

LOCAL LAW #2 OF 2010

ARTICLE I: GENERAL PROVISIONS

Section 100 Enactment Pursuant to the Municipal Home Rule Law Section 10 and Article 16 of the Town Law, the Town Board of the Town of Inlet authorizes and empowers the Planning Board of the Town of Inlet to approve or disapprove applications for subdivision plat approval within the Town of Inlet.

Section 105 Title This law shall be known and cited as the Town of Inlet Subdivision Control Law.

Section 110 Purpose

The standards and procedures contained herein are intended to insure that (a) land to be subdivided is suitable for building purposes without creating dangers to health, or peril from fire, flood, traffic hazard, or other hazard, (b) lots are created such that adequate provision can be made for sewage disposal, water supply, emergency vehicle access, storm water drainage, utility service, and other needed improvements, (c) roads are constructed to Town standards and are suitable to accommodate the expected volume of traffic, (d) the rural and scenic character of the Town is preserved, and (e) goals and objectives of the Town of Inlet Comprehensive Plan are furthered.

Section 115 Applicability

This law regulates all subdivisions as defined herein.

- A. Whenever any subdivision of land is proposed to be undertaken, the subdivider shall make application for and receive final approval of such proposed subdivision in accordance with this local law before (1) any lot is leased or sold any land is cleared or vegetation removed (except vegetation removed for surveying, engineering tests and inspection), (2) any permit is issued for a structure in the subdivision, and (3) any building, utility installation, road construction or other new land use or development within the subdivision is undertaken.
- B. All roads must be approved and in place before lots are sold if the Town is to maintain the highway. (See Sections 320 & 325.)
- C. The Planning Board is authorized to review and approve the development of any plat which has already been filed, at any time prior to the effective date of this local law, in the Office of the Hamilton County Clerk, if such plat is entirely or partially undeveloped. For purposes of this section, "undeveloped" shall mean those plats where 20 percent or more of the lots within the plat are unimproved, unless existing conditions, such as poor drainage or wetlands, have prevented their development.

Section 120 Conflict with Other Laws Whenever the requirements of this law are at variance with the requirements of any lawfully adopted rules, regulations, law or statutes, the most restrictive or those imposing the higher standard shall govern.

Section 125 Fees Application review and inspection fees shall be established by resolution of the Town Board.

ARTICLE 2: DEFINITIONS

SECTION 200 Word Interpretation Except where specifically defined herein all words used in this law shall carry their customary meaning.

Section 205 Definitions For the purpose of this law words and terms used herein are defined as follows:

Boundary line adjustment. The transfer of a parcel of land or real property between individuals, corporations or businesses consisting of less than the minimum lot size required in the zoning district wherein the property is located, that results in the enlargement of one parcel and a reduction in size of another parcel. A boundary line adjustment can only occur between adjacent property owners.

Clerk of the Planning Board. The person designated to perform the duties of the Clerk of the Planning Board for all purposes of these regulations.

Community Sewage System. A system of piping, tanks, leach fields, or other facilities for the collection and treatment of sewage wastes serving more than one lot, whether owned by the Town, a private utility, or a homeowners association or similar organization.

Community Water System. A source of potable water and necessary appurtenances together with a distribution system serving more than one lot, whether owned by the Town, a private utility, homeowners association or similar organization.

Conservation Subdivision. A subdivision that employs a flexible design and allows for a variance of dimensional requirements of the Zoning Code in order to conserve open space.

Engineer for the Town. A licensed professional engineer employed by the Town of Inlet.

Final Plat. A drawing, in final form, prepared by a New York State licensed surveyor or engineer, showing a proposed subdivision containing all information or detail required by law and by this law to be presented to the Planning Board for approval, and which after final plat approval, may be duly filed or recorded by the subdivider in the Office of the County Clerk of Hamilton County.

Final Plat Approval. Signing of a final plat by a duly authorized officer of a Planning Board after a resolution granting final approval to the plat, or after satisfaction of all conditions specified in a resolution granting conditional approval of the plat. Such final approval qualifies the plat for recording in the office of the County Clerk of Hamilton County.

Major Road. A road intended as any of the following: (a) to be considered for takeover by the Town of Inlet as a Town highway, (b) to serve any use generating truck traffic, or (c) to serve a traffic volume of 100 or more vehicles per day.

Major Subdivision. (a) Any subdivision involving the creation of five (5) or more lots within any consecutive ten (10) year period; or (b) any subdivision involving the

construction of any new public or private road or substantial improvement of an existing road. A subdivision consisting of two to four lots served by a shared driveway shall not be deemed to constitute a major subdivision.

Mature Tree. Any tree in excess of six (6) inches in diameter at breast height.

Minor Road. A road intended to be used as a *private* road providing access to residential properties or seasonal accommodations with an anticipated average traffic volume of less than 100 vehicles per day.

Minor Subdivision. Any subdivision involving the creation of four (4) or fewer lots within any consecutive ten (10) year period, and which does not require the construction or substantial improvement of a road.

Person. Any individual, corporation, partnership, association, trustee, municipality, or other legal entity, but shall not include the state or any state agency.

Planning Board. Planning Board of the Town of Inlet.

Preliminary Plat. A drawing marked "Preliminary Plat" showing the layout of a proposed subdivision, submitted to the Planning Board for approval 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.

Re-subdivision. A change in a subdivision plat filed in the Office of the County Clerk which (a) affects any areas reserved thereon for public or common use, (b) affects any road layout shown on such plat, or (c) diminishes the size of any lot shown thereon. A merger or consolidation of adjoining lots that eliminates interior lot lines but does not change any lot lines does not constitute a subdivision.

Shared Driveway. An arrangement whereby two lots are served by a common driveway.

Sketch Plan. A sketch of a proposed subdivision as further described in Section 600.

Subdivider. A person who is the registered owner, or authorized agent of the registered owner of land proposed for subdivision.

Subdivision. Any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy (including any grading, road construction, installation of utilities or other improvements or any other land use and development preparatory or incidental to any such division) by any person or by any other person controlled by, under common control with or controlling such person or by any group of persons acting in concert as part of a common scheme or plan. The term subdivision includes re-subdivision. Subdivision of land shall include any map, plat or other plan of the division of land, whether or not previously filed. Subdivision of land shall *not* include: the lease of land for hunting and fishing and other open space recreation uses; cemeteries; or mobile home parks whereby two or more mobile homes are sited on a single parcel of land; boundary line adjustment as defined herein.

Town Board. The Town Board of the Town of Inlet.

Zoning Code. Town of Inlet Zoning Code

ARTICLE 3: DESIGN, STANDARDS AND REQUIRED IMPROVEMENTS

SECTION 300 Relationship to Land Features Subdivision design shall preserve, insofar as is possible, the natural features, terrain and drainage of the land to be developed. Accordingly, proposed subdivisions which are to be located in areas characterized by steep slope, wet soils, shallow soils or other

physical limitation for development shall be presumed to have significant problems requiring special design features or mitigating measures if such problems are to be satisfactorily overcome. In general, future uses upon land to be subdivided should be able to blend harmoniously with the surrounding topography, vegetation, and other natural features, and should avoid the need for costly land alterations or intricate engineering to overcome adverse site conditions.

Section 305 Lots

Conformance with Zoning. All lots shall meet the minimum area and dimensional requirements for a building lot as specified in the Town of Inlet Zoning Code unless approved as an open space subdivision.

Lots to be Buildable. There shall be a buildable area on each proposed lot of sufficient size and suitably located for (a) a building, (b) an on-lot waste water disposal system except where a community sewage system is proposed, and (c) a well or other water source except where a community water system is proposed. Such buildable area shall be free from such restrictions as wetlands, wet soils, ponded or wet areas, flood hazard, slope greater than twenty-five (25) percent, rock outcrops, soil with bedrock close to the surface, and other conditions which would create difficulties for home construction or for sewerage treatment. Such buildable area shall be suitable for an on-site waste water treatment system consistent with New York State Department of Health and New York State Adirondack Park Agency standards.

- A. **Access to Roads.** Each lot shall have access onto a public or private road by means of either: (1) direct frontage upon such road as specified by the minimum highway frontage requirement specified in the Town of Inlet Zoning Code, or (2) a right-of-way easement of minimum width equal to the said minimum highway frontage requirement. Said right-of-way-easement may be shared by two lots. Access to lots may be through an individual driveway, or through a shared driveway in accordance with Section 340 herein. (Explanatory note: Part (2) above would allow 2 lots served by a shared driveway to share a 25 feet wide easement within which a driveway would be situated. The total minimum road frontage for two such lots would be 25 feet.)
- B. **Driveway Locations.** Each lot shall have a suitable location for a driveway such that driveway slope at the intersection with the roadway does not exceed three (3) percent within 20 feet of the intersection, driveway slope does not exceed fifteen (15) percent over any length, and such that to the extent practicable, sight distance in each direction at the entrance to the roadway complies with the standards of Section 340 herein.
- C. **Lot Lines.** Side lot lines shall generally be approximately at right angles to the road except to follow natural features.
- D. **Corner Lots.** Corner lots for residential use shall have extra width to permit required building setback from both roads.

Section 310 Preservation of Natural and Cultural Features Features such as historic landmarks and buildings, existing trails, country lanes, rock outcrops, cliffs, hill top lookouts, rock gorges, unique stands of vegetation, significant wildlife habitats, and similar features of physical or cultural value that provide a sense of uniqueness to the site shall be preserved where practicable. The Planning Board may require the provision of a green space buffer around such features. Shorelines of streams, lakes, and ponds shall be left in their natural state except for areas where vegetation is removed in compliance with shoreline vegetative cutting regulations of the Adirondack Park Agency Act.

Section 315 Tree Removal Removal or damage to existing mature trees shall be avoided to the extent practicable, especially if those trees provide privacy or screening.

Section 320 Provision for Future Road Maintenance

- A. Provision shall be made for future road ownership and maintenance by means of one of the following alternatives:
1. Public roads:
 - a. The subdivision road is constructed, dedicated to the Town and accepted by the Town Board prior to final plat approval.
 - b. The subdivision road is constructed, dedicated to the Town and accepted by the Town Board and conveyed after final inspection and posting of a maintenance bond before the first lot is sold. In the event the road is not accepted by that time, it remains a private road and will be owned and maintained in accordance with a plan approved by the Planning Board.
 2. Private Roads:
 - a. The road is conveyed to a homeowners' association pursuant to the terms of a recorded Declaration of Covenants and/or deeds.
 - b. The road is owned by the owners of lots in the subdivision pursuant to the terms of a recorded Declaration of Covenants and/or deeds.
 - c. The road is maintained in accordance with the terms of a road maintenance agreement which provides for sharing the obligations and costs of repair and maintenance. This agreement shall be executed by the owners of all lots and properties to which access is obtained by use of said road. The agreement shall run with the land and be binding on the owners, their successors, distributees and assigns and shall be recorded in the Office of the Hamilton County Clerk simultaneously with the filing of the approved subdivision plat.
 - d. The road is owned and maintained by some other form of legally binding recorded agreement which addresses on-going maintenance responsibilities of future lot owners.
- B. When any road is dedicated to the Town, the subdivision application must address the contingency of the Town's Board refusal to accept and the Planning Board must address that contingency in its decision. The subdivider is responsible for maintenance of all subdivision roads until conveyance to the Town or another entity.

Section 325 Minimum Road Standards All subdivision roads must meet Town of Inlet Minimum Road Design & Construction Standards

Section 335 Future Access to Interior Property The Planning Board may require that one or more 50 feet rights-of-way be reserved in order to provide for future road access to interior land.

Section 340 Sight Distance at Driveways and Intersections

A. To the extent practicable, all intersections with any public road, including driveway intersections, shall be designed so that minimum safe sight distances and other standards set forth in "Policy and Standards for Entrances to State Highways," State of New York Department of Transportation publication number M.A.P. 7.12-34, as such publication may be amended or superceded from time to time, shall be maintained. As set forth in the above cited publication, the minimum unobstructed line of sight in each direction at the entrance to a public road shall be as follows:

Design Speed of Highway	Left Turn	Right Turn
30 mph	396 feet	286 feet
40 mph	583 feet	484 feet
50 mph	814 feet	770 feet

Said distances shall be measured from the point of entry onto the public road.

- B. If the location of one or more proposed driveways is such that a traffic hazard is created on an existing roadway due to inadequate sight distance, the Planning Board may require an alternative lot arrangement making use of a shared driveway or short access road which enters the existing roadway at a safer location.
- C. This section is intended to insure that the best location for a driveway or entrance to a roadway is chosen given the unique circumstances of the lot to be subdivided. It is not intended to prevent the subdivision of a lot, but to minimize any possible hazard.

Section 345 Standards for Shared Driveways

- A. No more than 2 lots shall be served by a shared driveway.
- B. Sufficient legal arrangement, such as a right-of-way easement, shall be made to provide for the future use and maintenance of shared driveways.
- C. Shared driveways shall be constructed so as to be passable by emergency vehicles during all seasons of the year.
- D. The right-of-way easement for any shared driveway shall be at least twenty-five (25) feet wide.
- E. Minimum width of the driving surface shall be 12 feet.
- F. Maximum grade shall be twelve (12) percent.
- G. A shared driveway shall only serve lots occupied by a one or two family dwelling.

Section 350 Drainage, Storm Water Runoff and Erosion Control

- A. Off-site storm water runoff shall not create damage or difficulty to downstream properties, shall not overload downstream culverts and other drainage facilities, and shall not introduce significant amounts of pollutants to surface waters of the Town of Inlet. Features of the natural terrain shall be used to the extent practical to reduce runoff from the site. Retention basins, dry wells and other infiltration structural devices to reduce runoff from the site may be required by the Planning Board.
- B. All major subdivisions as defined herein, and any subdivision that involves one acre or more of land disturbance, shall comply with applicable Storm water Phase II Permit and State Pollution Discharge Permit requirements of the New York State Department of Environmental Conservation, including the preparation of a Storm water Pollution Prevention Plan (SWAPP), and the construction and/or implementation of all drainage control measures prescribed by such SWAPP.
- C. Ditch bottoms shall be constructed and maintained to minimize soil erosion by means of sodding, mulching, netting, stone paving, rip-rap, or other suitable materials.
- D. All cleared areas associated with the construction of roads and installation of utilities, excluding those areas comprising road surfaces or shoulders, all exposed borrow areas, and all cut and fill slopes including ditch banks, shall be successfully vegetated to grasses or legumes that are suited to site conditions.
- E. Areas on which vegetation has been destroyed or removed, excluding roadways, driveways, building sites and parking lots, shall be successfully re-vegetated or otherwise stabilized with structural erosion control measures.
- F. Upon completion of final grading of any area, mulching and re-vegetation operations shall begin within five (5) working days and shall be completed within ten (10) working days, provided however that where this is not possible or desirable because of weather conditions or other circumstances, such re-vegetation operations shall be performed as soon as reasonably possible.
- G. Re-vegetation measures shall be evaluated for compliance between 180 and 360 calendar days from the date of planting. Corrective action shall be instituted and completed within fifteen (15) working days upon determination of unsatisfactory compliance. In making their determination the Planning Board or designee thereof shall consider rills, gullies, loss of mulch, loss of seed, or failure of seed germination as evidence of unsatisfactory compliance.

Section 355 Trail Systems

- A. Provisions shall be made to ensure the continuity of existing trail systems and where deemed appropriate, the Planning Board may also require unimproved walking trails within the subdivision, connecting to existing or possible future trails through adjacent properties or along roadways.

Section 360 Clearing and Grading

Clearing and grading for road and utility installations shall be limited to that which is necessary to construct safe roads, provide needed roadside and embankment drainage, construct stable cuts and fills and provide for utility installation.

Section 365 Modification of Designs

If at any time before or during construction of improvements it is demonstrated that unforeseen conditions make it necessary to modify the location or design of improvements, the Chairman of the Planning Board may authorize such modifications, provided these modifications are within the spirit and intent of the Planning Board's approval and do not amount to a waiver or substantial alteration of any improvements required by the Board. The Chairman shall issue any authorization under this paragraph in writing, and shall submit a copy of such authorization to the Planning Board at their next meeting. If such authorization should result in a modified final plat, the revised final plat shall be filed with the County Clerk.

Section 370 Waiver of Standards and Required Improvements

- A. Where the Planning Board finds that compliance with these requirements would cause unusual hardship or unreasonable difficulties, and/or where the lots created by subdivision have no reasonable expectation of being used for any use except an open space use such as forestry, agriculture, or open space recreation, the minimum requirements of this article may be waived or modified provided that: (1) the public interest is served, (2) the development is in keeping with the spirit and intent of this law, (3) no provisions of the Town of Inlet Zoning Code are waived or modified unless so authorized in the Zoning Code or by variance as provided in said law, and (4) approval standards pursuant to the State Environmental Quality Review Act (SEQR) are not waived.
- B. The Planning Board shall record the reasons for any such waiver in its minutes.

ARTICLE 4 CONSERVATION (CLUSTER) SUBDIVISIONS

Section 400 Purpose

The purpose of this article is to encourage flexibility in the design and development of land in order to preserve valuable open space, scenic qualities, environmentally sensitive features and sites of historical significance, and to facilitate the economical construction and maintenance of roads and other improvements.

Section 410 General Provisions

- A. The Planning Board may *require* a conservation subdivision design in order to protect and preserve valuable natural and cultural features of the site and/or to avoid developing on environmentally sensitive areas or adversely impacting neighboring properties, including but not limited to, the following circumstances: (1) significant wildlife or plant habitat exists on the site, (2) substantial portions of the site area are characterized by wetlands, steep slopes, or soils with severe limitations for buildings or on-site septic absorption fields, (3) streams would be crossed by development of the entire site, (4) scenic views would be adversely impacted by a conventional

subdivision design, (5) the site is adjacent to, or contains, buildings, structures or lands of historical significance, (6) an existing, planned or potential walking trail or trails exist on the site, or (7) an open space buffer would improve compatibility with neighboring properties.

- B. Lots and lot dimensions may be smaller than otherwise permitted by the minimum lot size and dimension requirements of the Town of Inlet Zoning Code provided that the provisions of this article are satisfied.
- C. The total number of housing units on the site shall not exceed that which is allowable by the Adirondack Park Agency Act and any amendments thereto, or which would otherwise be allowed by the Town of Inlet Zoning Code for a conventional subdivision design on the same parcel of land.
- D. Review and approval of a conservation subdivision that is also a “Planned District” pursuant to the Town of Inlet Zoning Code shall be undertaken by the Planning Board concurrent with their review of the Planned District.
- E. All provisions of New York State Town Law Section 278 shall apply.

Section 420 Design Requirements

- A. All lots and/or structures shall front on and have access to an internal road or drive constructed to serve the conservation subdivision development, or upon a road or drive constructed to serve a previously approved conservation subdivision. No individual lot or dwelling unit shall have direct access upon an existing public road not constructed to serve an approved conservation subdivision.
- B. All structures within a conservation subdivision shall be set back a minimum of one hundred (100) feet from any state or county highway. Said setback area shall be maintained as a vegetated buffer. Existing vegetation shall be retained to the extent practicable in order to screen the development from view of the public road.
- C. A conservation subdivision shall have minimum frontage of fifty (50) feet upon an existing public road.
- D. For shoreline parcels to be subdivided, the number of principal buildings proposed to front on the shoreline shall not exceed the number which otherwise could front upon such shoreline in a conventional subdivision layout designed in compliance with the minimum shoreline lot width requirements of the Town of Inlet Zoning Code and the Adirondack Park Agency Act.

Section 430 Open Space Ownership and Protection

- A. Ownership: The type of ownership of the land set aside for open space shall be selected by the Subdivider subject to the approval of the Planning Board. An acceptable type of ownership may include, but is not limited to, the following:
 - 1. Private ownership.
 - 2. Land preservation or conservation organizations or trusts.
 - 3. Public agencies or governmental bodies.
 - 4. The Town, subject to acceptance by the Town Board.
 - 5. Homeowners association with the following requirements:

- a. The homeowners association must be established prior to the conveyance of any lot or parcel within the proposed subdivision;
 - b. Membership must be mandatory for each lot owner and each lot owner must have an equal voting right within the association;
 - c. The association organizational documents must be submitted to, and approved by the Planning Board and/or its attorney, as part of the subdivision approval process and must also be approved by the Office of the Attorney General of New York State if required by applicable laws, rules or regulations.
 - d. An estimate of the association annual budget must take into account insurance, property taxes, and maintenance of the open space areas as well as other shared common areas or facilities such as access roads, recreational areas, and common water supply and septic system facilities.
 - e. The association must be able to adjust the homeowner's fees or assessments on an annual basis and be able to collect and enforce the payment of annual fees or assessments.
 - f. The association cannot be dissolved without a vote of the association membership and without the conveyance of the open space and common facilities to an entity acceptable by the Planning Board.
- B. Deed Restrictions: Any lands set aside for open space purposes shall contain appropriate easements, deed covenants, conditions and restrictions approved by the Planning Board and/or the Town attorney ensuring that:
1. The open space area or areas will not be further subdivided in the future.
 2. Appropriate provisions are made for the continual maintenance of the open space.
 3. The covenants and restrictions are enforceable by the Town.

Section 440 Record Keeping

In its approval of site plans for a conservation subdivision the Planning Board shall maintain accurate records and maps showing the location of permanent open spaces. No further development upon the designated open spaces shall be permitted.

ARTICLE 5: REVIEW AND APPROVAL PROCEDURE

Section 500 General Provisions

- A. Gift, Devise, or Inheritance. In the case of a subdivision of land resulting from a bona fide gift, devise or inheritance by and from natural persons which constitutes a minor subdivision, the Planning Board may, in its sole discretion, waive the required fee and/or the public hearing. However, such a division of land shall remain subject to all other provisions of this law, and any new land use, development or construction on lots created thereby shall be subject to the provisions of the Zoning Code. This provision is intended to supersede the requirement for a public hearing set forth in Town Law Section 276 (5) (d) (i). A division of land resulting from a bona fide gift, devise or inheritance by and from natural persons which constitutes a major subdivision shall be subject to all of the provisions of this law.

- B. SEQR. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act ("SEQR") under Article 8 of the New York Environmental Conservation Law and its implementing regulations. Time periods set forth below shall be modified to coordinate with SEQR review as provided in New York State Town Law Section 276.

Section 505 Review Steps, Minor Subdivisions

Applications for approval of a minor subdivision shall be processed in the following steps:

1. Optional sketch plan conference.
2. Application for final plat approval.
3. Determination of SEQR applicability
4. Public hearing on final plat.
5. Planning Board action on final plat.

Section 510 Review Steps, Major Subdivisions

Applications for approval of a major subdivision shall be processed in the following steps:

1. Sketch plan conference.
2. Application for preliminary plat approval.
3. Determination of SEQR applicability.
4. Public hearing on preliminary plat.
5. Planning Board action on preliminary plat.
6. Application for final plat approval.
7. Public hearing on final plat (Not required for all approvals. See Section 655.)
8. Planning Board action on final plat.

Section 515 Sketch Plan Conference

- A. The subdivider may request an appointment with the Planning Board for the purpose of reviewing a sketch plan. The intent of such a conference is to enable the applicant to inform the Planning Board of the proposal prior to the preparation of a detailed subdivision plat map, and for the Planning Board to review the basic design concept, advise the applicant of potential problems and concerns, and to determine the information to be required on the application for subdivision approval. This step does not require formal application, fee or filing with the Planning Board.
- B. In order to accomplish the aforementioned objectives the applicant shall provide (1) a tax map showing the location of the property to be subdivided, and (2) a sketch showing the locations and dimensions of lot lines, roads, and driveways.
- C. The Planning Board shall locate the property on maps showing topography and other environmental characteristics of the site in order to evaluate the proposal.

Section 520 Application for Preliminary Plat Approval for Major Subdivisions, or Final Plat Approval for Minor Subdivisions

- A. Applicability. This section shall apply both to Preliminary Plat Approval for Major Subdivisions and to Final Plat Approval of Minor Subdivisions.

- B. Form and fees. Application shall be on a form provided by the Clerk of the Planning Board, and shall include the elements described in Article 5 herein. Three copies of the application and plat map shall be provided.
- C. Subdivider to Attend Planning Board Meeting. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss any Major Subdivision Preliminary Plat.
- D. Date of Official Submission. The date of the submission of the plat shall be considered to be the date on which both a completed application for plat approval and the required fee have been filed with the Clerk of the Planning Board.
- E. SEQR. An application shall not be deemed to be complete until all the requirements of the State Environmental Quality Review Act (SEQR) are fulfilled, which may include: (1) the preparation of a short Environmental Assessment Form and making a determination of non-significance on said form, (2) the preparation of a Full Environmental Assessment Form and the filing of a negative declaration of significance or a conditional negative declaration of significance, or (3) the preparation of a Full Environmental Assessment Form, the filing of a positive declaration of significance, and the completion and filing of a Draft Environmental Impact Statement.

Section 525 Public Hearing for Preliminary Plat for Major Subdivision or Final Plat for Minor Subdivision

Within sixty-two (62) days of receipt of a complete application for approval of a Preliminary Plat for a Major Subdivision or a Final Plat for a Minor Subdivision, the Planning Board shall conduct a public hearing. The hearing shall be advertised at least once in a newspaper of general circulation in the Town at least ten (10) days before the hearing. If the subdivision is classified as a Class B Regional Subdivision, notice of the hearing shall be provided to the Adirondack Park Agency at least ten (10) days prior to such hearing.

Section 530 Action on Preliminary Plat for Major Subdivision

- A. Within sixty-two (62) days from the public hearing for a Preliminary Plat for a Major Subdivision, the Planning Board shall render a decision on the application. The Planning Board shall approve, approve with modifications, or disapprove the plat, and state any modifications or reasons for disapproval. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board. Failure of the Planning Board to act within such sixty-two (62) day or otherwise agreed upon period shall be deemed approval of the Major Subdivision Preliminary Plat. Within five (5) business days of approval, the plat shall be certified by the Clerk of the Planning Board as having been granted approval. One copy shall be returned by mail to the subdivider, and one copy shall be retained by the Planning Board. A copy of the resolution stating the decision shall be filed with the office of the Town Clerk, and a copy shall be provided to the subdivider.

- B. When granting approval to a Major Subdivision Preliminary Plat, the Planning Board shall state the terms of such approval, if any, with respect to any modifications, waivers, or required infrastructure or financial security.
- C. Approval of a preliminary plat shall not constitute approval of the final plat. The preliminary plat shall be a guide to the preparation of the final plat.

Section 535 Action on Final Plat for Minor Subdivision

Within sixty-two (62) days from the public hearing for a Final Plat for a Minor Subdivision the Planning Board shall render a decision on the application. The Planning Board shall approve, approve with modifications, or disapprove the plat, and state any modifications or reasons for disapproval. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board. Failure of the Planning Board to act within such sixty-two (62) day or otherwise agreed upon period shall be deemed approval of the Final Plat. Within five (5) days of approval, it shall be certified by the Chairperson of the Planning Board, acting as the Clerk of the Planning Board, as having been granted approval. One copy shall be returned by mail to the subdivider, and one copy shall be retained by the Planning Board. A copy of the resolution stating the decision shall be filed with the office of the Town Clerk.

Section 540 Application for Final Plat Approval for Major Subdivisions

- A. Application and Fee. Unless otherwise agreed by the Planning Board and the subdivider, the subdivider shall submit an application for Major Subdivision Final Plat approval within six months after Major Subdivision Preliminary Plat approval. Failure to do so within such time period may require resubmission of the Major Subdivision Preliminary Plat to the Planning Board. The application shall be on a form provided by the Clerk of the Planning Board, and shall include the elements described in Article 5 herein. The Major subdivision Final Plat shall conform to the approved Major Subdivision Preliminary Plat. All applications for Major Subdivision Final Plat approval shall be accompanied by the application fee.
- B. Number of Copies. Three copies of the application for Major Subdivision Final Plat approval shall be presented to the Clerk of the Planning Board at the time of submission of the Major Subdivision Final Plat.
- C. Date of Official Submission and Referral to County Planning Agency Where Necessary. The date of submission of the Major Subdivision Final Plat shall be considered to be the date on which both a completed application for approval of the Major Subdivision Final Plat, including any endorsements required by paragraph D of this section, and the required fee have been filed with the Clerk of the Planning Board
- D. Endorsement of State and County Agencies. Evidence shall be supplied that any proposed water supply and sewage disposal facilities associated with the subdivision plat requiring approval by the Department of Environmental Conservation and/or the State or County Department of Health have received at least preliminary approval(s) of such facilities.

Section 545 Public Hearing for Final Plat for Major Subdivisions This step is not required for subdivisions that have received preliminary plat approval, and that are in substantial agreement with the approved preliminary plat. For other applications, the Planning Board shall conduct a public hearing within sixty-two (62) days of receipt of a complete application for final plat approval. The hearing shall be advertised at least once in a newspaper of general circulation in the Town at least ten (10) days before the hearing. If the subdivision is classified as a Class B Regional Subdivision, notice of the hearing shall be provided to the Adirondack Park Agency at least ten (10) days prior to such hearing.

Section 550 Action on Final Plat for Major Subdivision

- A. Within sixty-two (62) days of the date of official submission of a Subdivision Plat if no hearing is held, or in the event a hearing is held, not more than sixty-two (62) days after the completion of such hearing, the Planning Board shall by resolution conditionally approve, disapprove, or grant final approval, and authorize the signing of such plat. This time period may be extended by written agreement of the subdivider and the Planning Board. Failure to take action on a final plat within such sixty-two (62) day or otherwise agreed upon period shall be deemed final approval of the plat and a certificate of the Town Clerk as to the date of submission and the failure to take action shall be issued on demand. Final plat approval shall not be granted until the requirements of Section 610 herein have been met.
- B. A copy of the resolution stating the decision of the Planning Board shall be filed with the office of the Town Clerk.

Section 555 Conditional Approval of Final Plat

Upon conditional approval, with or without modification, of a final plat, the Planning Board shall empower a duly authorized officer to sign the plat and grant final plat approval when all requirements stated in the conditional approval resolution have been satisfied. The plat shall be certified by the Clerk of the Planning Board as conditionally approved, a copy shall be filed in his office, and a certified copy mailed to the subdivider. A certified statement of the requirements shall accompany the plat which, when completed, will authorize the signing of the conditionally approved final plat. The conditionally approved plat shall expire one hundred eighty (180) days after the date of the resolution granting conditional approval. The Planning Board may, however, extend the expiration time not to exceed two additional periods of ninety (90) days each. Upon completion of the requirements the final plat shall be filed with the Clerk of the Planning Board or the Town Clerk. Conditional approval does not qualify a final plat for recording nor authorize issuance of building permits prior to final plat approval.

Section 560 Required Improvements or Financial Guarantees No final plat shall be approved unless: (a) all infrastructure and improvements have been constructed as required by this law and by the Planning Board, and have been satisfactorily completed in accordance with Article 3 herein, or (b) in lieu of the completion of improvements prior to final plat approval, financial guarantee is provided by the subdivider in accordance with Article 6 herein.

Section 565 Recording of Final Plat The subdivider shall record the Final Plat, or section thereof, in the Office of the Clerk of Hamilton County, New York within sixty-two (62) days after the date of approval; otherwise the approval shall expire.

Section 570 Filing of Plats in Sections

- A. Prior to granting final plat approval, the Planning Board may permit the plat to be subdivided into two or more sections and may impose such conditions upon the filing of the sections as it may deem necessary to assure the orderly development of the plat.
- B. In the event the owner shall file only a section of such approved plat in the office of the county clerk within the sixty-two (62) day period specified in part A above, such section shall encompass at least ten percent of the total number of lots contained in the approved plat, and the approval of the remaining sections of the approved plat shall expire unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of Section 265-a of the Town Law.

Section 575 Town Acceptance of Roads, Land

Final Plat approval by the Planning Board shall not be deemed an acceptance by the Town of any road or other land shown dedicated by the subdivider.

Section 580 Reimbursable Costs Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed subdivision plat shall be charged to the applicant. Prior to incurring such costs the Planning Board shall discuss such costs with the applicant, and may require that an escrow account be established for such purpose.

ARTICLE 6: DOCUMENTS TO BE SUBMITTED

SECTION 600 Sketch Plan The sketch plan shall consist of a drawing based on tax map information or some other similarly accurate base map, at a preferred scale of 1" = 50', showing the entire ownership of the subdivider on one sheet, and shall include:

- 1. The location of that portion of the subdivider's ownership which is to be subdivided in relation to the whole, and the location of nearby roads.
- 2. All existing buildings and structures, wooded areas, water bodies, mapped wetlands, permanent and intermittent watercourses, and areas of steep slopes (generally 25% or greater) within the subdivided area and within 200 feet thereof.

3. Flood hazard areas as shown on the Federal Insurance Administration Flood Hazard Boundary Map or Flood Hazard Rate Map.
4. The name of the owner(s) of the property to be owners as disclosed by the most recent municipal tax records.
5. The tax map sheet, block and lot numbers, if available.
6. Type of sewage disposal and water supply.
7. All utilities and roads, existing and proposed.
8. The proposed lot layout, road layout and any proposed recreation or open space areas.
9. All existing restrictions on the use of land including easements or covenants.

Section 605 Application for Preliminary Plat Approval Three copies of the Application for Preliminary Subdivision Plat Approval shall be provided, at a scale not exceed 1" = 50', except for large lot subdivisions, which may be at a scale of 1" = 100', provided the engineer can include all required data in a legible manner. The plats shall include:

1. Name and address of subdivider and New York State licensed design professionals, including license numbers and seals.
2. Subdivision name, scale, north arrow and date.
3. Subdivision boundaries.
4. Contiguous properties and names of owners.
5. Total acreage of subdivision and number of lots proposed.
6. A Location Map
7. Copy of tax map(s).
8. Existing restrictions on the use of land including easements, covenants and zoning.
9. Water courses, marshes, wooded areas, public facilities and other significant physical features on or near the site.
10. Land contours with an interval not to exceed five feet .
11. Proposed lot lines with approximate dimensions and area of each lot.
12. The width and location of any roads or public ways and the width, location, grades and road profiles of all roads or public ways proposed by the developer.
13. Plans and cross-sections showing sidewalks, road lighting, roadside trees, curbs, water mains, sanitary sewers and storm drains, the character, width and depth of pavements and sub-base, and the location of any underground cables.
14. Approximate location and size of any proposed waterlines, hydrants and sewer lines, showing connection to existing lines.
15. Drainage plan, indicating profiles of lines or ditches and drainage easements on adjoining properties.
16. Preliminary designs for any bridges or culverts.
17. Grading and landscaping plans.
18. Actual field survey of the boundary lines of the tract, giving complete description by bearings or azimuth and distance, made and certified by a licensed surveyor. The corners of the tract shall also be marked by monuments of such size and type as approved by the Planning Board and shown on the plat.
19. Copy of all covenants or deed restrictions intended to cover all or part of the tract.
20. All parcels of land proposed to be dedicated to public use and the conditions of such use.

21. Where the preliminary plat submitted covers only a part of the subdivider's entire holding, a sketch of the prospective future road and drainage system of the unsubdivided part shall be submitted for study to the Planning Board.
22. Any required fees.
23. Full Environmental Assessment Form (EAF) or draft Environmental Impact Statement (EIS), if required.
24. Additional information as deemed necessary by the Planning Board.

Section 610 Application for Final Plat Approval

1. One copy of the plat to be submitted to the County Clerk, in a format acceptable to the Hamilton County Clerk, prepared by a land surveyor and/or professional engineer. plus three copies supplied to the town. The map scale shall be one inch = one hundred feet (1 inch = 100 feet) unless specified otherwise by the Planning Board.
2. Proposed subdivision name and the name of the Town and County in which the subdivision is located; the name and address of record owner and subdivider; name, address, license number and seal of the surveyor and/or engineer.
3. Road lines, pedestrian walkways, lots, easements and areas to be dedicated to public use.
4. Sufficient data acceptable to the Planning Board to determine readily the location, bearing and length of every road line, lot line, and boundary line; such data shall be sufficient to allow for the reproduction of such lines on the ground.
5. The length and bearing or azimuth of all straight lines; radii and length of curves; tangent bearings for each road. All dimensions of the lines of each lot shall also be given. The plat shall show the boundaries of the property, locations, graphic scale and north arrow (with orientation as to magnetic or true).
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. Permanent reference markers shall be shown and constructed in accordance with Planning Board specifications.
8. Approval of the State Health Department of water supply systems and sewage disposal systems proposed or installed.
9. A Full Environmental Assessment Form (EAF) or draft Environmental Impact Statement (EIS), if required.
10. Construction drawings including plans, profiles, and typical cross sections, as required, showing the proposed location, size and type of road, sidewalks, road lighting standards, roadside trees, curbs, water mains, sanitary sewer or septic systems, storm drains or ditches, pavements, and sub-base and other facilities.
11. Evidence of legal ownership of property.
12. Deed restrictions, existing and proposed, in form for recording.
13. Any required financial guarantees for public improvements (see Article 7).
14. Any other data such as certificates, affidavits, endorsements or other agreements as may be required by the Planning Board in enforcement of this law.

Section 615 Waiver of Submission Requirements The Planning Board, at its discretion, may waive any of the submission requirements specified in this

article which it deems unnecessary for their review of the subdivision and which imposes unnecessary cost and expense upon the applicant.

ARTICLE 7: FINANCIAL GUARANTEES FOR IMPROVEMENTS

Section 700 Required Improvements

- A. The construction or installation of any improvement or facilities for which a financial guarantee has been made pursuant to this Article shall be completed within the time specified by the Planning Board, not to exceed three (3) years from the date of the posting of the guarantee.
- B. The subdivider may request an extension of time to perform required improvements provided he can show reasonable cause for inability to construct and install said improvements within the required time. Such extension of time shall not exceed six (6) months. At the end of such extension of time, if the required improvements are not completed satisfactorily, the Town may use as much of the financial security required by this Article to construct and install, maintain, or perfect the improvements as necessary to meet all applicable state and local laws, ordinances, rules, and regulations.
- C. At least five (5) days prior to commencing construction of required improvements the subdivider shall pay the inspection fee to the Town Clerk and shall notify the Town Board or an official designated by the Board in writing of the time when the construction of such improvements will be commenced so that the Board may cause inspections to be made to assure that all applicable specifications and requirements shall be met in the construction of such improvements, and to assure the satisfactory completion of improvements.

Section 710 Required Financial Security

- A. At their discretion, and in consultation with the Town Board, the Planning Board may require that applicants for subdivision plat approval provide the Town with acceptable financial security in an amount sufficient to guarantee re-vegetation and land restoration, and the installation of improvements. Such improvements may include community water systems, community sewer systems, storm water management facilities, sewers, roads, pavement markings, traffic signs and signals, sidewalks, foot trails and others.
- B. Acceptable financial security shall be provided to the Town in one of the following ways:
 - 1. The applicant shall furnish a bond executed by a surety company in an amount equal to the cost of construction of the improvements required by the Planning Board pursuant to this law.
 - 2. The applicant shall present to the Town Clerk a certified check in an amount equal to the cost of construction of the improvements required by the Planning Board pursuant to this Law.
 - 3. The applicant shall present to the Town Clerk an irrevocable letter of credit drawn in favor of the Town in an amount equal to the cost of construction of the improvements required by the Town Board pursuant to this law.

Section 715 *Review of Proposed Financial Security* For each of the above options, the required improvements shall be shown on subdivision plats, and the total amount of the required financial security shall be based thereon. Such estimates shall be certified by a licensed professional engineer, and shall be reviewed by the Town Board for financial adequacy as a guarantee of construction and of reasonable performance during a warranty period. The Town Board and the Attorney for the Town shall jointly review the guarantee agreement for sufficiency of form and execution and for the soundness of the financial guarantee offered by the applicant.

Section 720 *Schedule of Improvements* When a guarantee agreement has been approved by the Town Board and the required surety bond, certified check, or letter of credit has been received by the Town Clerk, the Town and the applicant shall enter into a written agreement itemizing the required improvements, establishing a schedule for the construction and installation for each improvement. Whenever feasible, costs shall be organized by logical phases of work completion in order to facilitate the partial release of the financial guarantee to the applicant as work is satisfactorily completed.

Section 725 *Staged Refunding of Financial Guarantees*

- A. At such times as the subdivider wishes to have guarantee funds released in consideration of work satisfactorily performed, the subdivider shall cause to be prepared an accurate statement of the work performed and inspected as of a certain date. This statement shall use the same item structure as was employed in the written agreement itemizing the required improvements.
- B. The subdivider, after preparing such statement, shall submit it for review by the Engineer for the Town, and for review, approval, and signature by the Planning Board and the Town fiscal officer. If the statement is approved by the Planning Board and the Town fiscal officer, the statement shall be forwarded promptly to the Town Clerk, together with a recommendation that the amount approved on said statement be released from the financial guarantee provided by the applicant. Where the financial guarantee provided by the subdivider makes staged refunding possible, the Town Clerk will then direct in writing to the surety company or financial institution having custody of the guarantee funds to release the approved amount of those funds to the applicant.

Section 730 Acceptance of Required Public Improvements When the Engineer for the Town or Town Highway Superintendent, following final inspection of the project, certifies to the Planning Board and the Town Board that all required public improvements have been completed in accordance with all applicable requirements, the Town Board may act by resolution to accept some or all of the improvements.

Section 735 Default of Security Agreement In the event that any required improvements have not been installed as provided in the financial security agreement, the Town Board may declare said agreement to be in default and collect the sum remaining payable thereunder. Upon receipt of the proceeds, the Town shall install such improvements as are covered by said agreement.

Section 740 Required Maintenance Guarantee Upon acceptance of any improvements, a maintenance guarantee shall be established. All such guarantees shall be for ten percent (10%) of the financial guarantee originally required of the subdivider. The subdivider may provide a maintenance guarantee by one of the methods provided for in Section 710 of this Article, but no maintenance bond shall be for less than five thousand dollars (\$5,000) (face value). All maintenance guarantees required by this section shall commence immediately upon acceptance of the required public improvements by the municipality and shall extend for two (2) years from the June first next succeeding the acceptance of the required public improvements.

ARTICLE 8: ENFORCEMENT

Section 800 Violations

- A. It shall be unlawful for any person to subdivide land through sale, lease, development or separate occupancy or to offer lots, parcels or sites for sale, lease, development or separate occupancy without first obtaining the approval of the Planning Board in accordance with the provisions of this law, and timely filing the approved and signed subdivision plat with the Hamilton County Clerk.
- B. It shall be unlawful for any person to undertake grading, road construction, installation of utilities or other improvements, land-clearing or disturbance, or any other land use and development preparatory or incidental to a subdivision of land except in accordance with this law.
- C. It shall be unlawful for any person to fail to comply with a written directive, including a stop order and a stop-work order of the Planning Board, Enforcement Officer, Engineer for the Town, or any agent of the foregoing.
- D. Where a violation has occurred or exists, the potentially responsible persons shall include the owner of the real property which has been illegally subdivided or developed; any contract vendee, lessee or grantee of such owner who knowingly participates in such violation; any agent who has executed an application to the Planning Board on behalf of such owner or contract vendee with respect to such real property and who knowingly participates in such violation; the owner of any lot within the subdivision who undertakes development; and any contractor,

subcontractor, builder, construction superintendent, engineer, or other person who knowingly participates in managing, directing, assisting in, or who is otherwise responsible for, the illegal construction or development activities.

Section 805 *Fines and penalties* A violation of this local law is hereby declared to be an offense, punishable by a fine not exceeding three hundred fifty dollars (\$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 three hundred fifty dollars (\$350) nor more than seven hundred dollars (\$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 seven hundred dollars (\$700) nor more than one thousand dollars (\$1000) 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 local law 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.

Section 810 *Alternative Enforcement Actions and Remedies*

- A. In the case of any violation or threatened violation, the Town may institute any appropriate action or proceeding against the landowner and/or other responsible person(s) to prevent such unlawful action, to restrain, correct or abate such violation, and to compel compliance with the provisions of this law and any permit, approval or variance issued pursuant to its provisions. The relief specified herein may be sought in addition to an action or proceeding for criminal sanctions or civil penalties.
- B. The Town Board may effect appropriate corrective, remediation, and abatement measures, including rescission of purchase contracts and lot sales, by means of an enforceable negotiated civil settlement agreement or consent order with the subdivider, landowners and other responsible persons. Such agreements or orders may require the subdivider and other responsible persons to pay a monetary penalty which (i) includes exemplary or punitive damages and (ii) reimburses the actual costs incurred by the Town in connection with its enforcement action such as attorneys' fees, disbursements, and costs of emergency and other corrective and restoration measures. If the monetary payments are not made, they may constitute the basis of a lien charge attachable to the land as a special assessment or charge assessable and collectable on the tax bill associated with the subject land.

Section 810 *Administrative Actions*

- A. Whenever the Planning Board has reasonable grounds to believe that unlawful subdivision of land has been undertaken or is continuing, it may notify the subdivider or any agent of the subdivider and direct that the unlawful activity immediately cease. No such notice is required as a prerequisite to a proceeding for criminal sanctions, civil penalties or injunctive relief.

- B. The Planning Board may effect appropriate corrective, remediation and abatement measures, including rescission of purchase contracts and lot sales, by means of an enforceable negotiated settlement agreement with the subdivider and other responsible persons.
- C. When the Planning Board or any agent thereof has reasonable grounds to believe that work on any improvement in a subdivision is occurring in violation of this ordinance or not in conformance with the application or approval issued hereunder or in an unsafe or dangerous manner, it shall promptly notify the subdivider and responsible person(s) and direct in writing that such work be suspended. Such order shall describe the conditions under which the work may be resumed and may be served by personal delivery or posting in a conspicuous portion of the improvement site and also mailing a copy to the subdivider by certified mail. Such person(s) shall immediately cease and suspend the work until the stop-order has been rescinded.
- D. If in the opinion of the Planning Board or any agent thereof a violation exists which requires immediate action to avoid a direct hazard or imminent danger to the health, safety, or general welfare of the public, it may direct that such violation be immediately remedied or may take direct action on his own initiative to abate the hazard or danger. Any costs incurred by such action shall be paid for by the subdivider. If a person other than the subdivider is responsible for the violation, such person shall be jointly and severally liable, together with the subdivider for any such costs.
- E. No certificate of compliance for any building within a subdivision may be issued prior to satisfactory completion of the improvements required in the Planning Board's approval of the subdivision plat or any section thereof unless a performance guarantee has been posted pursuant to this code to assure completion of the improvements.

ARTICLE 9: MISCELLANEOUS PROVISIONS

SECTION 900 CERTIFICATION AND FILING WITH COUNTY The Town Clerk is hereby directed to forthwith file a certified copy of this local law with the Clerk of Hamilton County.

Section 910 Severability If any clause, paragraph, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate any other clause, sentence, paragraph, section, or part of this local law.

Section 920 Amendments Any amendment to this local law shall become effective on the date the Town Board files the local law with the Secretary of State pursuant to the Municipal Home Rule Law provisions. Such amendment shall apply to any preliminary subdivision plat which has not received approval, or approval with modification, prior to such date of filing and to any preliminary subdivision plat, approved with or without modification, for which a formal application for final plat approval is not received within six months of the date of such approval.

Section 930 Effective Date This local law shall effect immediately upon filing with the Secretary of State.