

## Chapter 261

### SUBDIVISION OF LAND

	<b>ARTICLE I</b>		
	<b>Title, Purposes and Scope</b>	<b>§ 261-17.</b>	<b>General considerations.</b>
		<b>§ 261-18.</b>	<b>Street layout.</b>
		<b>§ 261-19.</b>	<b>Street design.</b>
§ 261-1.	<b>Title.</b>	<b>§ 261-20.</b>	<b>Street names.</b>
§ 261-2.	<b>Purpose.</b>	<b>§ 261-21.</b>	<b>Lots.</b>
§ 261-3.	<b>Scope.</b>	<b>§ 261-22.</b>	<b>Drainage improvements.</b>
§ 261-4.	<b>Property lot line adjustment as exemption from applicability.</b>	<b>§ 261-23.</b>	<b>Parks, open spaces and natural features.</b>
	<b>ARTICLE II</b>		
	<b>Terminology</b>		<b>ARTICLE V</b>
			<b>Documents to be Submitted</b>
§ 261-5.	<b>Definitions.</b>	<b>§ 261-24.</b>	<b>Sketch plan.</b>
		<b>§ 261-25.</b>	<b>Minor subdivision plat.</b>
	<b>ARTICLE III</b>	<b>§ 261-26.</b>	<b>Major subdivision preliminary plat; data.</b>
	<b>Procedure in Filing Subdivision Applications</b>	<b>§ 261-27.</b>	<b>Major subdivision final plat; data.</b>
§ 261-6.	<b>SEQRA requirements for subdivisions.</b>		
§ 261-7.	<b>Application for approval.</b>		<b>ARTICLE VI</b>
§ 261-8.	<b>Sketch plan.</b>		<b>Administration and Enforcement</b>
§ 261-9.	<b>Approval of minor subdivision.</b>	<b>§ 261-28.</b>	<b>Waivers.</b>
§ 261-10.	<b>Preliminary plat for major subdivision.</b>	<b>§ 261-29.</b>	<b>Coordinated development.</b>
§ 261-11.	<b>Plat for major subdivision.</b>	<b>§ 261-30.</b>	<b>Penalties for offenses; enforcement.</b>
§ 261-12.	<b>Referral to other agencies.</b>		
§ 261-13.	<b>Required improvements.</b>		<b>ARTICLE VII</b>
§ 261-14.	<b>Filing approved subdivision plat.</b>		<b>Proposed Streets, Parks and Easements</b>
§ 261-15.	<b>Public streets; recreation areas.</b>	<b>§ 261-31.</b>	<b>General regulations.</b>
		<b>§ 261-32.</b>	<b>Waiver of required improvements.</b>
	<b>ARTICLE IV</b>	<b>§ 261-33.</b>	<b>Certificates of occupancy for structures.</b>
	<b>General Requirements and Design Standards</b>		
§ 261-16.	<b>Minimum requirements.</b>		

**[HISTORY: Adopted by the Town Board of the Town of Potsdam 8-13-1973 by Part II of L.L. No. 1-1973 (Ch. 93 of the 1986 Code). Amendments noted where applicable.]**

ARTICLE I  
**Title, Purposes and Scope**

**§ 261-1. Title.**

This chapter shall be known and may be cited as "Subdivision Regulations in the Town of Potsdam."

**§ 261-2. Purpose.**

- A. It shall be the policy of the Potsdam Town Planning Board to consider the proposed subdivision of land within the Town with respect to its effect upon the orderly, efficient and economical development of the community. The purpose for such review shall be to ensure that:
  - (1) The land in question can be used safely for building purposes without danger to health or peril from flood or fire.
  - (2) Adequate provision has been made for water supply, sewage disposal and surface drainage.
  - (3) The proposed lot and street layout complements neighboring development and is in accord with the proposals and standards of the Town Master Plan.
  - (4) Proper consideration is given to natural features, open space and recreation areas.
- B. The principal purpose of these regulations is to ensure that the proper interests of the Town are considered in relation to the responsibilities it will be expected to discharge in connection with any new subdivision of land.

**§ 261-3. Scope.**

These regulations shall apply to the division of any parcel of land determined to be a subdivision as defined herein.

**§ 261-4. Property lot line adjustment as exemption from applicability. [Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- A. A property lot line adjustment shall occur when a property line is relocated between two adjacent property owners, and which is not for the purpose of creating a new lot. The property transferred shall not constitute a lot of division and is to be absorbed into the original plat of land. Consolidation of lots shall be treated as a property lot line adjustment.
- B. The owners of both properties will notify the Town Code Enforcement Officer, in writing, of their intention to adjust a property line.
- C. Property lot line adjustments shall be exempt from review under the Village subdivision regulations, except in cases where the adjustment would result in either parcel becoming landlocked (inaccessible from a public street or right-of-way) or when the adjustment would result in the creation of a nonconforming lot.

## ARTICLE II

### Terminology

#### § 261-5. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**CERTIFICATE OF OCCUPANCY/CERTIFICATE OF COMPLIANCE** — A certificate issued pursuant to § 120-7 of this Code. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**COLLECTOR STREET** — A street which serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major street.

**CUL-DE-SAC STREET** — A street or a portion of a street with only one vehicular traffic outlet and having a turning loop or similar arrangement at the closed end.

**EASEMENT** — Authorization by a property owner for the use by another and for a specified purpose of any designated part of his property.

**FINAL PLAT** — See "subdivision plat." **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**LOT LINE ADJUSTMENT** — A transfer of land from one property owner to another intended to increase the size of one lot while decreasing the size of the lot from which it is transferred without, however, creating any new lots. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**MAJOR STREET** — A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic-generating areas.

**MAJOR SUBDIVISION** — Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five or more lots or any size subdivision requiring any new street or extension of municipal facilities.

**MASTER PLAN** — A Comprehensive Plan, prepared by the Planning Board pursuant to Article 16 of the Town Law which indicates the general locations recommended for various functional classes of public works, places and structures and for general physical development of the Town and includes any unit or part of such plan separately prepared and any amendment to such plan or parts therein.

**MINOR STREET** — A street intended to serve primarily as an access to abutting properties.

**MINOR SUBDIVISION** — Any subdivision containing not more than four lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision of the Master Plan, Official Map or the regulations contained in this Code.

**OFFICIAL MAP** — The map established by the Town Board pursuant to § 270 of the Town Law, showing streets, highways and parks and drainage, both existing and proposed.

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

**PRELIMINARY PLAT** — A drawing or drawings clearly marked "preliminary plat," showing the salient features of a proposed subdivision as specified in Article V, § 261-26, of these regulations, submitted to the Planning Board for purposes of consideration prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

**SKETCH PLAN** — A sketch of a proposed subdivision showing the information specified in Article V, § 261-24, of these regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of these regulations.

**STATE ENVIRONMENTAL QUALITY REVIEW** — A requirement for all state and local government agencies to consider environmental impacts equally with social and economic factors during their review of certain actions. These agencies must assess the environmental significance of all actions they have discretion to approve, fund or directly undertake. See Chapter 148, Environmental Quality Review, of the Code of the Town of Potsdam, for further information on SEQR. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**STREET** — Includes streets, roads, avenues, lanes or other trafficways, between right-of-way lines.

**STREET PAVEMENT** — The wearing or exposed surface of the roadway used by vehicular traffic.

**STREET WIDTH** — The width of right-of-way, measured at right angles to the center line of the street.

**SUBDIVIDER** — Any person, firm, corporation, partnership or association, who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

**SUBDIVISION** — The division of any parcel of land into two or more lots, plots, sites or other division of land, in any three-year period, for the purpose of transfer of ownership or for building development and shall include resubdivision of all or in part of any plat, filed or unfiled, which is entirely or partially undeveloped. Any division of land creating a new street shall be considered a subdivision. For the purposes of these regulations, however, the division of existing agricultural land into parcels of 10 acres or more for continued use as agricultural land and not involving any new streets or easements for access shall not be considered a subdivision. **[Amended 2-12-2001 by L.L. No. 4-2001; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**SUBDIVISION PLAT** — A drawing by a licensed professional engineer in final form, showing a proposed subdivision, containing all information or detail required by law and by these regulations, to be presented to the Planning Board for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk or Registrar. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**TOWN ENGINEER** — A licensed professional engineer duly designated by the Town Board. In the absence of such designation, or in addition thereto, the Town Board may designate the Town Highway Superintendent, Code Enforcement Officer or other qualified individual to discharge the duties of this position as outlined, except that such person shall not be referred to as "Town Engineer," nor shall such appointment ascribe in any way to the appointee the qualifications or authority of a licensed professional engineer.

**ARTICLE III**  
**Procedure in Filing Subdivision Applications**

**§ 261-6. SEQRA requirements for subdivisions. [Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- A. All subdivisions are required to be reviewed under the State Environmental Quality Review Act (SEQRA). All actions will be deemed a Type I or unlisted action under SEQRA. Depending on the determination of significance, in which the lead agency must decide whether the action is likely to have a significant adverse impact upon the environment, further steps may be needed before the SEQR can be declared complete. A subdivision application is considered complete and ready to go to the Planning Board for preliminary review for a major subdivision, or final review for a minor subdivision, when the SEQR is complete. From this point in time, the sixty-two-day review process starts.
- B. A public hearing is required during the preliminary plat for major subdivision and, during final plat during minor subdivision [Town Law § 276, Subdivision 5(d)(i)]. Public hearings on the SEQR can be coordinated with the public hearing on the subdivision application.

**§ 261-7. Application for approval.**

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

**§ 261-8. Sketch plan.**

- A. Submission of sketch plan. Any owner of land shall, prior to subdividing or resubdividing land, submit to the Secretary of the Planning Board, at least 10 days prior to the regular meeting of the Board, two copies of a sketch plan of the proposed subdivision, which shall comply with the requirements of Article V, § 261-24 for the purposes of classification and preliminary discussion.
- B. Discussion of requirements and classification.
  - (1) The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the requirements of these regulations for street improvements, drainage, sewerage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information.
  - (2) A determination is to be made at this time by the Planning Board as to whether the proposed subdivision is a minor or major subdivision as defined in these regulations. The Board may require, however, when it deems it necessary for protection of the public health, safety and welfare, that a minor subdivision comply with some or all of the requirements specified for major subdivisions. If the sketch plan is classified as a minor subdivision, the subdivider shall then comply with the procedure outlined in Article III, § 261-9, of these regulations. If it is classified as a major subdivision, the subdivider shall then comply with the procedures outlined in Article III, §§ 261-10, 261-11 and 261-13.
- C. Study of sketch plan. The Planning Board shall determine whether the sketch plan meets the purposes of these regulations and shall, where it deems it necessary, make specific recommendations in writing

to be incorporated by the applicant in the next submission to the Planning Board.

**§ 261-9. Approval of minor subdivision.**

- A. Application and fee.
  - (1) Within six months after classification of the sketch plan as a minor subdivision by the Planning Board, the subdivider shall submit an application for approval of a minor subdivision plat. The plat shall conform to the layout shown on the sketch plan, plus any recommendations made by the Planning Board. Said application shall also conform to the requirements listed in Article V, § 261-25A. Failure to comply with any of the above will require a resubmission of the sketch plan to the Planning Board for reconsideration.
  - (2) All applications for plat approval for minor subdivisions shall be accompanied by a fee to be determined by the Town Board.
- B. Number of copies. Three copies of the minor subdivision plat shall be presented to the Secretary of the Planning Board at least 10 days prior to a scheduled monthly meeting of the Planning Board.
- C. Subdivider to attend Planning Board meeting. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the minor subdivision plat.
- D. When officially submitted. The time of submission of the minor subdivision plat shall be considered to be the date of the regular monthly meeting of the Planning Board, at least 10 days prior to which the application for plat approval, complete and accompanied by the required fee and all data required by Article V, § 261-25 of these regulations, has been filed with the Secretary of the Planning Board.
- E. A public hearing will be held by the Planning Board within 62 days from the time of submission of the minor plat for approval. Said hearing will be advertised in a newspaper five days before such hearing. **[Amended 7-13-1993 by L.L. No. 2-1993]**
- F. The Planning Board shall, within 62 days from the date of said hearing, approve, modify and approve or disapprove the subdivision plat. **[Amended 7-13-1993 by L.L. No. 2-1993]**

**§ 261-10. Preliminary plat for major subdivision.**

- A. Application and fee. Prior to the filing of an application for the approval of a major subdivision plat, the subdivider shall file an application for the consideration of a preliminary plat of the proposed subdivision, in the form described in Article V, § 261-26, hereof.
- B. Number of copies. Three copies of the preliminary plat shall be presented to the Secretary of the Planning Board at least 10 days prior to a regular monthly meeting of the Planning Board.
- C. Subdivider to attend Planning Board meeting. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the preliminary plat.
- D. Study of preliminary plat. The Planning Board shall study the preliminary plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided and the requirements of the Master Plan, the Official Map and Zoning Regulations.<sup>1</sup>

- E. When officially submitted. The time of submission of the preliminary plat shall be considered to be the date of the regular monthly meeting of the Planning Board, at least 10 days prior to which the application for conditional approval of the preliminary plat, complete and accompanied by all data required by Article V, § 261-26 of these regulations, has been filed with the Secretary of the Planning Board.
- F. Conditional approval of the preliminary plat. **[Amended 7-13-1993 by L.L. No. 2-1993]**
  - (1) Within 62 days of submission of a preliminary plat, the Planning Board will take action to approve, with or without modifications, or disapprove such preliminary plat. Failure to act within such sixty-two-day period shall constitute approval of the preliminary plat.
  - (2) When granting approval of a preliminary plat, the Planning Board shall state conditions of such approval with respect to specific changes, the character and extent of required improvements for which waivers may have been requested and may be waived without jeopardy to the public health, safety, morals and general welfare, the amount of improvements or the amount of all bonds. The action of the Planning Board, plus any conditions, shall be noted on three copies of the preliminary plat, one copy returned to the subdivider, one copy retained by the Planning Board and one copy to the Town Board. Approval of a preliminary plat shall not constitute approval but only deems an expression of approval of the design submitted.

#### **§ 261-11. Plat for major subdivision.**

- A. The subdivider shall, within six months after the approval of a preliminary plat, submit the final plat application in complete form and be accompanied by the fee which is set from time to time by resolution of the Town Board. **[Amended 7-13-1993 by L.L. No. 2-1993; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. Number of copies. A subdivider intending to submit a proposed subdivision plat for the approval of the Planning Board shall provide the Secretary of the Board with a copy of the application and three copies (one copy suitable for recording with the St. Lawrence County Clerk) of the plat, the original and one true copy of all offers of cession, covenants and agreements and two prints of all construction drawings, at least 10 days in advance of the regular monthly Planning Board meeting at which it is to be officially submitted.
- C. When officially submitted. The time of submission of the subdivision plat shall be considered to be the date of the regular monthly meeting of the Planning Board, at least 10 days prior to which the application for approval of the subdivision plat, complete and accompanied by the required fee and all data required by Article V, § 261-27, of these regulations, has been filed with the Secretary of the Planning Board.
- D. Water and sewer facility proposals contained in the subdivision plat shall be properly endorsed and approved by the Town Engineer and State Department of Health. Applications shall be filed with all necessary agencies. **[Amended 7-13-1993 by L.L. No. 2-1993]**
- E. Public hearing. A public hearing will be held by the Planning Board within 62 days (or other maximum time established by the Town Law) after the subdivision plat has been submitted for approval. This hearing will be advertised in a Town newspaper five days before such hearing. **[Amended 7-13-1993 by L.L. No. 2-1993]**

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1. Editor's Note: See Ch. 306, Zoning.

F. Action on the subdivision plat will be held within 62 days from the date of the public hearing; the Planning Board will either approve, modify or disapprove. Authorized officers will not sign the subdivision plat until the subdivider has complied with the provisions of § 261-13 of this article.  
[Amended 7-13-1993 by L.L. No. 2-1993]

**§ 261-12. Referral to other agencies. [Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

A. Plats subject to General Municipal Law (GML) § 239-n referral.

- (1) The following applications for approval of preliminary or final plats and undeveloped plats shall be subject to the referral requirements of this section, if the application applies to real property within 500 feet of the following:
  - (a) The boundary of any city, village, or town; or
  - (b) The boundary of any existing or proposed county or state park or other recreation area; or
  - (c) The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or
  - (d) The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or
  - (e) The existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or
  - (f) The boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of the Agriculture and Markets Law.

- B. The County Planning Board has 30 days (GML § 239-n) to return to the Town for local action stating no significant countywide or inter-community impact, or to approve, modify, or disapprove the referred plat. If agreed upon by all parties, this time limit may be extended mutually by all parties.
- C. If the County Planning Board recommends modification or disapproval of a referred plat, the referring body shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

**§ 261-13. Required improvements.**

- A. Improvements and performance bond. Before the Planning Board grants final approval of the subdivision plat, the subdivider shall follow the procedure set forth in either Subsection A(1) or Subsection A(2) below:
  - (1) In an amount set by the Planning Board, the subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements or the subdivider shall file with the Town Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of § 277 of the Town Law and shall be satisfactory to the Town Board and Town Engineer as to form, sufficiency, manner of execution and surety. A period of one year or such other period as the Planning Board may determine appropriate, not to exceed three years, shall be set forth in the bond within which required improvements must be completed.

(2) The subdivider shall complete all required improvements to the satisfaction of the Town Engineer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed, the subdivider shall file with the Town Clerk a bond or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvement not approved by the Town Engineer. Any such bond shall be satisfactory to the Town Board and Town Engineer as to form, sufficiency, manner of execution and surety.

(3) The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Town Engineer and a map satisfactory to the Planning Board has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements according to Subsection A(2), then said map shall be submitted prior to endorsement of the plat by the appropriate Planning Board officer. However, if the subdivider elects to provide a bond or certified check for all required improvements as specified in Subsection A(1), such bond shall not be released until such a map is submitted.

B. Modification of design improvements. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of a Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Engineer may, upon approval by a previously delegated member of the Planning Board, authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to a waiver or substantial alteration of the function of any improvements required by the Board. The Town Engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at their next regular meeting.

C. Inspection of improvements. At least five days prior to commencing construction of required improvements, the subdivider shall notify the Town Board in writing of the time when he proposes to commence construction of such improvements so that the Town Board may arrange for inspections to be made to assure that all Town specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

D. Proper installation of improvements. If the Town Engineer finds, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Town Board, Enforcement Officer and Planning Board. The Town Board then shall notify the subdivider and, if necessary, the bonding company and take all necessary steps to preserve the Town's rights under the bond. No plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plat.

**§ 261-14. Filing approved subdivision plat.**

A. Final approval and filing. Upon completion of the requirements in §§ 261-11 and 261-13 above and notation to that effect upon the subdivision plat, it shall be deemed to have final approval and shall be properly signed by the appropriate officer of the Planning Board (Chairman or Acting Chairman) and may be filed by the applicant in the office of the County Clerk. Any subdivision plat not so filed or recorded within 62 days of the date upon which such plat is approved or considered approved by reason of the failure of the Planning Board to act shall become null and void, unless the particular circumstances of said applicant warrant the Planning Board to grant an extension which shall not

exceed two additional periods of 62 days. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

B. Plat void if revised after approval. No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and such Board approves any modifications. In the event that any such subdivision plat is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

**§ 261-15. Public streets; recreation areas.**

A. Public acceptance of streets. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement or other open space shown on such subdivision plat.

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

**ARTICLE IV**  
**General Requirements and Design Standards**

**§ 261-16. Minimum requirements.**

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter. Said standards shall be considered to be minimum requirements and shall be waived by the Board only under circumstances set forth in Article VI herein.

**§ 261-17. General considerations.**

- A. Land that is to be subdivided will have such character that it can be used safely for building purposes.  
**[Amended 7-13-1993 by L.L. No. 2-1993]**
- B. Conformity to Official Map and Master Plan. Subdivisions shall conform to the Official Map of the Town and shall be in harmony with the Master Plan.
- C. Specifications for required improvements. All required improvements shall be constructed or installed to conform to the Town specifications listed herein and any other applicable Town specifications.

**§ 261-18. Street layout.**

- A. Width, location and construction. Streets shall be of sufficient width, suitably located and adequately constructed to conform to the Master Plan and to accommodate the prospective traffic and afford access for fire fighting, snow removal and other road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system.
- B. Arrangement.
  - (1) The arrangement of streets in the subdivision shall provide for the continuation of principal streets of any adjoining subdivision and for proper projection of principal streets into adjoining properties which are not yet subdivided in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services, such as sewers, water and drainage facilities. Where, in the opinion of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.
  - (2) Subdivisions containing 20 lots or more shall have at least two street connections with existing public streets, or streets on an approved subdivision plat for which a bond has been filed.
- C. Minor streets. Minor streets shall be so laid out that their use by through traffic will be discouraged.
- D. Special treatment along arterial streets. When a subdivision abuts or contains an existing or proposed arterial street, the Board may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- E. Provision for future resubdivision. Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the

requirements contained in these regulations.

- F. Dead-end streets. The creation of cul-de-sac or loop residential streets will be encouraged wherever the Board finds that such type of development will not interfere with normal traffic circulation in the area. In the case of such streets, where needed or desirable, the Board may require the reservation of a twenty-foot-wide easement to provide for continuation of pedestrian traffic and utilities to the next street.
- G. Block size. Blocks generally shall not be less than 600 feet nor more than 1,200 feet in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding 800 feet in length, the Planning Board may require the reservation of a twenty-foot-wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic, where needed or desirable, and may further specify, at its discretion, that a four-foot-wide paved footpath be included.
- H. Intersections with collector, major or arterial streets or roads. Minor or secondary street openings into collector, major or arterial streets or roads shall, in general, be at least 500 feet apart.
- I. Street jogs. Street jogs with center-line offsets of less than 125 feet shall be avoided.
- J. Angle of intersection. In general, all streets shall join each other so that, for a distance of at least 100 feet, the street is approximately at right angles to the street it joins.
- K. Relation to topography. The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.
- L. Other required streets. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Board may require a street approximately parallel to such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

#### **§ 261-19. Street design.**

- A. Width of rights-of-way and improved surface area. Streets and improved surface areas shall have the following widths. The classification of streets shall be determined by the Board.

<b>Street Classification</b>	<b>Minimum Right-of-Way (feet)</b>	<b>Minimum Improved Surface (feet)</b>
Major street	66	40
Collector street	60	30
Minor street	50	22 (rural) 30 (urban)

- B. Required street improvements.

- (1) Not later than 90 days after the granting of final approval, the subdivider shall have installed or shall have furnished adequate bond or other security for the installation, within a specified time,

of the required improvements listed and described in this section. All of the required improvements shall be made by the subdivider in full compliance with the specifications for each of the various units of work, as required by Town, county or state authorities, according to the nature of the improvement.

- (2) Subgrade. All topsoil, muck, quicksand, spongy material and other objectionable material shall be removed from an area on each side of the center line sufficient to provide the required base course for the improved surface and shoulder width called for. After it has been properly shaped to the approved profile, the subgrade should be rolled and compacted. Adequate drainageways, at least 18 inches below the crown of the finished pavement, shall be provided on each side of the road to the satisfaction of the Town Engineer and Planning Board. Fills shall be made with material approved by the Town Engineer and shall be placed in layers not over six inches thick, and each layer shall be properly rolled and compacted. No gravel or stone for the base course is to be placed on the subgrade until the subgrade and drainage is approved by the Town Engineer.
- (3) Base course. The thickness and methods of constructing the base course may vary, depending upon the amount of traffic anticipated, the type of material used and the condition of the subgrade. A base course at least 30 feet wide and corresponding to the required pavement and shoulder width consisting of not less than 12 inches of compacted stone or gravel approved by the Town Engineer shall be installed. All materials and construction procedures shall be subjected to the approval of the Town Engineer and shall comply with current construction and material specifications of the New York State Department of Transportation.
- (4) Final course. The final course of the street pavement shall be as specified by the Town Board and shall be dependent upon the street classification, the size of the proposed development, the volume and nature of anticipated traffic and the nature and location of adjacent development.

C. Street drainage.

- (1) Street and road culverts, headwalls or other appurtenances shall be installed by the developer where necessary. Where there is no natural stream or watercourse for the drainage of surface water from the proposed street or road, the developer shall secure rights-of-way and construct ditches or install stormwater drains to a natural waterway or as a Town Engineer directs. All street storm and sanitary sewers shall be constructed according to the grades on the plat submitted at the public hearing. Any changes in grade shall require the approval of the Town Board.
- (2) Driveway culverts shall be not less than 18 inches in diameter and 24 feet in length and shall be of corrugated metal or reinforced concrete. Installation is to be approved by the Town Engineer.

D. Utilities in streets. Water and sewer lines shall be placed in the street right-of-way between the street pavement and the street right-of-way line, wherever possible to simplify location and repair of lines when they require attention. Electrical and telephone service, gas mains and other utility installations shall be arranged for by the developer within each subdivision. Consideration shall be given to placing these utilities underground to increase safety, enhance aesthetic values, improve practicality on curving streets and to reduce maintenance costs and utility failures due to accidents and storm damage.

E. Utility easements. Where topography is such as to make impractical the inclusion of utilities within the street rights-of-way, easements at least 20 feet in width shall be provided with satisfactory access to the street. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required.

## F. Grades.

- (1) Grades of all streets shall conform in general to the terrain and shall be not less than 1/2% nor more than 6% for major, 8% for collector, or 10% for minor streets in residential areas, but in no case more than 3% within 50 feet of any intersection.
- (2) All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the Town Engineer so that clear visibility shall be provided for a safe distance.
- (3) A combination of steep grades and curves shall be avoided.

## G. Curves and visibility at intersections.

- (1) All street right-of-way lines at intersections shall be rounded by curves of at least 20 feet in radius, and curbs shall be adjusted accordingly.
- (2) In order to provide visibility for traffic safety, that portion of any corner lot, whether at an intersection entirely within the subdivision or of a new street with an existing street, which is within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at 30 feet distant from the point of intersection shall be cleared of all growth, except isolated trees, and obstructions more than three feet higher than the center line of the street. If directed, ground shall be excavated to achieve visibility.

## H. Culs-de-sac. Where cul-de-sac streets are designed to be so permanently, they should, in general, not exceed 500 feet in length and shall terminate in a circular turnaround having a minimum right-of-way radius of 75 feet and an outside improved surface radius of 60 feet. At the end of temporary dead-end streets, a temporary turnaround with a surface radius of 50 feet shall be provided, unless the Planning Board approves an alternate arrangement.

## I. Watercourses. Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Town Engineer.

## J. Curve radii. In general, street lines within a block, deflecting from each other at any one point by more than 10° shall be connected with a curve, the radius of which for the center line of street shall not be less than 400 feet on major streets, 200 feet on collector streets and 100 feet on minor streets.

## K. Reserve strips prohibited. Reserve strips of land, to be used to control access from the proposed subdivision to any neighboring property or to any land within the subdivision itself, shall be prohibited.

## L. Free flow of vehicular traffic abutting commercial developments. In front of areas zoned and designed for commercial use, or where a change to a zone which permits commercial use is contemplated, the street width shall be increased by such amount on each side as may be deemed necessary by the Planning Board to assure the free flow of through traffic without interference by parked or parking vehicles and to provide adequate and safe parking space for such commercial or business district.

**§ 261-20. Street names.**

All street names shown on a preliminary layout or final subdivision plat shall be approved by the Planning Board. In general, streets shall have names and not numbers or letters. Proposed street names shall be

substantially different so as not to be confused in sound or spelling with present names, except that streets that join or are in alignment with streets of an abutting or neighboring property shall bear the same name. Generally, no street should change direction by more than 90° without a change in street name.

#### **§ 261-21. Lots.**

- A. Lot size. All lots shall have area and width equal to minimum requirements of the Zoning Regulations, if any,<sup>2</sup> and local and State Department of Health regulations applying to the district in which they are located.
- B. Side lines. Side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.
- C. Corner lots. In general, corner lots should be larger than interior lots to provide a desirable building site with proper building setback from each street.
- D. Driveway access. Driveway grades between the street and the setback line shall not exceed 7%.
- E. Access from private streets. Lots on private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these regulations.
- F. Monuments and lot corner markers. Permanent monuments meeting specifications approved by the Town Engineer as to size, type and installation shall be set at such block corners, angle points, points of curves in streets and other points as the Town Engineer may require, and their location shall be shown on the subdivision plat.

#### **§ 261-22. Drainage improvements.**

Adequate storm drainage systems shall be required in all new subdivisions. The drainage system shall be designed by a person licensed to perform such work.

- A. Removal of spring and surface water. Any spring or surface water that may exist, either previous to or as a result of subdivision, shall be carried away by pipe or open ditch. Such drainage facilities shall be located in the street right-of-way where feasible, or in permanent easements of appropriate width.
- B. Drainage structure to accommodate potential development upstream. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside of the subdivision. The Town Engineer shall approve the design and size of the facility based on anticipated runoff from a ten-year storm under conditions of total potential development permitted by the Zoning Regulations in the watershed.<sup>3</sup> The cost of a culvert or other drainage facility in excess of that required for the particular subdivision may be deemed to be the responsibility of the Town, or may be prorated among the upstream property owners.
- C. Responsibility from drainage downstream. The subdivider's engineer shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; and this study shall be reviewed by the Town Engineer. When it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a five-year storm, the Planning Board shall notify the Town Board of such potential

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2. Editor's Note: See Ch. 306, Zoning.

3. Editor's Note: See Ch. 306, Zoning.

condition. In such case, the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.

- D. Land subject to flooding. Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous condition.
- E. Individual lot drainage. All subdivider shall present an individual lot drainage plan for each lot in their proposed subdivision. Such plan shall be used in the grading of lots before a certificate of compliance is granted, as required by the Zoning Regulations.<sup>4</sup> No roof leaders or footing drains which carry stormwater will be permitted to use a sanitary sewer nor a so-called "dry well" in an area where the dominant soil is hardpan but shall be adequately disposed of upon the ground surface.

### **§ 261-23. Parks, open spaces and natural features.**

- A. Recreation areas.
  - (1) The Planning Board shall require that the plat show sites of a character, extent and location suitable for the development of a park, playground or other recreation purpose in the vicinity of the subdivision. Where a proposed park, playground or open space shown on the Town Plan is located in whole or in part in the subdivision, the Board shall require that such area or areas be shown on the plat in accordance with the requirements specified above. Such area or areas may be dedicated to the Town by the subdivider if the Town Board approves such dedication. A maximum of 10% of the area of the subdivision may be required for dedication for park, playground and other recreation purposes.
  - (2) In the event that an area suitable for a park or playground is located in the subdivision, the subdivider shall submit to the Board, prior to final approval, three prints (one on cloth) drawn in ink, showing, at a scale of not less than 40 feet to the inch, such area and the following features thereof:
    - (a) The boundaries of said area.
    - (b) Existing features, such as brooks, ponds, clusters of trees, rock outcrops and structures.
    - (c) Existing and, if applicable, proposed changes in grade and contours of said area and of the area immediately adjacent.
- B. Waiver of plat designation of area for parks and playgrounds.
  - (1) In cases where the Planning Board finds that due to the size, topography or location of the subdivision, land for park, playground or other recreation purposes cannot be properly located therein or if, in the opinion of the Board, it is not desirable, the Board may waive the requirement that the plat show land for such purposes. The Board may then require, as a condition to approval of the plat, a minimum payment to the Town of \$500 per gross acre of land that would otherwise have been acceptable for recreation purposes, up to 10% of the total area to be applied to the purchase and/or improvement of a suitable adjacent site.
  - (2) Such amount shall be paid to the Town Board at the time of final plat approval, and no plat shall

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4. Editor's Note: See Ch. 306, Zoning.

be signed by the authorized officer of the Planning Board until such payment is made. All such payments shall be held by the Town Board in a special Town Recreation Site Acquisition and Improvement Fund to be used for the acquisition of land that is suitable for permanent park, playground or other recreational purposes; and is so located that it will serve primarily the general neighborhood in which the land covered by the plat lies; and shall be used only for park, playground or other recreational land acquisition or improvements. Such money may also be used for the physical improvement of existing parks or recreation areas serving the general neighborhood in which the land shown on the plat is situated, provided that the Planning Board finds there is a need for such improvements.

C. Preservation of natural features. The Planning Board shall, wherever possible, establish the preservation of all natural or historic features which add value to residential developments and to the community, such as large trees or groves, watercourses and falls, vistas, architectural or historic sites and similar irreplaceable assets.

**ARTICLE V**  
**Documents to be Submitted**

**§ 261-24. Sketch plan.**

The sketch plan initially submitted to the Planning Board shall be based on Tax Map information or some other similarly accurate base map at a scale, preferably not less than 200 feet to the inch, to enable the entire tract to be shown on one sheet. The sketch plan shall show the following information:

- A. The location of that portion which is to be subdivided in relation to the entire tract and the distance to the nearest existing street intersection.
- B. All roads, structures, wooded areas, streams, utilities and other physical features within the portion to be subdivided and within 100 feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than 10 feet.
- C. The name of the owner and all adjoining property owners as disclosed by the most recent municipal tax records.
- D. The Tax Map sheet, block and lot numbers, if any.
- E. The proposed pattern of lots (including lot width and depth), street layout, recreation areas, systems of drainage, sewerage and water supply within the subdivided area. See §§ 261-25 and 261-26 below.
- F. All existing restrictions on the use of land, including easements, covenants or zoning lines.

**§ 261-25. Minor subdivision plat.**

- A. In the case of minor subdivision only, the subdivision plat application shall include the following information:
  - (1) A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
  - (2) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments as approved by the Town Engineer and shall be referenced and shown on the plat.
  - (3) All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the State Department of Health, and a note to this effect shall be stated on the plat and signed by a licensed engineer.
  - (4) Proposed subdivision name, name of the Town and county in which it is located.
  - (5) The date, North point, map scale, name and address of record owner and subdivider.
  - (6) Agriculture data statement, subject to the conditions of § 283-a of the Town Law. **[Added 7-13-1993 by L.L. No. 2-1993]**
  - (7) For actions under SEQRA, submission of a Short Environmental Assessment Form (SEAF) for unlisted actions or a Full Environmental Assessment Form (FEAF) for Type I actions. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. The plat will be shown on material suitable for filing with the County Clerk. The size of the sheet

shall conform to Town standards.

**§ 261-26. Major subdivision preliminary plat; data. [Amended 7-13-1993 by L.L. No. 2-1993]**

The following documents shall be submitted for approval:

A. Three copies of the preliminary plat, prepared at a scale of not more than 100 feet to the inch but preferably not less than 50 feet to the inch, showing: [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

- (1) Proposed subdivision name, name of Town and county in which it is located, date, true North point, scale, name and address of record owner, subdivider and engineer or surveyor, including license number and seal.
- (2) The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent unsubdivided property.
- (3) Zoning district, including exact boundary lines of district, if more than one district, and any proposed changes in the zoning district lines and/or the Zoning Regulation text applicable to the area to be subdivided.<sup>5</sup>
- (4) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- (5) Location of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, wooded areas, single trees with a diameter of eight inches or more as measured three feet above the base of the trunk and other significant existing features for the proposed subdivision and adjacent property.
- (6) Location of existing sewers, water mains, culverts and drains on and adjacent to the property, with pipe sizes, grades and direction of flow.
- (7) Contours with intervals of five feet or less as required by the Board, including elevations on existing roads. Approximate grading plan, if natural contours are to be changed more than two feet.
- (8) The width and location of any streets or public ways or places shown on the Official Map or the Master Plan within the area to be subdivided and the width, location, grades and street profiles of all streets or public ways proposed by the developer.
- (9) The approximate location and size of all proposed water-lines, valves, hydrants and sewer lines and fire alarm boxes. Connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law.
- (10) Storm drainage plan indicating the approximate location and size of proposed lines and their profiles. Connection to existing lines or alternate means of disposal.
- (11) Plans and cross sections showing the proposed location and type of sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains and the size and type thereof, the character, width and depth of pavements and subbase, the location of manholes, basins and underground conduits.
- (12) Preliminary designs of any bridges or culverts which may be required.

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5. Editor's Note: See Ch. 306, Zoning.

- (13) The proposed lot lines with approximate dimensions and area of each lot.
- (14) Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the preliminary plat shall show the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than 20 feet in width and which shall provide satisfactory access to a public highway or public open space shown on the subdivision or the Official Map.
- (15) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The tract corners shall also be located on the ground and marked by substantial monuments of such size and type as are approved by the Town Engineer and shall be referenced and shown on the plat.
- (16) For actions under SEQRA, submission of a Short Environmental Assessment Form (SEAF) for unlisted actions or a Full Environmental Assessment Form (FEAF) for Type I actions.

B. If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than 400 feet to the inch, showing an outline of the platted area, with its proposed streets, and indication of the probable future street system, with its grades and drainage in the remaining portion of the tract, and the probable future drainage layout of the entire tract shall be submitted. The part of the subdivider's entire holding submitted shall be considered in the light of the entire holdings.

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

D. An agriculture data statement, subject to the conditions of § 283-a of the Town Law.

#### **§ 261-27. Major subdivision final plat; data.**

The following documents shall be submitted for plat approval:

A. The plat to be filed with the County Clerk shall be prepared by a person licensed to perform such work and drawn upon a suitable size and upon suitable material as required for such filing. The size of the sheets shall conform to Town standards. The plat shall be drawn at a scale of no more than 100 feet to the inch and oriented with the North point at the top of the map. When more than one sheet is required, a key map, or an additional index sheet of the same size, shall be filed, showing to scale the entire subdivision with lot and block numbers clearly legible. The plat shall show:

- (1) Proposed subdivision name or identifying title and the name of the Town and county in which the subdivision is located, the name and address of record owner and subdivider, name, license number and seal of the licensed land surveyor.
- (2) Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
- (3) Sufficient data acceptable to the Town Engineer to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the state system of plan coordinates and, in any event, should be tied to reference points previously established by a public authority.
- (4) The length and bearing of all straight lines, radii, length of curves and central angles of all curves and tangent bearings shall be given for each street. All dimensions and angles of the lines

of each lot shall show the boundaries of the property, location, graphic scale and true North point.

- (5) The plat shall also show, by proper designation thereon, all public open space for which deeds are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the subdivision plat copies of agreements or other documents showing the manner in which such areas are to be used and maintained and the provisions made therefor.
- (6) All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
- (7) Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing Town practice.
- (8) Permanent reference monuments shall be shown and shall be constructed in accordance with specifications of the Town Engineer. When referenced to the state system of plan coordinates, they shall also conform to the requirements of the State Department of Transportation. They shall be placed as required by the Town Engineer and their location noted and referenced upon the plat.
- (9) All lot corner markers shall be at least 3/4 inches in diameter, if metal, and at least 24 inches in length and permanently located in the ground to existing grade in a manner satisfactory to the Town Engineer.
- (10) Monuments of a type approved by the Town Engineer shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Town Engineer.

B. Construction drawings, including plans, profiles and typical cross sections, as required, showing the proposed location, size and type of streets, sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, pavements and subbase, manholes, catch basins and other facilities.

C. An agriculture data statement, subject to the conditions of § 283-a of the Town Law. **[Added 7-13-1993 by L.L. No. 2-1993]**

**ARTICLE VI**  
**Administration and Enforcement**

**§ 261-28. Waivers.<sup>6</sup> [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Where the Planning Board finds that extraordinary and unnecessary hardship may result from strict compliance with these regulations, due to special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive or modify such regulations so that substantial justice may be done and the public interest is secured, subject to appropriate conditions and provided that such relief will not have the effect of nullifying the intent and purpose of the Official Map, the Master Plan or the Zoning Regulations.<sup>7</sup>

**§ 261-29. Coordinated development.**

- A. The standards and requirements of these regulations may be modified by the Board in the case of a plan and program for a complete new community, planned neighborhood or cluster development which, in the judgment of the Board, provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated and which also provides such covenants or other legal provisions as will assure conformity with and achievement of the plan.
- B. In waiving and granting modifications, the Planning Board shall require such conditions as will, in its judgement, secure substantially the objectives of the standards or requirements so waived or modified. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

**§ 261-30. Penalties for offenses; enforcement.**

- A. Penalties for offenses. A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter or of such local law, ordinance or regulation shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation. [Amended 8-13-1986 by L.L. No. 1-1986; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- B. Enforcement Officer. These regulations shall be enforced by the Enforcement Officer, who shall be appointed by the Town Board. No building permit or certificate of compliance shall be issued by him except in compliance with all provisions of these regulations, including any permitted waiver or adjustment thereto.

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6. Editor's Note: Original § 93-25, Variances, of the 1986 Code and which immediately preceded this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

7. Editor's Note: See Ch. 306, Zoning.

**ARTICLE VII**  
**Proposed Streets, Parks and Easements**  
**[Added 8-12-1987 by L.L. No. 3-1987]**

**§ 261-31. General regulations.**

- A. Offers of cession. All streets, parks and easements shall be indicated on the plat. In accordance with § 279 of the Town Law, the applicant may add as part of the plat a notation, if he so desires, to the effect that no offer of dedication of such streets or parks or any of them is made to the public. All offers of cession to the public of all streets and parks not so marked shall be filed with the Planning Board at the time of submission of the final application. **[Amended 7-13-1993 by L.L. No. 2-1993]**
- B. Petition for dedication. Upon completion of the subdivision and road(s), a petition in the form required by the Town Board shall be filed with such Board for the acceptance and dedication of the road(s) and the acceptance of parks or any other reservations or easements.
- C. Acceptance by Town. Acceptance of any offer of cession of streets and/or parks shall rest with the Town Board and the Highway Superintendent. In the event that the applicant shall elect not to file the plat in the office of the County Clerk within the period prescribed for such filing, then such formal offer of cession shall be deemed void. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute nor imply the acceptance by the Town of any streets, parks or other areas shown on said plat; the Planning Board may require the addition of appropriate notes to this effect on the plat.
- D. Maintenance. In the event that no offer of cession to the public is made for the streets, parks and required easements shown on the plat, there shall be submitted with the final application copies of agreements or other documents providing for the suitable maintenance of such facilities and a statement of all rights which exist with respect to each of them. The adequacy of such documents shall be subject to Planning Board approval.

**§ 261-32. Waiver of required improvements.**

The Planning Board may waive, subject to appropriate conditions, the provision of any or all such improvements and requirements as, in its judgment of the special circumstances of a particular plat, are not requisite in the interest of the public health, safety and general welfare or which, in its judgment, are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.

**§ 261-33. Certificates of occupancy for structures.**

A certificate of occupancy shall not be issued for a structure within a subdivision where the improvements are guaranteed by a performance bond unless it is determined by the Planning Board that both of the following conditions have been complied with:

- A. Status of street improvements. The improvement of the street or streets giving access to the structure has progressed to a stage deemed adequate by the Planning Board to render safe all-weather vehicular access for both routing and emergency purposes.
- B. Maintenance agreements. Written agreements have been filed providing for the maintenance of the bonded street or streets in such all-weather passable conditions, including snow removal and sanding, during the period between the issuance of the certificate of occupancy and the acceptance of the fully

completed street by the Town Board and the Highway Superintendent. If the street is not to be offered for dedication to the Town, such an agreement will have been required in accordance with § 261-31D of these regulations. In either case, the agreement shall be in recordable form and shall include a provision permitting the Town, upon 24 hours' notice by phone or in person to contract for the performance of such maintenance for any street providing access to a building for which a certificate of occupancy has been issued if such maintenance has not been accomplished by the street owner to the satisfaction of the Town Engineer and the Highway Superintendent. Any sums expended by the Town for such maintenance purposes shall be borne by the owner of the street and, if not paid within 30 days of the date of billing, shall become a lien upon all property owned by him within the subdivision. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**