrument that provides for parking, road construction, maintenance, drainage, utilities, improvement and/or widening.

**RUNOFF** — Surface water that flows within, onto and off of a parcel of property.

**SCREENING** — Vegetation, fencing, or earthen materials used to block visibility onto a parcel of property. Screening may also be used to lessen noise impacts from a particular site or from adjacent land uses. See "berm," "fence" and "heavy vegetative screening."

**SEASONALLY MAINTAINED PUBLIC ROAD** — Any public road that has been posted or mapped by the maintaining local government as being only maintained during certain seasons or months of the year.

**SEQRA** — See "State Environmental Quality Review Act."

**SETBACK** — Any required minimum distance, pursuant to the provisions of any other applicable Town, county, state or federal law or regulation, that is measured from front, side and rear lot lines to any building or structure, as defined in such law or regulation, located on the parcel.

**SHORT ENVIRONMENTAL ASSESSMENT FORM** — See "environmental assessment form."

**SKETCH PLAN** — An informal map of a proposed subdivision plat that, at a minimum, is prepared with sufficient accuracy and detail to be used by the Planning Board in discussing the proposal with the applicant.

**SKETCH PLAN CONFERENCE** — An informal Planning Board review of a proposed subdivision plat with the applicant, conducted at the request of the applicant. The sketch plan conference provides an opportunity for an applicant to learn from the Planning Board what specific submission requirements will be established and what issues may be raised by a proposed project prior to formal submission of the subdivision plat.

**STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)** — A state law, at 6 NYCRR Part 617, that requires the consideration of environmental factors in the planning, review and decisionmaking processes of government agencies by establishing a review process.

**STRUCTURE** — Anything constructed or built, or a building of any kind, that requires location on the ground or is attached to something having a location on the ground. The term "structure" is deemed to include, without limitation, mobile homes (Class 1 and Class 2), fences, commercial and private radio, television, and other utility communications towers and dishes, and freestanding signs and light standards.

**SUBDIVISION** — Any division of a parcel of property into five or more lots within a three-year period, or any division of a parcel of property where the construction of an internal road is required pursuant to any provision of this chapter or is otherwise proposed by the applicant. Notwithstanding the foregoing, a division into five or more lots shall not be deemed a subdivision when all lots that are to be created are to be five or more acres in area.

**TOWN BOARD** — The Town Board of the Town of Pierrepont.

**TOWN CLERK** — The Town Clerk of the Town of Pierrepont.

**TRACT** — See "parcel."

**ZONING REGULATIONS** — The Zoning Regulations of the Town of Pierrepont.

ARTICLE II  
**Applicability**

**§ 152-11. Subdivision plat approval required.**

- A. Whenever any subdivision of a parcel is proposed to be made within the Town, and before any contract for the sale of or any offer to sell any lots in the subdivision or any part thereof is made, and before any permit for the erection of any structure in the subdivision is granted, the applicant shall make application for and receive final approval of the proposed subdivision in accordance with this chapter.
- B. Compliance with the provisions of this chapter does not constitute compliance with the provisions of Article 11, Title II, of the New York State Public Health Law, Article 17, Title 15, of the New York State Environmental Conservation Law or Article 9-A, §§ 337 and 338, of the New York State Real Property Law. Each of these laws should be consulted before undertaking any subdivision, for any purpose, of a parcel of property.

**§ 152-12. Effect on existing parcels and lots. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

This chapter does not apply to any division of property that has been lawfully recorded among the land records of the county as of the effective date, except, in accordance with § 276, Subdivision 2, of the Town Law of the State of New York, for plats where 20% or more of the lots created are unimproved.

**ARTICLE III**  
**Application Procedure**

**§ 152-13. General.**

Before undertaking the subdivision of any parcel of property the owner of the property, or a person authorized in writing to act for such owner, shall, in accordance with the provisions of this chapter, apply to the Planning Board for approval of a subdivision plat.

**§ 152-14. Preapplication procedures.**

Prior to the preparation and submission of a plat to the Planning Board for approval, the applicant is advised to undertake the following steps:

- A. Assemble the information and data on the existing conditions at and affecting the parcel to be subdivided.
- B. Review New York State Real Property, Environmental Conservation and Health Department laws and departmental regulations concerning the subdivision of land.
- C. Study the site suitability and opportunities for development and discuss the findings with a licensed land surveyor and, as appropriate, other consultants such as land planners, attorneys and civil engineers.
- D. In the event that the subdivided lots are to be marketed, develop financing and marketing plans and review them with a bank or lending institution.

**§ 152-15. Sketch plan conference.**

- A. General. A sketch plan conference between the applicant and the Planning Board is encouraged to discuss in general terms the subdivision proposal, determine the information to be required in the subdivision application, assist the applicant in complying with the requirements of the State Environmental Quality Review Act (SEQRA) process and identify potential problems and concerns with the proposal.
- B. Scheduling. The sketch plan conference shall be scheduled and conducted by the Planning Board based on a request by the applicant, at a place and time established by the Planning Board and acceptable to the applicant. In scheduling and conducting the sketch plan conference, the Planning Board must observe the requirements for public notice, access and participation set out in the New York State Public Officers Law, Article 7 (the Open Meetings Law).
- C. Sketch plan.
  - (1) At the sketch plan conference, the applicant shall provide, at a minimum, a sketch plan. This sketch plat shall show, at a level of detail deemed appropriate by the Planning Board:
    - (a) The subdivision name, Tax Map number, North arrow and date prepared; and
    - (b) On a small inset map or diagram, the location of the parcel to be subdivided and its relationship to the surrounding area and public roads; and
    - (c) Existing features and conditions on or affecting the parcel to be subdivided, to include:
      - [1] Parcel boundaries.

- [2] The location and ownership of contiguous properties.
- [3] Adjacent roads.
- [4] The location of any public utilities that will serve the lots to be created.
- [5] Buildings, structures and other improvements.
- [6] Watercourses, wetlands, steep slopes, outcroppings of bedrock, wooded areas, and other unique or significant physical features on or near the parcel.

(d) The planned location of the following, as appropriate:

- [1] Lots and lot lines to be created, annotated with width, depth and acreage. The sketch plat shall note the total acreage of the subdivision and the total number of lots proposed.
- [2] Building uses and types, annotated with approximate size and cost.
- [3] Internal roads.
- [4] Access to public roads.
- [5] Open space, common use and buffer areas.
- [6] Water distribution systems or individual well locations.
- [7] Wastewater collection and treatment systems or individual leach field locations.
- [8] Drainage improvements, including profiles and lines or ditches and planned drainage easements on adjoining properties.

(2) The applicant is encouraged to provide as much additional information about the project during the sketch plan conference as is possible, using the requirements for a final plat as set out in § 152-36 of this chapter as a guide.

D. Conduct. At the sketch plan conference, the Planning Board will review the sketch plan as it relates to the development policies and other land use regulations of the Town, and the design standards and improvement requirements set out in this chapter.

#### **§ 152-16. Filing of subdivision application.**

To apply for approval of a subdivision plat, an applicant shall complete the "Application for Subdivision Plat Approval" form attached to this chapter at Appendix "A,"<sup>2</sup> or its successor form (hereinafter, the "application form"), provide the additional information noted in § 152-18 of this article (hereinafter, the "additional information"), and attach, as appropriate, copies of a preliminary or final plat and supporting materials prepared in accordance with the requirements listed at § 152-34 and § 152-35 or 152-36, respectively, of this chapter (the application form, additional information, and plat and supporting materials hereinafter collectively termed the "subdivision application"). An applicant proposing any subdivision not discussed with the Planning Board at a sketch plan conference shall prepare a preliminary plat. The subdivision application shall then be filed by the applicant with the Town Clerk. The date on which the subdivision application is filed with the Town Clerk shall be termed the "date of receipt." The Town Clerk

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2. Editor's Note: Said appendix is included as an attachment to this chapter.

shall forward it to the Planning Board within five days of the date of receipt and notify the Planning Board of the date of receipt.

#### **§ 152-17. Subdivision application information requirements.**

The following additional information shall be required in addition to the completion of the "Application for Subdivision Plat Approval" form. A completed subdivision application shall include all listed items unless submission of one or more of the items is specifically waived by the Planning Board.

- A. Initiation of SEQRA review. The applicant shall prepare and file as part of the subdivision application the New York State Short Environmental Assessment form, a copy of which is attached to this chapter at Appendix "B,"<sup>3</sup> or its successor form, to allow the Planning Board to determine the applicability of the State Environmental Quality Review Act (SEQRA).
- B. Affidavit or written authorization of the property owner. If the person filing the subdivision application is the owner of the parcel that is to be subdivided, a notarized statement to that effect shall be filed. For nonowner applicants, notarized written permission of the owner that refers to the proposed subdivision shall be filed with the application.
- C. Proof of legal ownership or right. The applicant shall include a copy of the deed, land contract, will, or other recorded instrument showing legal ownership of the parcel to be subdivided, or the legal right to subdivide the parcel in the absence of ownership.
- D. Restrictions and encumbrances. The applicant shall provide copies of all recorded easements, restrictions and encumbrances affecting the parcel to be subdivided. If the applicant intends to convey the lots to be created subject to any covenants, easements or other restrictions, a copy of same shall be provided; otherwise, applicant shall include a notarized statement to the effect that the lots to be created will not be subject to any such covenants, easements or restrictions.
- E. Tax Map. The applicant shall include the Tax Map or maps that shows the parcel to be subdivided.

#### **§ 152-18. Determination of complete subdivision application.**

- A. Complete subdivision applications. The Planning Board shall determine that a subdivision application is complete and deemed to be filed on the date that it has received a properly executed application form (§ 152-16), appropriate additional information (§ 152-17), and appropriate preliminary or final plat and supporting materials (§ 152-34, and § 152-35 or 152-36, respectively). Following a determination that a complete subdivision application has been filed, the Planning Board shall provide the applicant with a written notice that states the filing date and provides the applicant with additional information about the review and approval process.
- B. Incomplete subdivision applications. Incomplete subdivision applications shall be returned to the applicant by the Planning Board and shall be accompanied by a letter that states the information needed in order to proceed with the review. In the event that the applicant chooses to proceed with the subdivision application and resubmit the required information, the date on which all resubmitted information is received by the Planning Board shall become the new filing date.

#### **§ 152-19. Waiver of certain submission requirements.**

In certain instances where a subdivision application would otherwise be returned to the applicant as

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3. Editor's Note: Said appendix is included as an attachment to this chapter.

incomplete, the Planning Board, consistent with good planning practices and at its discretion, may by majority vote waive one or more of the submission requirements listed in § 152-16 of this chapter, with the exception of any required preliminary or final plat.

**§ 152-20. Referral to county Planning Board. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Pursuant to Article 12-B, § 239-n, of the General Municipal Law of New York State, certain subdivision applications that meet specified jurisdictional requirements must be referred to the County Planning Board for review prior to final action by the Town Planning Board. The applicant will be notified in the event referral is required. The applicant should contact the County Planning Office for additional information on § 239-n review.

**ARTICLE IV**  
**Review Procedure**

**§ 152-21. Preliminary plat review.**

- A. Applicability. A preliminary plat shall comprise part of the subdivision application for any subdivision. The Planning Board must grant approval, or grant approval contingent upon modifications, prior to the filing of a final plat.
- B. Initiating the review. The review of a preliminary plat is initiated when the applicant has filed a complete subdivision application with the Planning Board that includes a preliminary plat.
- C. Requirement for public hearing. Following the review of the plat and other information submitted by the applicant, and after advising the applicant of any changes deemed necessary, and after allowing the applicant a reasonable time to respond to the proposed changes, but in no event later than 62 days dating from the filing date, the Planning Board shall hold a public hearing. The applicant shall receive written notice of the public hearing, which shall be mailed no later than 10 days prior to the date of the public hearing. The public hearing shall be advertised at least once in a newspaper of general circulation in the Town no later than five days before the public hearing. Written notice of the public hearing shall be mailed by the Planning Board to the owners of all property adjacent to the parcel to be subdivided and any other property located within 150 feet of the parcel no later than five days before the hearing. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- D. SEQRA. The public hearing shall also be used to meet, as applicable and when possible, the requirements of the State Environmental Quality Review Act.
- E. Preliminary plat determination. No later than 62 days following the public hearing, the Planning Board shall: **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
  - (1) Approve; or
  - (2) Approve contingent upon modifications; or
  - (3) Disapprove the preliminary plat.
- F. Actions following preliminary plat determination. The action of the Planning Board on the preliminary plat shall be noted on the three copies of the preliminary plat and on the application form. In the event of approval contingent upon modifications, appropriate reference shall be made as to the modifications determined necessary. One copy of the annotated preliminary plat and a copy of the application form shall be returned to the applicant within five days of the date on which the determination was made, and the other two copies of the preliminary plat retained by the Planning Board. One Planning Board copy shall be deposited in the Town safe by the Town Clerk. If the Planning Board disapproved the preliminary plat, the return of the preliminary plat to the applicant will be accompanied by the Planning Board's reasons for disapproval, furnished in writing.
- G. Effect of approval of preliminary plat. The approval by the Planning Board of a preliminary plat does not constitute approval of the final plat, nor does it in any way bind or obligate the Planning Board to approve a final plat on a future date. The preliminary plat shall be used by the applicant as a guide to the preparation of the final plat. Any preliminary plat granted approval contingent upon modifications shall not be filed as a final plat until the applicant has addressed all modifications in a manner satisfactory to the Planning Board.

**§ 152-22. Final plat review.**

- A. Applicability. All subdivisions shall require final plat approval by the Planning Board.
- B. Initiation following preliminary plat approval. An applicant proposing a subdivision that has been previously reviewed and approved by the Planning Board as a preliminary plat shall, within six months of the approval of the preliminary plat, update and resubmit the "Request for Subdivision Plat Approval" form that was returned by the Planning Board with the preliminary plat. The resubmitted form shall be accompanied by a final plat and supporting documentation, prepared in accordance with §§ 152-34 and 152-36 of this chapter, and an update of any information previously submitted pursuant to §§ 152-16 and 152-17 of this chapter that has changed. From this point, there is no difference in the review process from a newly filed final plat. The date on which all required documents and information is received by the Planning Board shall become the "final plat filing date" for the purposes of this chapter. In the event that the applicant takes no action to submit an approved preliminary plat in final form within the stated six months, approval of the preliminary plat may be revoked at the discretion of the Planning Board. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- C. Notification of final plat filing date. The applicant, on his or her request, shall be furnished at any time after the final plat filing date, certification by the Town Clerk of the final plat filing date (hereinafter, "certificate of submission").
- D. Optional public hearing. Following the review of the final plat and other information submitted by the applicant but in no event later than 62 days dating from the final plat filing date, the Planning Board, at its discretion, may schedule a public hearing. If a public hearing is to be held, the applicant shall receive written notice to be mailed no later than 10 days prior to the date of the public hearing. The public hearing shall be advertised at least once in a newspaper of general circulation in the Town no later than five days before the public hearing. Written notice of the public hearing shall be mailed by the Planning Board to the owners of all property adjacent to the parcel to be subdivided and any other property located within 150 feet of the parcel no later than five days before the hearing. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- E. SEQRA. The public hearing shall also be used to meet, as applicable and when possible, the requirements of the State Environmental Quality Review Act.

**ARTICLE V**  
**Action on Final Plat**

**§ 152-23. Planning Board determination.**

- A. No later than 62 days following the public hearing, if one is held, or no later than 62 days after the final plat filing date if there is no public hearing, the Planning Board shall. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
  - (1) Approve; or
  - (2) Approve contingent upon modifications or subject to conditions; or
  - (3) Disapprove the final plat.
- B. The Planning Board may also approve a final plat in sections.

**§ 152-24. Approval. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The action of the Planning Board in approving a final plat shall be done by resolution stating such approval. each final plat will have the words "approved Town of Pierrepont" stamped prominently on it with the stamped name and title of the Secretary of the Planning Board stamped underneath. The Secretary of the Planning Board shall sign and date with the date approved each final plat. The original final plat shall be returned to the applicant, and may then be recorded among the land records of the County. Recordation of an approved final plat must occur within 62 days after the date of approval as noted on the plat; otherwise, the approval of the final plat shall be considered null and void. In such event, the applicant must resubmit a new final plat to the Planning Board for approval. The two copies of the approved final plat, along with the application form and all supporting materials, shall be retained among the records of the Planning Board. The Enforcement Officer shall also be notified of the approval.

**§ 152-25. Approval contingent upon modifications.**

- A. General. The action of the Planning Board in approving a final plat contingent on modifications shall be done by resolution and shall be communicated in writing to the applicant, with the nature of the necessary modifications outlined and explained. The applicant shall have 60 days to address all required modifications in a manner satisfactory to the Planning Board.
- B. Modifications to final plat. If the modifications require a change to the final plat itself, a copy of the final plat noting the needed changes shall be returned to the applicant. The remaining final plats shall also be noted with the needed changes and retained by the Planning Board. The applicant must incorporate changes deemed acceptable by the Planning Board into a new original final plat, which shall be termed an "amended final plat" and so titled. The original amended final plat shall then be resubmitted with two machine-reproduced copies.
- C. Modifications to supporting materials. If the modifications require a change to supporting documentation or materials, the specific item will be noted with the change and returned to the applicant, with a copy retained by the Planning Board. The applicant must incorporate changes deemed acceptable by the Planning Department and resubmit the item.
- D. Planning Board action following modifications. The Planning Board, after the making of acceptable modifications by the applicant, will approve the final plat as set out in § 152-23 of this article, with the modified plat or items replacing those deemed unacceptable.

- E. Failure to modify. In the event the applicant is not willing to make acceptable modifications, or does not act within 60 days to do so, the Planning Board may act at any time after the 60 days have elapsed to disapprove the final plat as set out in § 152-28 of this article.
- F. Extension of time to make modifications. The Planning Board, in its discretion, can grant additional time to an applicant for the purpose of making modifications, but any failure or delay of the Planning Board to disapprove such a final plat after the 60 days have elapsed shall not constitute a bar to or limitation on its ability to act on any later date.

#### **§ 152-26. Approval subject to conditions.**

- A. General. The action of the Planning Board in approving a final plat subject to conditions shall be done by resolution that authorizes the Secretary of the Planning Board to approve the final plat at such time as the applicant has complied with the conditions established. Conditional approval of a final plat shall be communicated within five days of the determination by certified mail to the applicant, with the certified statement of the nature of the conditions, and the actions that must be taken by the applicant, outlined and explained. The applicant shall have 180 days to address all conditions in a manner satisfactory to the Planning Board.
- B. Planning Board action following compliance with conditions. The Planning Board, following acceptable compliance by the applicant with the conditions established, will approve the final plat as set out in § 152-23 of this article.
- C. Failure to comply with conditions. In the event the applicant is no willing to comply in an acceptable manner with the conditions established or does not act within 180 days to do so, the Planning Board may act at any time after the 180 days have elapsed to disapprove the final plat as set out in § 152-28 of this article.
- D. Extension of time for compliance. The Planning Board, in its discretion, can grant extensions for periods of ninety days each for an applicant to comply with conditions, if, in its opinion, such extension is warranted by the particular circumstances involved. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

#### **§ 152-27. Approval of final plat in sections.**

Prior to approving a final plat, the Planning Board may permit the final plat to be subdivided into two or more sections and may, in its resolution granting conditional or final approval, state that such requirements as it deems necessary to ensure the orderly development of the plat be completed before such sections may be signed by the Secretary of the Planning Board. Conditional or final approval of any sections of a final plat, subject to any conditions imposed by the Planning Board, shall be granted concurrently with conditional or final approval of the plat.

#### **§ 152-28. Disapproval of final plat.**

- A. The Planning Board, upon disapproval of a final plat following a review against the standards set out in this chapter, shall file with the Town Clerk a written statement of the decision containing the reasons for the disapproval signed by the Chair of the Planning Board. Copies of the written statement of disapproval shall be provided to the applicant and the Enforcement Officer.
- B. Prior to approving a final plat, the Planning Board may permit the final plat to be subdivided into two or more sections and may in its resolution granting conditional or final approval, state that such requirements as it deems necessary to ensure the orderly development of the plat be completed before

such sections may be signed by the Secretary of the Planning Board. Conditional or final approval of any sections of a final plat, subject to any conditions imposed by the Planning Board, shall be granted concurrently with conditional or final approval of the plat.

**§ 152-29. Approval by operation of law.**

If any time the Planning Board does not take action within the prescribed time, the applicant may assume approval of that stage of the process. In the event the Planning Board does not take action within the prescribed time on the final plat, the applicant may take a copy of the certificate of submission and the final plat as submitted and file them among the land records of the county.

**§ 152-30. Extension of time for determination on final plat.**

The time period during which the Planning Board must render its determination on the final plat can be extended by the mutual consent of the applicant and the Planning Board.

**§ 152-31. Appeals procedure.**

Any person aggrieved by any decision of the Planning Board or by the action of an officer of the Town with respect to the provisions of this chapter may apply to the Supreme Court for a review of the decision by a proceeding brought under Article 78 of the Civil Practice Laws and Rules. Such proceeding must be brought within 45 days of the date of the filing of a final decision.

**§ 152-32. Amendments to approved final plat.**

Submission and review of any amendment to an approved final plat shall be acted upon in the same manner as the original application.

**§ 152-33. Transferability of final plat approval.**

- A. An approved final plat that has not been recorded among the land records of the county shall be transferable upon the sale or transfer of the property that is to be subdivided on the provision of notice to the Planning Board by the new owner within 30 days of the date the property is sold. The notice shall include the following:
  - (1) The new owner shall affirm to the Planning Board the intention to construct all improvements in accordance with the approved final plat.
  - (2) The new owner shall affirm to the Planning Board compliance with all conditions established by the Planning Board in connection with the approval of the final plat.
- B. The Planning Board may revoke, with written notice to the new owner, the final plat approval in the event that the new owner does not strictly comply with the provisions of this § 152-33.

**ARTICLE VI**  
**Preparation of Plats**

**§ 152-34. All plats.**

All plats submitted to the Planning Board for any purpose under this chapter shall be prepared and submitted in accordance with the following:

- A. Scale. Plats shall be drawn to the scale of one inch to 100 feet, unless otherwise specified by the Planning Board.
- B. Parcel and lot information. Plats shall note the recordation information, given as owner, deed book and page number, of the parcel to be subdivided, all adjacent parcels, and any easement on or encumbering the parcel to be subdivided. The plat will show each lot to be created with boundary lines originating from a readily identifiable surveyed point and annotated between all points with feet and inches, the radii, length and central angle of any curves, location and type of stakes or monuments, and other customary information produced when the lot is surveyed. The plat shall designate each lot to be created with a number the first lot commencing with the number "1" and proceeding through all lots in a reasonable sequence with the final lot having a number equal to the number of lots to be created (e.g., a three-lot subdivision will be comprised of Lot No. 1, Lot No. 2, and Lot No. 3). The lot designation will be annotated in the approximate center of the lot area on the plat, with the calculated acreage of the lot annotated immediately below. The plat shall note any lot that is to be retained or dedicated for public use or access, and the type of use or access that is contemplated. The plat shall note any lot that is to be recorded as dedicated open space.
- C. Easement information. Any easement in existence at the time of the preparation of the plat shall be noted on the plat as to location, type, and recordation information given as owner, deed book and page number.
- D. Road improvements. Plats shall include surveyed information pertaining to any existing or proposed road improvements or dedicated rights-of-way on the parcel being subdivided. Tangent bearings shall be provided for all internal roads. Lots to be retained for future road expansion shall be annotated as such.
- E. Wetlands. The boundary of all federal jurisdictional wetlands and wetlands designated by the New York State Department of Environmental Conservation, to include a 100-foot buffer strip located in nonwetland area adjacent to any such boundary, shall be shown on the plat, and the wetland and buffer areas shall be clearly annotated as such on each lot containing these areas.
- F. Access information. All points of existing or proposed driveway access to internal roads and public roads shall be noted on the plat.
- G. Other required information. Plats shall include the subdivision name, name, address and telephone number of the parcel owner (and of the applicant, if different), Tax Map number, location inset, North arrow, name, address and title of the preparer of the plat, customary surveyor's certification, and date prepared.
- H. Preparation.
  - (1) Preliminary plats. Three preliminary plats, which may be any combination of original and machine reproduced copies, shall be prepared and certified by a licensed surveyor in such form and drawn in ink on such materials as is sufficient to provide for their use for the purposes

established in this chapter. Each copy shall be clearly labelled with the words "preliminary plat" and bear the following notation: "This plat is a preliminary plat and has not been approved in final form by the Town of Pierrepont. Any recordation of this plat is not authorized, and shall be ineffective to convey or transfer any lot shown hereon, or for any other purpose."

(2) Final plats. One original final plat shall be prepared and certified by a licensed surveyor in such form and drawn in ink on such materials as is sufficient to cause it to be deemed acceptable for recordation by the County Clerk. Two additional machine-reproduced copies of the original shall be submitted with the original.

### **§ 152-35. Preliminary plats.**

The following shall be submitted:

- A. Completed application and supporting information as set out in §§ 152-16 and 152-17.
- B. Three copies of the plat.
- C. Information concerning existing features and conditions on or affecting the parcel to be subdivided, to include:
  - (1) Buildings, structures and other improvements.
  - (2) Watercourses, wetlands, steep slopes, outcroppings of bedrock, wooded areas, and other unique or significant physical features on or near the parcel.
- D. Description of all parcels of land proposed to be dedicated to public use and the conditions of such use.
- E. Grading and landscaping plans.
- F. General plans showing locations of and design and specification information about sidewalks, road lighting, signage, water mains, sanitary sewers and storm drains, above- and below-ground utilities, and other similar improvements.
- G. Preliminary plans, designs and specifications for any roads, bridges, culverts, drainways and other surface drainage improvements.
- H. Any additional information deemed necessary by the Planning Board.
- I. Any required fees.

### **§ 152-36. Final plats.**

- A. All other plats. The following shall be submitted:
  - (1) Updated application and supporting information.
  - (2) One original and two copies of the plat. In addition to the general form requirements established in § 152-36 of this article, the plat shall provide a table of the lots to be created, along with their acreage, road frontage and proposed use.
  - (3) Any deeds, declarations, covenants, easements and other agreements governing the offer, cession, dedication construction or maintenance of public areas, public improvements, other

private improvements and undertakings, to include all boundary monuments and markers to such specifications as are established by the Planning Board, and open space. All such documents shall bear the certification of the Town Attorney, or of an attorney otherwise satisfactory to the Town, as to their sufficiency in accomplishing the purpose or purposes intended. Any agreement concerning conditions or requirements established by the Planning Board in connection with approval of the subdivision plat must also be submitted and bear the noted certification.

- (4) Evidence of approval, or pending approval, of any environmental impact statement or other submission under SEQRA for which approval is required.
- (5) Evidence of issuance, or pending issuance, of any permit that is required in connection with the subdivision such as may be required from the NYS Department of Health and or DEC.
- (6) Evidence, satisfactory in substance and form to the Planning Board, that all federal jurisdictional wetlands and wetlands designated by the New York State Department of Environmental Conservation, to include a 100-foot buffer area outside of the wetland boundary, that are located on the parcel to be subdivided, have been identified by the applicant and that the applicant has taken appropriate steps to cause such areas to be protected from unlawful activities or other adverse impact.
- (7) All construction drawings and specifications, in final form, to include, as required, plans, profiles and typical cross-sections, showing surveyed locations, size and type of roads, sidewalks, road lighting standards, landscaping, curbs, water mains or wells, sanitary sewer or septic systems, storm drains or ditches and other improvements and facilities.
- (8) All covenants and restrictions, stated in the form in which they will appear in the deed of conveyance, that will encumber any of the lots to be created.
- (9) Any easement, declaration or other instrument of a general nature that is to be separately recorded as an encumbrance on any of the lots to be created.
- (10) Any performance bond deemed necessary by the Planning Board to require the construction, installation or maintenance of improvements to the subdivision in a satisfactory manner, as set out in § 152-46 of this chapter.
- (11) Any agreements, certificates, affidavits, endorsements or other agreements as may be required by the Planning Board to enable enforcement of the foregoing.
- (12) Any additional information deemed necessary by the Planning Board.
- (13) Any required fees.

### **§ 152-37. Waiver of requirements.**

The Planning Board may waive, at its discretion and subject to any conditions it deems appropriate, the conformance, by any applicant, with any of the requirements of this article, when, in its judgement based on the special circumstances presented by a particular plat, such waiver would be in the best interests of the applicant and would have no negative effect on the public health, safety and general welfare.

**ARTICLE VII**  
**Subdivision Design Criteria**

**§ 152-38. Road design.**

- A. Conformity with general development policy. The arrangement, width, location and extent of subdivision roads should conform to and be in harmony with the general development policies of the Town. Roads not specifically provided for in such policies should conform to the recommendation of the Planning Board based on existing and planned roads, topography, public safety, convenience and proposed uses of land. The Town Highway Superintendent shall be consulted by the Planning Board for an advisory opinion before the approval of any new internal road.
- B. Planning and design. Internal roads shall be designed to discourage through traffic with origin and destination points that are not located within the proposed subdivision.
- C. Location. When a proposed subdivision is adjacent to or contains a state or county highway, the Planning Board may seek information from the New York State Department of Transportation or County Planning Office as to the potential for adverse impacts on highway safety and function. The Planning Board may establish a requirement for internal roads when, in its judgment, use of such roads would promote a greater degree of safety or preserve public highway function. The Planning Board will generally require that lots paralleling a public road be provided access from an internal road that in turn creates a single access point onto the public road. The Planning Board will also generally require that an internal road be built in order to avoid creation of flag lots.
- D. Intersections. Roads shall intersect one another at angles as near to a right angle as possible, and no intersection of roads at angles less than 80° shall be approved. Road intersections shall be rounded with a radius of 25 feet measured at right-of-way line when said intersection occurs at right angles. If an intersection occurs at an angle other than right angle, it shall be rounded with a curve of radius acceptable to the Planning Board. Road jogs with center-line offsets of less than 125 feet shall be prohibited.
- E. Dead-end roads; culs-de-sac. All dead-end roads and culs-de-sac shall be provided with a turnaround deemed sufficient by the Town Highway Superintendent for snowplowing and turning around by emergency vehicles.
- F. Half roads. Construction of half roads shall be prohibited.
- G. Access. In commercial and industrial subdivisions, definite and assured provision shall be made for service access, such as off-road parking, loading and unloading, consistent with and adequate for the uses proposed.
- H. Road names and numbers. Names of new roads shall not duplicate existing or platted roads in the Town or in any Town adjacent to the Town. New roads that constitute the extension of an alignment of an existing road shall bear the name of the existing road. House numbers shall be assigned in accordance with present efforts by the County Real Property Tax Office to establish a county-wide house numbering system.
- I. Signage. The applicant shall provide and erect road signs of a type to be approved by the Planning Board, in consultation with the Town Board and Town Highway Superintendent, at all road intersections prior to acceptance of the dedication of any road.
- J. Landscaping. Landscaping will be located outside of any road right-of-way and planted in such a

manner as not to impair visibility at any corner.

**K. Design standards.**

(1) Standards for road design are as follows:

Standard	Local Road
Minimum width of right-of-way (feet)	50
Minimum width of pavement (feet)	18
Minimum width of shoulders (feet)	5
Minimum radius of horizontal curves (feet)	250, except for road intersection corners
Minimum length of vertical curves (feet)	Shall be such that at least a 200-foot line of sight exists, measured 3 feet above the road surface
Minimum length of tangents between reverse curves (feet)	100, except where excessive grades may be reduced to reasonable grades by shortening tangent
Maximum grade (percent)	10%
Minimum grade (percent)	1%
Minimum braking sight distance (feet)	400

(2) Construction of any road in accordance with the foregoing design standards does not create any duty of the Town to accept its dedication.

**§ 152-39. Road construction.**

A. Construction at applicant's expense. Road improvements, including curbing, shall be installed at applicant's expense.

B. Construction standards.

(1) Roads shall be constructed in accordance with customary construction practices, and shall include the following courses.

- (a) Subgrade base, which shall be rough graded the full width of the road right-of-way and compacted the full width between the outer edges of the curbs and gutter. The subgrade base shall consist of a suitable gravel and stone material approved by the Town Highway Superintendent and compacted to a depth approved by the same.
- (b) Base course, consisting of a suitable gravel and stone material approved by the Town Highway Superintendent at least six inches in depth after compaction and stabilization.
- (c) Surface course, consisting of an approved bituminous material.
- (d) Finish course, consisting of an approved bituminous material to be laid one year after the surface course.

(2) Construction of any road in accordance with the foregoing construction standards does not create any duty of the Town to accept its dedication.

**§ 152-40. Utilities.**

Public utility improvements may be required at the discretion of the Planning Board and shall be installed as follows:

- A. Fire protection. Hydrants, where required, are to be of a size, type and location specified by the American Insurance Association. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. Streetlighting. Poles, brackets and lights, where required, are to be of a size, type and location acceptable to the Planning Board in consultation with the Town Board and Town Highway Superintendent, and to the power company serving the Town.
- C. Power lines. Power lines shall be placed underground and shall be approved by the power company serving the Town.
- D. Other utilities. Other utility services shall be placed underground to the greatest extent possible and shall meet industry standards.

**§ 152-41. Lots.**

- A. Lots to be buildable.
  - (1) Lots shall meet or exceed the minimum lot size and all other requirements of Chapter 205, Zoning.
  - (2) Furthermore lot size, width, depth, shape and area shall comply with the following:
    - (a) Lots may be a maximum of six times their width in depth.
    - (b) Lots will have their longest aspect (depth) as close to perpendicular from the road fronted on as is possible.
    - (c) Lots that are triangular in shape and are under five acres in size will not be permitted.
    - (d) Lots with odd shapes or corners that could reasonably be held to give rise at a later date to a claim of nonconformity or variance will not be permitted.
- B. Double frontage lots. Lots that front on two roads other than corner lots will not be permitted.
- C. Flag lots. Flag lots will not be permitted.
- D. Landlocked lots. Landlocked lots will not be permitted.
- E. Inaccessible lots. Lots that, due to steep slope, rocky, wetland, or the presence of some other physical condition, do not have a reasonable access point from the road fronted on will not be allowed.
- F. Poorly drained lots. Lots located in areas that are not served by community wastewater systems shall possess adequate wastewater effluent percolation characteristics for the proposed use.
- G. Setbacks. Lots that do not, in the judgment of the Planning Board, allow for a reasonable setback of the primary building or structure to be located on the lot from the road or, conversely, require an excessive setback from the road, will not be allowed.
- H. Pedestrian easements. In order to facilitate pedestrian access from roads to schools, parks, play areas

or nearby roads, the dedication of perpetual unobstructed easements at least 20 feet wide may be required by the Planning Board. In heavy traffic areas, the Planning Board may require the construction by the applicant of sidewalks on such easements.

- I. Relief from zoning requirements. Where authorized by § 277 of New York State Town Law, an applicant may apply directly to the Town of Pierrepont Zoning Board of Appeals for an area variance pursuant to § 267-b of New York State Town Law without the necessity of a decision or determination of the Code Enforcement Officer under Chapter 205, Zoning. In reviewing such an application, the Zoning Board of Appeals shall request the Planning Board provide a written recommendation concerning the proposed variances.

#### **§ 152-42. Unique physical and natural features.**

Unique physical and natural features, such as historic landmarks and sites, rock outcrops, hilltop lookouts, desirable natural contours, large trees, and similar features, shall be preserved where possible.

#### **§ 152-43. Site disturbance and grading.**

All areas to be disturbed must be graded and restored within six months. Control of erosion must employ accepted best management practices. Topsoil moved during construction shall be returned and stabilized by approved methods. Damage to trees should be avoided.

#### **§ 152-44. Open space; parks; payments in lieu; reservation of areas.**

- A. Consideration shall be given to the allocation of areas suitably located for open space and public parks and, where deemed appropriate, shall be made available by one of the following methods:
  - (1) Dedication to the Town; or
  - (2) Reservation of land for the use of property owners by deed or covenant.
- B. In the event that the Planning Board determines that a suitable park or a park of adequate size cannot be properly located in the plat or that park development would not otherwise be practical, the Planning Board may require as a condition of approval of the final plat a payment to the Town of a sum to be determined by the Town Board, which sum shall constitute funds to be held in trust and used by the Town exclusively for neighborhood park, playground or recreational purposes, to include the acquisition of property.
- C. The Planning Board may require the reservation of such areas in a subdivision that are of a character, extend and location particularly suited to the needs of the Town, such as water and sewage treatment plant sites and space for other community purposes.

#### **§ 152-45. Land unsuitable for development as a subdivision.**

In order to provide for the protection of the health and welfare of the people of the Town, land which is found to be unsuitable for subdivision due to adverse or unsafe conditions or features, or due to its sensitive environmental character, shall not be subdivided unless adequate safeguards are formulated by the applicant and are approved by the Planning Board.

**ARTICLE VIII**  
**Performance Bonds and Fees**

**§ 152-46. Performance bonds.**

The Planning Board, in connection with any approval granted a final plat under this chapter, may establish as a condition of approval the posting by the applicant of a performance bond to ensure the construction, installation or maintenance of improvements in a satisfactory manner. The bond shall be in an amount equal to the cost of the improvement or, in the case of maintenance of an improvement, equal to the estimated amount of the cost to the Town of providing such maintenance for a period of three years. Any such bond and all associated documents shall bear the certification of the Town Attorney, or of an attorney otherwise satisfactory to the Town, as to their sufficiency in accomplishing the purpose or purposes intended.

**§ 152-47. Fees.**

Any change in fees relating to subdivisions will be established by resolution of the Town Board.

**ARTICLE IX**  
**Miscellaneous Provisions**

**§ 152-48. When effective.**

This chapter shall take effect immediately upon its filing with the Secretary of State of the State of New York. The date upon which this filing occurs shall be deemed the "effective date."

**§ 152-49. Severability.**

If any article, section, paragraph or provision of this chapter shall be deemed invalid by any authority of competent jurisdiction, such determination shall apply only to the article, section, paragraph or provision adjudged invalid, and the remainder of this chapter shall continue valid, effective and in force.

**§ 152-50. Provision of notice deemed to have occurred.**

Unless otherwise specifically provided herein, any notice, letter or other written communication furnished to an applicant under any provision of this chapter shall be deemed furnished on such date as it is postmarked. Any notice, letter or other written communication to be furnished by an applicant under any provision of this chapter shall be deemed furnished on the date that it is actually received by the person or entity specified in such provision.<sup>4</sup>

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4. **Editor's Note:** Original Sec. 9.4, Headings for convenience, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).