

**TOWN OF BETHANY  
SUBDIVISION REGULATIONS**

**TABLE OF CONTENTS**

		Page
<b>ARTICLE I</b>	<b>DECLARATION OF POLICY</b> .....	1
<b>ARTICLE II</b>	<b>DEFINITIONS</b> .....	1
<b>ARTICLE III</b>	<b>PROCEDURE FOR FILING SUBDIVISION APPLICATION</b> .....	5
SECTION 1	SKETCH PLAN .....	5
A.	Submission of Sketch Plan .....	5
B.	Discussion of Requirements .....	5
C.	Study of Sketch Plan and Classification of Subdivision .....	5
SECTION 2	PRELIMINARY FLAT .....	6
A.	Application and Fee .....	6
B.	Number of Copies .....	6
C.	Coordination With The State Environmental Quality Review Act .....	6
D.	Receipt of a Complete Preliminary Plat .....	6
E.	Subdivider to Attend Planning Board Meeting .....	6
F.	Study of Preliminary Plat .....	7
G.	Planning Board As Lead Agency Under the State Environmental Quality Review Act; Public Hearing; Notice; Decision .....	7
H.	Planning Board Not As Lead Agency Under the State Environmental Quality Review Act; Public Hearing; Notice; Decision .....	8
I.	Certification And Filing Of Preliminary Plat .....	9
J.	Default Approval Of Preliminary Plat .....	9
K.	Filing Of Decision On Preliminary Plat .....	10
L.	Revocation Of Approval Of Preliminary Plat .....	10
SECTION 3	FINAL FLAT .....	10
A.	Application and Fee .....	10
B.	Number of Copies .....	10
C.	When Officially Submitted .....	10
D.	Endorsement Of State And County Agencies .....	10
E.	Final Plats Which Are In Substantial Agreement With Approved Preliminary Plats .....	11
F.	Receipt of Complete Final; When No Preliminary Plat Is Required To Be Submitted .....	11
G.	Final Plats; Not In Substantial Agreement With Approved Preliminary Plats, or When No Preliminary Plat Is Required To Be Submitted .....	11
H.	Approval And Certification Of Final Plats .....	13

I.	Default Approval of Final Plat . . . . .	14
J.	Filing Of Decision On Final Plat . . . . .	14
K.	Notice To Genesee County Planning Board . . . . .	14
L.	Expiration Of Approval . . . . .	15
M.	Subdivision Abandonment . . . . .	15
SECTION 4	<b>REQUIRED IMPROVEMENTS . . . . .</b>	<b>15</b>
A.	Improvements, Performance Bond or Other Security . . . . .	15
B.	Mapping of Completed Improvements . . . . .	17
C.	Modification of Design Improvements . . . . .	17
D.	Inspection of Improvements . . . . .	17
E.	Proper Installation of Improvements . . . . .	17
F.	Default Under Previous Final Plat . . . . .	18
SECTION 5	<b>FILING OF APPROVED FINAL FLAT . . . . .</b>	<b>18</b>
A.	Final Approval and Filing . . . . .	18
B.	Final Plat Void if Revised After Approval . . . . .	18
SECTION 6	<b>PUBLIC STREETS, RECREATION AREAS . . . . .</b>	<b>18</b>
A.	Public Acceptance of Streets . . . . .	18
B.	Ownership and Maintenance of Recreation Areas . . . . .	18
SECTION 7	<b>APPLICATION OF SECTION 278 OF TOWN LAW . . . . .</b>	<b>19</b>
A.	Request By Subdivider . . . . .	19
B.	Sketch Plan . . . . .	19
C.	Park, Recreation, Open Space or Other Municipal Purposes . . . . .	19
D.	Preliminary and Final Plat Submission . . . . .	19
E.	Filing, Notation on Zoning Map . . . . .	19
<b>ARTICLE IV</b>	<b>DESIGN STANDARDS . . . . .</b>	<b>20</b>
SECTION 1	<b>GENERAL CONDITIONS . . . . .</b>	<b>20</b>
A.	Character of Land . . . . .	20
B.	Conformity to Official Map and Master Plan . . . . .	20
SECTION 2	<b>DESIGN STANDARDS OF IMPROVEMENTS . . . . .</b>	<b>20</b>
A.	Streets . . . . .	20
B.	Lots . . . . .	22
C.	Utility Easements . . . . .	23
D.	Storm Water Drainage, Erosion and Sediment Control Measures and Easements . . . . .	23
E.	Landscaping and Ground Cover . . . . .	23
F.	Preservation of Natural Features . . . . .	24
G.	Floodplains . . . . .	24
H.	Self-Imposed Restrictions . . . . .	25
I.	Parks, Playgrounds or Open Space . . . . .	25

<b>ARTICLE</b>	<b>V</b>	<b>IMPROVEMENTS</b> .....	<b>26</b>
	<b>SECTION 1</b>	<b>GENERAL IMPROVEMENTS</b> .....	<b>26</b>
	A.	Streets .....	26
	B.	Storm Drains .....	26
	C.	Signs .....	26
	D.	Lighting .....	26
	E.	Wastewater Disposal Systems .....	26
	F.	Water Supply Systems .....	26
	G.	Monuments .....	27
	<b>SECTION 2</b>	<b>PERMITTED MODIFICATIONS</b> .....	<b>27</b>
	A.	Curbing and Sidewalks .....	27
	B.	Fire Hydrants .....	28
<b>ARTICLE</b>	<b>VI</b>	<b>DOCUMENTS TO BE SUBMITTED</b> .....	<b>28</b>
	<b>SECTION 1</b>	<b>SKETCH PLAN</b> .....	<b>28</b>
	A.	Requirements .....	28
	<b>SECTION 2</b>	<b>PRELIMINARY FLAT AND ACCOMPANYING DATA</b> .....	<b>29</b>
	A.	Requirements .....	29
	B.	Phasing .....	30
	C.	Covenants and Deed Restrictions .....	30
	<b>SECTION 3</b>	<b>FINAL FLAT AND ACCOMPANYING DATA</b> .....	<b>31</b>
	A.	Requirements .....	31
	B.	Construction Drawings .....	32
<b>ARTICLE</b>	<b>VII</b>	<b>TIME LIMITATIONS</b> .....	<b>32</b>
<b>ARTICLE</b>	<b>VIII</b>	<b>WAIVERS</b> .....	<b>32</b>
<b>ARTICLE</b>	<b>IX</b>	<b>SEPARABILITY</b> .....	<b>33</b>
<b>ARTICLE</b>	<b>X</b>	<b>FEES</b> .....	<b>33</b>
<b>ARTICLE</b>	<b>XI</b>	<b>VIOLATIONS AND PENALTIES</b> .....	<b>33</b>
<b>ARTICLE</b>	<b>X</b>	<b>REPEALER CLAUSE AND EFFECTIVE DATE</b> .....	<b>34</b>

**TOWN OF BETHANY  
LOCAL LAW NO. 1 OF 1995  
LAND SUBDIVISION REGULATIONS**

**ARTICLE I            DECLARATION OF POLICY**

By the authority of the resolution of the Town Board of the Town of Bethany, adopted on February 12, 1990 (Amended on November 12, 1990 and May 8, 1995), pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Bethany is authorized and empowered to approve plats showing lots, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the Office of the Genesee County Clerk and to conditionally approve preliminary plats, within that part of the Town of Bethany outside the limits of any incorporated village. It is declared to be the policy of the Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient, and economical development of the Town. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood, or other menace; that proper provision shall be made for drainage, water supply, sewerage, and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient system conforming to the Official Map, if such exists, and shall be of such width, grade, and location as to accommodate the prospective traffic, to facilitate fire protection, and to provide access of fire fighting equipment to buildings; and that proper provision shall be made for open spaces, parks and playgrounds. In order that land subdivision may be made in accordance with this policy, these regulations known as the "Town of Bethany Land Subdivision Regulations" have been adopted by the Planning Board on September 1, 1994 and approved by the Town Board on May 8, 1995.

**ARTICLE II            DEFINITIONS**

For the purpose of these Regulations, certain words and terms used herein are defined as follows.

Clerk of the Planning Board: The Town of Bethany Town Clerk.

Conditional Approval of a Final Plat: Approval by the Planning Board of a final plat subject to conditions set forth by the Planning Board in a resolution conditionally approving such plat. Such conditional approval does not qualify a final plat for recording nor authorize issuance of any building permits prior to the signing of the plat by a duly authorized officer of the Planning Board and recording of the plat in the Office of the Genesee County Clerk as herein provided.

Cul-de-sac: A short street having but one end open to traffic and the other end being permanently terminated by a vehicular turnaround.

Drainage Right-of-Way: The lands required for the installation of storm water sewers or drainage ditches, or required along a natural stream or water course for preserving the channel and providing for the flow of water therein to safeguard the public against flow damage.

Easement: Rights in a specific portion of real property created by the owner for a particular use by another.

Final Plat: A drawing, prepared by a New York State Licensed Professional Engineer or Land Surveyor (with appropriate certification), showing a proposed subdivision meeting the requirements of Article VI, together with any other applicable laws and/or regulations, to be submitted to the Planning Board for approval, and which, if approved, may be filed or recorded by the Subdivider in the Office of the Genesee County Clerk.

Final Plat Approval: The signing of a plat in final form by a duly authorized officer of the Planning Board pursuant to a Planning Board resolution granting final approval to the plat, or after conditions specified in a resolution granting conditional approval of the plat are completed. Such final approval qualifies the plat for recording in the Office of the Genesee County Clerk.

Formal Offer to Sell: Any offer to sell land which involves a form of public offering including but not limited to real estate listings, auction listings, media advertising (printed, radio, television, etc.) or use of signs.

Land Separation: Any division of land into four or fewer lots within a three year period, where all such developable lots or parcels: (1) front on an existing public street, (2) do not require the extension of municipal facilities, and (3) comply with all the area requirements (i.e., lot width, lot area, etc.) set forth in the Zoning Law. Any division of agricultural land for the purpose of continued agricultural use shall be considered a land separation and subject to the Town of Bethany Land Separation Law.

The three year period shall commence running upon the final approval by the Planning Board of the first application to divide the original parcel. Public acquisitions by purchase of strips of land for the widening or opening of streets shall not be included within this definition nor subject to these regulations.

Land separation shall also include the division of land to allow the transfer of property between adjacent parcels, provided nonconforming lots or parcels are not created, no existing degree of nonconformity is increased and the proposed division does not involve the alteration of lot lines or dimensions of any lots or sites shown on a subdivision plat previously approved and filed with the County Clerk.

Land separations shall be processed in compliance with the Town of Bethany Land Separation Law unless the Planning Board deems it necessary for the protection of public health, safety, and welfare (i.e., storm water drainage, topography, etc.) that a land separation be processed as a subdivision.

Lot: A piece, parcel, or plot of land intended as a unit for transfer of ownership or for development.

Major Subdivision: A subdivision which requires the extension or significant modification of municipal facilities.

Minor Subdivision: A subdivision which does not require the extension or significant modification of municipal facilities.

Municipal Facility: Facilities operated by a municipality, governmental agency, or a public utility for the provision of potable water, collection, treatment and/or disposal of waste water, lighting, stormwater and/or erosion control, or provision of/for transportation (streets, highways, etc.).

Official Map: The map (if) established by the Town Board under Section 270 of the Town Law showing the streets, highways, and parks heretofore laid out, and any amendments thereto adopted by the Town Board, or additions thereto resulting from the approval of subdivision plats by the Planning Board, and the subsequent filing of such approved plats.

Planning Board: The Town of Bethany Planning Board as established pursuant to the provisions of Article 16 of the Town Law.

Preliminary Plat: A drawing prepared in a manner prescribed by this Local Law (see Article VI) showing the layout of a proposed subdivision including, but not restricted to, road and lot layout and approximate dimensions, key plan, topography and drainage, all proposed facilities, unsized including preliminary plans and profiles, at suitable scale and in such detail as local regulation may require.

Preliminary Plat Approval: The approval of the layout of a proposed subdivision as set forth in a preliminary plat but subject to the approval of the plat in final form in accordance with the provisions of this Local Law.

Resubdivision: Revision of all or part of an existing filed plat including consolidation of lots.

Street: Means and includes streets, roads, avenues, lanes or other traffic ways, between right-of-way lines. For the purpose of this regulation, streets shall be classified as follows:

- A. Arterial streets are those which are used primarily by a heavy volume of traffic.
- B. Collector streets are those which carry traffic from minor streets to the major system

of arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development.

C. Minor streets or local residential streets are those which are used primarily for access to the abutting properties.

D. Marginal service streets are streets which are parallel to and adjacent to arterial streets and highways, which provide access to abutting properties and protection from through traffic.

E. Alleys are minor ways which are used primarily for vehicular service to the back or the side of properties otherwise abutting on a street.

Street Pavement: The wearing or exposed surface of the roadway used by vehicular traffic.

Street Width: The right-of-way measured at right angles to the center line of the street.

Subdivider: The owner of property or his/her duly authorized representative, who shall lay out, for the purpose of sale or development, any subdivision or part thereof as defined herein, either for himself/herself or others.

Subdivision: Division of land into lots that is not considered a land separation as defined herein. Subdivisions shall include, but are not limited to, the division of land into five or more lots in a three year period, or division into any number of lots when such lots: (1) do not front on an existing public street, (2) require the extension of municipal facilities, or (3) involve the creation of a lot, or lots, which would not comply with the Zoning Law. This definition shall apply when land is divided for the purpose, whether immediate or future, of transfer of ownership or development, and shall include resubdivision. Once the division of land is determined to be a subdivision, the Town of Bethany Subdivision Regulations shall apply to all such lots, including any previous lots divided within the prior three year time period, regardless of whether said lots have been sold singly or collectively.

The three year period shall commence running upon the final approval by the Planning Board of the first application to divide the original parcel. Public acquisitions by purchase of strips of land for the widening or opening of streets shall not be included within this definition nor subject to said subdivision regulations.

Once a subdivision has been created, any subsequent division of lots from the original tract of land, irrespective of when such division(s) occurs, shall be subject to review as a subdivision, unless such proposed lot(s) are greater than one-half mile from any point on the boundary lines of a lot(s) created by a previous subdivision.

Town Comprehensive Plan: A composite of the mapped and written proposals, or recommendations, as to the physical development of the Town, as adopted by the Town Board, pursuant to Section

272-a of the Town Law, together with any additions or amendments thereto.

Town Engineer: The duly designated engineer of the Town of Bethany.

Zoning Law: The officially adopted Zoning Law of the Town of Bethany together with all amendments thereto.

### **ARTICLE III**            **PROCEDURE FOR FILING SUBDIVISION APPLICATION**

Whenever any land separation, subdivision, or resubdivision of land is proposed, and before any contract for the sale of, or formal offer to sell any lots in such subdivision, land separation or resubdivision is made, and before any permit for the erection of a structure therein shall be granted, the Subdivider shall apply in writing for approval of such proposed land separation, subdivision or resubdivision in accordance with the following procedures and/or the Town of Bethany Land Separation Law.

#### **SECTION 1**            **SKETCH PLAN**

##### **A. Submission of Sketch Plan**

A Subdivider shall, prior to subdividing or resubdividing land, submit to the Clerk of the Planning Board at least ten days prior to the regular meeting of the Board, ten copies of a Sketch Plan of the proposed subdivision, which shall comply with the requirements of Article VI, Section 1, for the purpose of preliminary discussion.

##### **B. Discussion of Requirements**

The Subdivider shall attend the meeting of the Planning Board to discuss the applicability of these regulations including, but not limited to, those for street improvements, drainage, sewerage, water supply, and fire protection, as well as the availability of existing services, and other pertinent issues.

##### **C. Study of Sketch Plan and Classification Subdivision**

The Planning Board shall determine whether the Sketch Plan complies with the requirements and purposes of these regulations, and shall, where it deems it necessary, make specific recommendations in writing to be incorporated by the Subdivider. The Planning Board shall also classify the proposed subdivision as either a major or minor subdivision and determine if preliminary plat shall be waived allowing the Subdivider to proceed directly to a final plat.



## SECTION 2

## PRELIMINARY PLAT

### A. Application and Fee

Prior to the filing of an application for the approval of a Final Plat, the Subdivider shall file an application with the Clerk of the Planning Board for the approval of the Preliminary Plat (unless waived by the Planning Board) of the proposed subdivision, which application form shall be available at the Town Clerk's Office. Such Preliminary Plat shall be clearly marked "Preliminary Plat" and shall comply with the requirements of Article VI, Section 2. The Preliminary Plat shall also comply with the requirements set forth in the provisions of Sections 276 and 277 of the NYS Town Law.

The application for approval of the Preliminary Plat shall be accompanied by a fee as specified in the fee schedule established by separate resolution of the Town Board.

### B. Number of Copies

Ten copies of the Preliminary Plat, in the form required by Article VI, Section 2, shall be filed with the Clerk of the Planning Board at the time of submission of the application for Preliminary Plat.

### C. Coordination With The State Environmental Quality Review Act

The Planning Board shall comply with the provisions of the State Environmental Quality Review Act (SEQR) under Article Eight of the Environmental Conservation Law and its implementing regulations.

### D. Receipt of a Complete Preliminary Plat

A preliminary plat shall not be considered complete until ten copies of the Preliminary Plat, accompanied by the required fee and all other data required by Article VI, Section 2 hereof, has been filed with the Clerk of the Planning Board and a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the State Environmental Quality Review Act. The time period for review of a preliminary plat shall begin upon filing of such negative declaration or such notice of completion.

### E. Subdivider To Attend Planning Board Meeting

The Subdivider shall attend all meetings of the Planning Board during which the Preliminary Plat is reviewed.

F. Study of Preliminary Plat

The Planning Board shall study the Practicability of the proposal set forth in the Preliminary Plat, taking into consideration the nature 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, storm water drainage, erosion and sediment control, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided, current zoning regulations, together with any existing master plan and official map.

G. Planning Board As Lead Agency Under the State Environmental Quality Review Act; Public Hearing; Notice; Decision

1. Public Hearing on Preliminary Plats - The time within which the Planning Board shall hold a public hearing on the preliminary plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act as follows:

a. If such board determines that the preparation of an environmental impact statement on the preliminary plat is not required, the public hearing on such plat shall be held within 62 days after receipt of a complete preliminary plat by the Clerk of the Planning Board, or

b. If such board determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the public hearing on the preliminary plat and the draft environmental impact statement shall be held jointly within 62 days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, a public hearing on the preliminary plat shall be held within 62 days of filing the notice of completion.

2. Public Hearing; Notice; Length - The hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing if no hearing is held on the draft environmental impact statement, or fourteen days before a hearing held jointly therewith. The Planning Board shall send, by regular mail, a copy of the notice of public hearing to all owners of property situated within five hundred (500) feet which is the subject of the preliminary plat at least fourteen (14) days before the date of the hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.

3. Decision - The Planning Board shall approve, with or without modification, or disapprove such preliminary plat as follows:

a. If the Planning Board determines that the preparation of an environmental impact statement on the preliminary plat is not required, such board shall make its decision within sixty-two days after the close of the public hearing, or

b. If the Planning Board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five days following the close of such public hearing in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five days following the close of the public hearing on the preliminary plat. Within thirty days of the filing of such final environmental impact statement, the Planning Board shall issue findings on the final environmental impact statement and make its decision on the preliminary plat.

4. Grounds For Decision - The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the plat in final form.

H. Planning Board Not As Lead Agency Under The State Environmental Quality Review Act; Public Hearing; Decision

1. Public Hearing On Preliminary Plats - The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the preliminary plat jointly with their lead agency's hearing on the draft environmental impact statement. Failing such agreement, the Planning Board shall hold the public hearing on the preliminary plat within sixty-two days after receipt of a complete preliminary plat by the Clerk of the Planning Board.

2. Public Hearing; Notice; Length - The hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing is held independently of the hearing on the draft environmental impact statement, or fourteen days before a hearing held jointly therewith. The Planning Board shall send, by regular mail, a copy of the notice of public hearing to all owners of property situated within five hundred (500) feet which is the subject of the preliminary plat at least fourteen (14) days before the date of the hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.

3. Decision - The Planning Board shall by resolution approve with or without modification or disapprove the preliminary plat within sixty-two days after the close of the public hearing on such preliminary plat.

a. If the preparation of an environmental impact statement on the preliminary plat is not required, the Planning Board shall make its decision within sixty-two days after the close of the public hearing on the preliminary plat.

b. If an environmental impact statement is required, the Planning Board shall make its own findings and its decision on the preliminary plat within sixty-two days after the close of the public hearing on such preliminary plat or within thirty days of the adoption of findings by the lead agency, whichever period is longer.

4. Grounds For Decision - The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the plat in final form.

I. Certification And Filing Of Preliminary Plat

Within five business days of the adoption of the resolution granting approval of such preliminary plat, such plat shall be certified by the Clerk of the Planning Board as having been granted preliminary approval and a copy of the plat and resolution shall be filed in such Clerk's office. A copy of the resolution shall be mailed to the Subdivider.

J. Default Approval Of Preliminary Plat

The time periods herein within which a Planning Board must take action on a preliminary plat are specifically intended to provide the Planning Board and the public adequate time for review and to minimize delays in the processing of subdivision applications. Such periods may be extended only by mutual consent of the Subdivider and the Planning Board. In the event a Planning Board fails to take action on a preliminary plat within the time prescribed therefor after completion of all requirements under the state environmental quality review act, or within such extended period as may have been established by the mutual consent of the Subdivider and the Planning Board, such preliminary plat shall be deemed granted approval. The certificate of the Town Clerk as to the date of submission of the preliminary plat and the failure of the Planning Board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.

**K. Filing Of Decision On Preliminary Plat**

Within five business days from the date of the adoption of the resolution approving the preliminary plat, the chairman or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Town Clerk.

**L. Revocation Of Approval Of Preliminary Plat**

Within six months of the approval of the preliminary plat the Subdivider must submit the plat in final form. If the final plat is not submitted within six months, approval of the preliminary plat may be revoked by the Planning Board.

**SECTION 3                      FINAL PLAT**

**A. Application and Fee**

The Subdivider shall, within six months after the approval, or conditional approval, of the Preliminary Plat, file with the Clerk of the Planning Board an application for approval of the Final Plat, which application shall be available at the Town Clerk's Office. All applications for Final Plat approval shall be accompanied by the fee as specified in the fee schedule established by separate resolution of the Town Board. If the Final Plat is not submitted within six months after the approval, or conditional approval, of the Preliminary Plat, the Planning Board may refuse to approve the Final Plat and require the re-submission of the Preliminary Plat. Final plats may require further review under the State Environmental Quality Review Act.

**B. Number of Copies**

A Subdivider shall also submit with the application and fee, ten prints of the Final Plat in the form required by Article VI, Section 3, the original and eight true copies of all offers of cession, covenants, and agreements and four prints of all construction drawings.

**C. When Officially Submitted**

The time of submission of the Final Plat shall be considered to be the date on which the application for the Final Plat, the required fee, and all other data required by Subsection B above and Article VI, Section 3, has been filed with the Clerk of the Planning Board.

**D. Endorsement of State and County Agencies**

Applications for approval of plans for water and/or sewer facilities will be filed by the subdivider with all necessary Town, County and State agencies. Water and sewer facility proposals contained in the Final Plat shall be properly endorsed and approved by the Genesee County

Department of Health and/or the NYS Department of Environmental Conservation. Such endorsements shall be secured by the Subdivider before submission of the Final Plat to the Clerk of the Planning Board.

E. Final Plats Which Are In Substantial Agreement With Approved Preliminary Plats

When a final plat is submitted which the Planning Board deems to be in substantial agreement with a preliminary plat approved pursuant to this section, the Planning Board shall by resolution conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of such plat, within sixty-two days of its receipt by the Clerk of the Planning Board.

F. Receipt of Complete Final Plat; When No Preliminary Plat Is Required To Be Submitted

When no preliminary plat is required to be submitted, a final plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the State Environmental Quality Review Act. The time periods for review of such plat shall begin upon filing of such negative declaration or such notice of completion.

G. Final Plats Not In Substantial Agreement With Approved Preliminary Plats or When No Preliminary Plat is Required To Be Submitted

When a final plat is submitted which the Planning Board deems not to be in substantial agreement with a preliminary plat approved pursuant to this section, or when no preliminary plat is required to be submitted and a final plat clearly marked "final plat" is submitted conforming to the definition provided by this section the following shall apply:

1. Planning Board As Lead Agency; Public Hearing Notice; Decision

a. Public Hearing on Final Plats - The time within which the Planning Board shall hold a public hearing on such final plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act, as follows:

(1) If such board determines that the preparation of an environmental impact statement is not required, the public hearing on a final plat not in substantial agreement with a preliminary plat, or on a final plat when no preliminary plat is required to be submitted, shall be held within sixty-two days after the receipt of a complete final plat by the Clerk of the Planning Board; or

(2) If such board determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the

public hearing on the final plat and the draft environmental impact statement shall be held jointly within sixty-two days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the public hearing on the final plat shall be held within sixty-two days following filing of the notice of completion.

b. Public Hearing; Notice Length - The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing if no hearing is held on the draft environmental impact statement, or fourteen days before a hearing held jointly therewith. The Planning Board shall send, by regular mail, a copy of the notice of public hearing to all owners of property situated within five hundred (500) feet which is the subject of the preliminary plat at least fourteen (14) days before the date of the hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.

c. Decision - The Planning Board shall make its decision on the final plat as follows:

(1) If such board determines that the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat within sixty-two days after the date of the public hearing, or

(2) If such board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five days following the close of such public hearing in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five days following the close of the public hearing on the final plat. Within thirty days of the filing of the final environmental impact statement, the Planning Board shall issue findings on such final environmental impact statement and shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of the such plat.

d. Grounds for Decision - The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

## 2. Planning Board Not As Lead Agency; Public Hearing; Notice; Decision

a. Public Hearing On Final Plat - The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the final plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement, the Planning Board

shall hold the public hearing on the final plat within sixty-two days after the receipt of a complete final plat by the Clerk of the Planning Board.

b. Public Hearing; Notice; Length - The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing is held independently of the hearing on the draft environmental impact statement, or fourteen days before a hearing held jointly therewith. The Planning Board shall send, by regular mail, a copy of the notice of public hearing to all owners of property situated within five hundred (500) feet which is the subject of the preliminary plat at least fourteen (14) days before the date of the hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.

c. Decision - The Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat within sixty-two days after the close of the public hearing on such final plat. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

(1) If the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall make its decision within sixty-two days after the close of the public hearing on the final plat.

(2) If an environmental impact statement is required, the Planning Board shall make its own findings and its decision on the final plat within sixty-two days after the close of the public hearing on such final plat or within thirty days of the adoption of findings by the lead agency, whichever period is longer. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

#### H. Approval and Certification of Final Plats

1. Certification of Plat - Within five business days of the adoption of the resolution granting conditional or final approval of the final plat, such plat shall be certified by the Clerk of the Planning Board as having been granted conditional or final approval and a copy of such resolution and plat shall be filed in such Clerk's office. A copy of the resolution shall be mailed to the Subdivider. In the case of a conditionally approved plat, such resolution shall include a statement of the requirements which when completed will authorize the signing thereof. Upon completion of such requirements the plat shall be signed by said duly authorized officer of the Planning Board and a copy of such signed plat shall be filed in the office of the Clerk of the Planning Board or filed with the Town Clerk as determined by the Town Board.



2. Approval of Plat in Sections - In granting conditional or final approval of a plat in final form, the Planning Board may permit the plat to be subdivided and developed in two or more sections and may in its resolution granting conditional or final approval state that such requirements as it deems necessary to insure the orderly development of the plat be completed before said sections may be signed by the duly authorized officer of the Planning Board. Conditional or final approval of the sections of a final plat may be granted concurrently with conditional or final approval of the entire plat, subject to any requirements imposed by the Planning Board.

3. Duration of Conditional Approval of Final Plat - Conditional approval of the final plat shall expire within one hundred eighty days after the resolution granting such approval unless all requirements stated in such resolution have been certified as completed. The Planning Board may extend by not more than two additional periods of ninety days each the time in which a conditionally approved plat must be submitted for signature if, in the Planning Board's opinion, such extension is warranted by the particular circumstances.

I. Default Approval of Final Plat

The time periods herein within which a Planning Board must take action on a final plat are specifically intended to provide the Planning Board and the public adequate time for review and to minimize delays in the processing of subdivision applications. Such periods may be extended only by mutual consent of the Subdivider and the Planning Board. In the event a Planning Board fails to take action on a final plat within the time prescribed therefor after completion of all requirements under the state environmental quality review act, or within such extended period as may have been established by the mutual consent of the Subdivider and the Planning Board, such final plat shall be deemed granted approval. The certificate of the Town Clerk as to the date of submission of the final plat and the failure of the Planning Board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.

J. Filing of Decision on Final Plat

Within five business days from the date of the adoption of the resolution approving the final plat, the Chairperson or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Town Clerk.

K. Notice To Genesee County Planning Board

The Clerk of the Planning Board shall refer all applicable preliminary and final plats to the Genesee County Planning Board as provided for in Section 239-n of the General Municipal Law and authorized by the Genesee County Legislature.

L. Expiration of Approval

The signature of the duly authorized officer of the Planning Board constituting final approval by the Planning Board of a plat as herein provided; or the approval by such board of the development of a plat or plats already filed in the Office of the County Clerk of the County in which such plat or plats are located if such plats are entirely or partially undeveloped; or the certificate of the Town Clerk as to the date of the submission of the final plat and the failure of the Planning Board to take action within the time herein provided, shall expire within sixty-two days from the date of such approval, or from the date such certificate is issued, unless within such sixty-two day period such plat or a section thereof shall have been duly filed or recorded by the Subdivider in the Office of the County Clerk. In the event the owner shall file only a section of such approved plat in the Office of the County Clerk, the entire approved plat shall be filed within thirty days of the filing of such section with the Town Clerk in each town in which any portion of the land described in the plat is situated. Such section shall encompass at least ten per cent 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 Subdivision 2 of Section 265-a of NYS Town Law.

M. Subdivision Abandonment

The owner of an approved subdivision may abandon such subdivision pursuant to the provisions of Section 560 of the Real Property Tax Law.

**SECTION 4 REQUIRED IMPROVEMENTS**

A. Improvements, Performance Bond or Other Security.

1. Improvements - Before the Planning Board grants final approval of the final plat, 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 Planning Board and these regulations or provide a performance bond or other security as provided in Subsection 2 of this Section.

2. Performance Bond or other Security

a. Furnishing of Performance Bond- As an alternative to the installation of infrastructure and improvements, as above provided, prior to Planning Board approval, a performance bond or other security sufficient to cover the full cost of the same, as estimated by the Planning Board or a Town department designated by the Planning Board to make such estimate, where such departmental estimate is deemed acceptable by the Planning Board, shall be furnished to the Town by the subdivider.

b. Security where plat approved in sections - In the event that the subdivider shall be authorized to file the approved plat in sections, as provided in Section 4, Subsection J, approval of the plat may be granted upon the installation of the required improvements in the section of the plat filed in the Office of the Genesee County Clerk or the furnishing of security covering the costs of such improvements. The subdivider shall not be permitted to begin construction of buildings in any other section until such section has been filed in the Office of the Genesee County Clerk and the required improvements have been installed in such section or a security covering the cost of such improvements is provided.

c. Form of security - Any such security must be provided pursuant to a written security agreement with the Town, approved by the Town Board and also approved by the Town Attorney as to form, sufficiency and manner of execution, and shall be limited to: (1) a performance bond issued by a bonding or surety company; (2) the deposit of funds in or a certificate of deposit issued by a bank or trust company located and authorized to do business in this State; (3) an irrevocable letter of credit from a bank located and authorized to do business in this State; (4) obligations of the United States of America; or (5) any obligations fully guaranteed as to interest and principal by the United States of America, having a market value at least equal to the full cost of such improvements. If not delivered to the Town, such security shall be held in a Town account at a bank or trust company.

d. Term of security agreement: Any such performance bond or security agreement shall run for a term to be fixed by the Planning Board, but in no case for a longer term than three (3) years, provided, however, that the term of such performance bond or security agreement may be extended by the Planning Board with consent of the parties thereto. If the Planning Board shall decide at any time during the term of the performance bond or security agreement that the extent of building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such security, or that the required improvements have been installed as provided in this Section and by the Planning Board in sufficient amount to warrant reduction in the amount of said security, and upon approval by the Town Board, the Planning Board may modify its requirements for any or all such improvements, and the amount of such security shall therein be reduced by an appropriate amount so that the new amount will cover the cost in full of the amended list of improvements required by the Planning Board.

e. Default of security agreement: In the event that any required improvements have not been installed as provided in this Section within the term of such security agreement, the Town Board may thereupon declare the said performance bond or security agreement to be in default and collect the sum remaining payable thereunder, and upon the receipt of the proceeds thereof, the Town shall install such improvements as are covered by such security and as commensurate with the extent of building development that has taken place in the subdivision but not exceeding in cost the amount of such proceeds.

**B. Mapping of Completed Improvements**

The required improvements shall not be considered to be completed until their installation 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 (1) above, then said map shall be submitted prior to endorsement of the Final Plat by the appropriate Planning Board officer. However, if the Subdivider elects to provide a certified check, performance bond, irrevocable letter of credit or other financial instrument as specified in Subsection (2) above, such financial instrument shall not be released until the improvements have been completed and approved by the Town Engineer and such map is submitted.

**C. Modification of Design of Improvements**

If at any time before or during the construction of the required improvements, it is demonstrated to the satisfaction of the 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 such modifications, provided they are within the spirit and intent of the Planning Board's prior approval and do not extend any waiver or constitute substantial alteration of the function of any improvements required by the Planning 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 prior to its next regular meeting.

**D. Inspection of Improvements**

At least five days prior to commencing construction of required improvements, the Subdivider shall pay to the Town Clerk the inspection fee as specified in the fee schedule established by separate resolution of the Town Board and shall notify the Town Board in writing of the time when he/she proposes to commence construction of such improvements so that the Town Board may cause proper inspection thereof.

**E. Proper Installation of Improvements**

If prior to the expiration date of the performance bond, Irrevocable letter of credit or other applicable financial instrument, the Town Engineer determines that any of the required improvements have not been constructed in accordance with plans and specifications filed by the Subdivider, he/she shall so report to the Town Board, Zoning Enforcement Officer, and Planning Board. The Town Board then shall notify the Subdivider and, if necessary, the bonding company, bank or other financial institution involved, and take all necessary steps to preserve the Town's rights under the financial instrument.

F. Default Under Previous Final Plat

No pending Final Plat shall be approved by the Planning Board as long as the Subdivider is in default on a previously approved Final Plat.

**SECTION 5 FILING OF APPROVED FINAL PLAT**

A. Final Approval and Filing

Upon completion of the requirements of Section 3 and 4 herein, and entry of a notation to that effect upon the Final Plat, it shall be deemed finally approved. The Final Plat shall then be signed by the Chairperson or other duly authorized officer of the Planning Board, and forwarded to the Subdivider for filing at the Genesee County Clerk's Office. Any Final Plat not so filed within sixty days of the date after which it is so signed or otherwise considered approved by the failure of the Planning Board to act as set forth in Article III, Section 3 Subsection J, shall become null and void.

B. Final Plat Void If Revised After Approval

No changes, erasures, modification(s), or revisions shall be made to any Final Plat after it has been approved by the Planning Board, and such approval has been endorsed in writing on the Plat, unless the said Plat is first resubmitted to the Planning Board and such Board approves any modifications. In the event that any such Final Plat is filed without complying with this requirement, the same shall be considered null and void, and the Planning Board shall institute proceedings to have the Final Plat stricken from the records of the Genesee County Clerk.

**SECTION 6 PUBLIC STREETS, RECREATION AREAS**

A. Public Acceptance of Streets

The approval by the Planning Board and subsequent filing of the Final Plat at the Genesee County Clerk's Office shall not be deemed to constitute acceptance by the Town of any street, easement, or other open space shown on such Final Plat.

B. Ownership and Maintenance of Recreation Areas

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

and maintenance of any such recreation area.

## **SECTION 7**                    **APPLICATION OF SECTION 278 OF TOWN LAW**

Whereas pursuant to resolution of the Town Board, adopted on November 12, 1990, the Planning Board is empowered to modify applicable provisions of the Zoning Law in accordance with the provisions of Section 278 of the Town Law for the purpose of enabling and encouraging flexibility of design and development of land in such a manner as to promote the most appropriate use of the land, to facilitate the adequate and economic use of streets and utilities and to preserve the natural and scenic qualities of open lands, the following shall be the procedure and standards.

### **A.     Request By Subdivider**

A Subdivider may request the use of Section 278 simultaneously with or subsequent to presentation of the Sketch Plan as provided in Article III, Section 1. However, any submission subsequent to Preliminary Plat approval shall require a reapplication for Sketch Plan review.

### **B.     Sketch Plan**

A Subdivider shall present along with a Section 278 proposal, a standard Sketch Plan consistent with the criteria established by these Subdivision Regulations including, but not limited to, streets being consistent with the Street Specifications, and lots being consistent with the Zoning Law.

### **C.     Park, Recreation, Open Space or Other Municipal Purposes**

If the application of this procedure results in a Final Plat showing land available for park, recreation, open space, or other municipal purposes, directly related to the Sketch Plan, then conditions as to ownership, use and maintenance of such lands necessary to assure the preservation of such lands for their intended purposes shall be made by the Planning Board.

### **D.     Preliminary and Final Plat Submission**

Upon determination that such Sketch Plan is suitable for the procedures under Section 278, a Preliminary Plat meeting the requirements of the Town Board enabling resolution shall be presented to the Planning Board and thereafter the Planning Board shall proceed in accordance with these Subdivision Regulations:

### **E.     Filing, Notation on Zoning Map**

On the filing of a Final Plat at the Genesee County Clerk's Office where Section 278

has been used, the Subdivider shall file a copy with the Town Clerk who shall make appropriate notations and reference thereto on the Town zoning Law map, and notify the Zoning Enforcement Officer when such a Final Plat is filed.

## **ARTICLE IV      DESIGN STANDARDS**

The Planning Board, in considering an application for the subdivision of land, shall be guided by the following considerations and standards.

### **SECTION 1            GENERAL CONDITIONS**

#### **A. Character of Land**

Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.

#### **B. Conformity to Official Map and Master Plan**

Subdivisions shall conform to the streets and parks shown on the Official Map of the Town as may be adopted, and shall be properly related to the Town Master Plan, if any, as such Plan is developed and adopted by the Planning Board.

### **SECTION 2            DESIGN STANDARDS OF IMPROVEMENTS**

#### **A. Streets**

The following regulations shall govern the layout of streets.

1. Subdivisions shall be so designed as to provide a street pattern which is curvilinear in design. The design of the street pattern shall be based upon a local residential collector street system.

2. The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas, or their proper extension where adjoining land is not subdivided, at the same or greater width, as may be deemed necessary for public requirements.

3. Local residential streets shall be designed to discourage through traffic.

4. All right-of-way street widths and street roadways shall be measured at right

angles or radial to the center line of the street and shall not be less than 49.5 feet in width. Roadways shall have a minimum of two lanes, each of which shall be ten feet or wider as specified by the Town Highway Superintendent.

5. Whenever possible, streets should intersect at right angles, and not intersect at angles of less than sixty degrees, unless approved by the Planning Board.

6. Roadways shall be designed and constructed so as to be acceptable to the Town Highway Superintendent and/or Town Engineer.

7. All proposed subdivisions shall be designed to provide access to adjacent properties. When a proposed subdivision abuts an existing subdivision, the subdivider shall make every attempt to design the street system of the proposed subdivision to connect with dead end or "stub" streets of the existing subdivision.

8. The following standards shall apply to cul-de-sac streets:

a. A cul-de-sac should be designed and graded, if possible, so that it drains toward its entrance.

b. Unless there is the expectation of extending the street through to the adjoining property, a cul-de-sac street shall not be placed so that it backs on the property line of the subdivision.

c. A cul-de-sac should not exceed five hundred feet in length, as measured from the center line of the street at the open end to the radius point of the turn around.

d. All cul-de-sacs shall have a turn around at the end of the street which shall have a right-of-way radius of eighty feet. The curb at the turn shall have a minimum radius of seventy feet.

9. If a dead end street is of a temporary nature, a turn around shall be provided and provision made for future extension of the street and the reversion of the excess right-of-way of such temporary turnaround to the adjoining properties.

10. New half or partial streets shall not be permitted, except that wherever a proposed subdivision borders a half or partial street, the Planning Board may require that the other part of the street be platted in the proposed tract if it is found that such a requirement would increase the effectiveness of the circulation system in the area.

11. Multiple intersections involving a junction or more than two streets shall be prohibited.



12. Arterial streets shall not intersect with local residential streets and residential collector streets less than eight hundred feet apart, measured from center line to center line.

13. To avoid confusion, no street shall have a name which will duplicate or nearly duplicate as to be confused with the names of existing streets. The continuation of an existing street shall have the same name. All proposed street names are subject to approval of the Planning Board which may consult with such sources as the U.S. Postal Service, Genesee County Emergency Dispatch Center, State and County Law Enforcement agencies, and the Bethany Volunteer Fire Department.

14. The minimum radius of horizontal curve, minimum length of vertical curves, and minimum length of tangents between reverse curves shall be in accordance with specifications established by the Town Highway Superintendent and/or Town Engineer, said items shall be approved prior to final approval of the Final Plat by the Planning Board.

15. New streets shall be so located to provide adequate sight distance on any adjacent public road in both directions from the interior road in accordance with the current edition of the American Association of State Highway and Transportation Officials (AASHTO).

16. New streets shall not be placed so as to intersect another street directly opposite an existing residence.

#### B. Lots

The following regulations shall govern the layout of lots.

1. All lots shown on the Final Plat must conform to the Zoning Law as to area and dimensions, for the zone in which the subdivision is located. In the event Section 281 of the Town Law is utilized, however, the Planning Board may use discretion in determining lot sizes.

2. Each lot shall abut on a street in the Final Plat or an existing publicly dedicated street.

3. Corner lots shall be of sufficient size to meet the minimum building line, lot width and yard setback requirements of the Zoning Law for each street.

4. Where extra width has been provided/dedicated for widening of existing streets, lots shall begin at such extra width line, and all setbacks shall be measured from such line.

5. Side lines of lots shall be at right angles to straight streets, and radial to curved streets.

6. Where there is a question as to the suitability of a lot or lots for their intended

use due to factors such as rock formation, flood conditions or similar circumstances, the Planning Board may, after investigation, withhold approval of such lots.

7. Block length and width, or acreage within boundary roads, shall be sufficient to meet the lot area requirements of the Zoning Law and to provide for convenient access, circulation control and safety of street traffic.

8. Lots intended for commercial or industrial use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities.

C. Utility Easements

Easements shall be provided for utilities where they do not fall within a dedicated right-of-way. All such easements shall be plotted on the Sketch Plan, Preliminary Plat and Final Plat. Unless otherwise provided in this section, easements shall have a minimum width of twenty feet.

To the extent possible, easements shall be centered on or adjacent to rear or side lot lines.

Also, all utilities which are primarily intended to provide service to the lots within the subdivision shall be installed underground at a depth and at such locations as will minimize risk of interruption of services.

D. Storm Water Drainage, Erosion and Sediment Control Measures and Easements

The Planning Board shall refer all residential subdivision proposals to the Genesee County Soil and Water Conservation District (SWCD) and/or the Town Engineer, for their review as to the acceptability of proposed drainage, erosion and sediment control measures both during construction phases and after completion. Such review shall be based upon the U.S. Soil Conservation Service TR-55 system or an acceptable equivalent. All easements deemed necessary to maintain either natural or man-made storm water drainage, erosion and/or sediment control measures shall be provided and plotted accordingly on the Final Plat.

E. Landscaping and Ground Cover

1. All lots which are not covered by structures or paving shall be properly seeded or landscaped by the Subdivider pursuant to plan. These lots are to be maintained by the landowner.

2. Each lot shall be provided with a minimum of two trees of a size and species which is acceptable to the Planning Board. This requirement may be waived by the Planning Board in wooded areas where the Subdivider intends to maintain existing trees.

3. Individual landowners may, by written agreement with the Subdivider and/or builder, seed and landscape their yards independently.

4. When a proposed subdivision borders upon an existing commercial or industrial establishment, or any other use which, in the opinion of the Planning Board, may be visually detrimental to the tranquility of the future residents of the subdivision, the Planning Board may require a landscape screen to protect the subdivision for the visually incompatible use.

#### F. Preservation of Natural Features

1. Topsoil moved during the course of construction shall be redistributed so as to provide a minimum depth of six inches of cover to all areas of the subdivision and shall be stabilized by seeding or planting. At no time shall topsoil be removed from the site without written permission from the Planning Board.

2. Where a subdivision is traversed by a natural lake, pond or stream, the boundaries or alignment of said watercourse shall be preserved unless, in the opinion of the Town Planning Board, a change or realignment will enhance the development and beauty of the subdivision or the utilization of such features by the future residents of the subdivision. All proposed changes in watercourse alignment shall be in accordance with the New York State Environmental Conservation Law.

3. Unique physical features such as historic landmarks and sites, rock outcroppings, hilltop lookouts, desirable natural contours, and similar features shall be preserved, if possible.

4. All surfaces, including hills or mounds of dirt, shall be removed and/or restored within six months of the time of the completion. This requirement shall apply only to completed sections of a Subdivision.

5. The Subdivider shall not be permitted to leave any surface depressions which will collect pools of water.

6. No tree with a diameter of eight inches or more as measured three feet above the base of the trunk shall be removed unless the tree is within the right-of-way of a street as shown on the Final Plat. Removal of additional trees shall be subject to approval of the Planning Board.

#### G. Floodplains

1. Mapping - If any portion of the land within the subdivision is subject to inundation or flood hazard by storm water, such fact and area shall be clearly delineated on the Preliminary Plat and Final Plat wherever such area is shown.

2. Use - Land subject to flooding, and land deemed by the Planning Board to be otherwise uninhabitable, shall not be platted for residential occupancy or for such other uses so as to increase danger to health, life or property, or aggravate the flood hazard.

H. Self-imposed Restrictions

The Subdivider may place restrictions on the development greater than those required by the Zoning Law. Such restrictions, if any, shall be indicated on the Final Plat.

I. Parks, Playgrounds or Open Space

1. Land shall be reserved for park, playground, open space or other recreational purposes in locations designated on the Town's recreation or master plans, if any, or elsewhere, where the Planning Board deems that such reservations would be appropriate. Each reservation shall be of an area equal to ten percent of the total land area within the subdivision. The area to be preserved shall possess the suitable topography, general character and adequate road access necessary for its recreational purposes.

2. Where the Planning Board requires land to be set aside for parks, playgrounds, open space, or other recreational purposes, such site shall be graded, loamed, and seeded and the Planning Board may require it to be fenced.

3. The Planning Board may waive the requirement for including land for recreational purposes if such land cannot be properly located in the subdivision, or if the Planning Board is of the opinion that such use is not desirable.

In such event, the Planning Board shall then require a payment to the Town per gross acre of land which would have otherwise been acceptable as a recreational site as provided for in NYS Town Law Section 277. This "per gross acre" recreational fee shall be established by separate resolution of the Town Board.

**ARTICLE V**            **IMPROVEMENTS**

As to completion of necessary improvements and security to be provided therefore, see Article III, Section 4.

As to waiver of improvements, see Article VIII.

**SECTION 1**            **GENERAL IMPROVEMENTS**

A.    **Streets**

All streets shall be constructed, graded and paved in accordance with specifications established by the Town Highway Superintendent and/or Town Engineer.

B.    **Storm Drains**

Storm drains, culverts, catch basins and other drainage structures shall be located and installed in accordance with the Final Plat approved by the Planning Board. All construction, basins, culverts and pipe shall comply with the requirements and specifications set forth in the storm water drainage, erosion and sediment control plan required in Article IV, Section 2, Subsection D.

C.    **Signs**

Street signs shall be constructed and in conformity with Town specifications at the locations approved by the Planning Board.

D.    **Lighting**

Street lighting facilities shall be provided along all streets in the subdivision and along all streets upon which the subdivision abuts, when and where required by the Planning Board.

E.    **Wastewater Treatment Systems**

All wastewater treatment systems shall be installed in accordance with plans approved by the Genesee County Health Department. Such systems shall provide each residence and other structures containing plumbing fixtures with an adequate and safe method of sewerage treatment. Where a public sewerage treatment system is not available, an adequate private wastewater treatment system, approved by the Genesee County Health Department, shall be provided.

F.    **Water Supply Systems**

All water supply systems shall be installed pursuant to plans approved by the Genesee

County Health Department. Such systems shall be designed to provide a sufficient supply of potable water, under adequate pressure, to all outlets, including, but not limited to, residences, other structures, drinking fountains, hose connections, hydrants. Where a public water supply system is not available, an adequate private water supply system, approved by the Genesee County Health Department, shall be provided.

G. Monuments

1. Property boundary monuments shall be of concrete or stone. Monuments shall not be less than six (6) inches in diameter, thickness or width. Concrete monuments shall be reinforced with metal. All monuments shall be not less than forty-two (42) inches in length and set vertically with the top of the monument flush with the top of the improved ground. The final monuments shall not be installed prior to completion of final grading.

Property boundary monuments shall be required for each subdivision. Monuments shall be set in the outboundaries of the land subdivided, at each point where there is a change of alignment. Except where the boundary is a water course, the monuments shall be offset in the line of the adjacent traverse.

Two street boundary monuments shall be set at diagonally opposite corners of each street intersection; also on one side of a curve in a street at the point of tangency and at the point of curvature.

2. Each lot in the subdivision shall be referenced by two markers located at the intersection of the side boundary line of the lot and the front property line. Lot boundary line markers shall be of metal rod or pipe not less than three-quarters inch in diameter and twenty-four inches in length and driven so that the top of the marker is flush with the level of the improved ground.

3. A letter from a NYS Licensed Land Surveyor shall be provided by the Subdivider to the Planning Board certifying that all monuments are installed as shown on the approved Final Plat.

**SECTION 2**                      **PERMITTED MODIFICATIONS**

A. Curbing and Sidewalks

Concrete curbing may be omitted, and in lieu thereof, rolled gutters or other means for controlling storm waters may be constructed as may be acceptable to the Genesee County SWCD, the Town Highway Superintendent and the Planning Board.

Where curbing and/or sidewalks are not provided, adequate provisions for the protection of the edge of the road pavement and graded shoulders, at all driveway openings and other

accessways, shall be provided in a manner provided by the Town Engineer and the Town Planning Board.

Where sidewalks and curbing are not provided, grass curb strips shall not be required. However, grading and permanent seeding of the area between the pavement edge, shoulder or approved drainage structure and the front property line of the lot shall be provided.

**B. Fire Hydrants**

Where adequate water mains are neither existing, nor proposed to be available to the subdivision, fire hydrants may be omitted.

**ARTICLE VI      DOCUMENTS TO BE SUBMITTED**

**SECTION 1      SKETCH PLAN**

**A. Requirements**

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 be submitted, showing the following information:

1. The location of that portion to be subdivided in relation to the entire tract, and the distance to the nearest existing street intersection.
2. All existing structures, wooded areas, streams and other significant physical features, within the area to be subdivided and within 200 feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals or not more than 10 feet.
3. The name of the record owner and record owners of all adjacent property(s) as disclosed by the most recent municipal tax records.
4. The tax map sheet, block and lot numbers, if available.
5. All the utilities available and/or proposed including easements therefore, and all streets which are either existing, proposed, or shown on the Official Map, if any.
6. The proposed pattern of lots (including lot width and depth), street layout, recreation areas, systems of drainage, sewerage, and water supply within the area to be subdivided.

7. All existing and proposed restrictions on the use of land including easements, covenants, or zoning lines.

## **SECTION 2**                    **PRELIMINARY PLAT AND ACCOMPANYING DATA**

The following documents shall be submitted for approval.

### **A.     Requirements**

The Preliminary Plat prepared at a scale of not more than one hundred feet, but preferably not less than fifty feet to the inch, showing:

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 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 law text applicable to the area to be subdivided.
4. Land areas proposed to be dedicated to public use and the conditions of such dedication.
5. Location of existing and proposed property lines, easements, buildings, water courses, 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 any existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
7. Contours with intervals of five feet or less as required by the Planning 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 Master Plan, if such exists, within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the Subdivider.



9. The approximate location and size of any 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 or Environmental Conservation Law. Profiles of all proposed water and sewer lines.

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 any sidewalks, street lighting 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 sub-base, the location of manholes, basins and underground conduits.

12. Preliminary designs of any bridges or culverts which may be required.

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 an existing public highway or other 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 corners of tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the Town Engineer, and shall be referenced and shown on the Preliminary Plat.

**B. Phasing**

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 holdings submitted shall be considered in the light of the entire holdings.

**C. Covenants and Deed Restrictions**

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

### SECTION 3

### FINAL PLAT AND ACCOMPANYING DATA

The following documents shall be submitted for Final Plat approval:

A. Requirements

The Final Plat to be filed with the County Clerk shall be printed upon mylar or other base material acceptable to the Planning Board and County Clerk. The size of the sheets shall be 15 inches by 20 inches or 30 by 44 inches, including a margin for binding of two inches, outside of the border, along the left side and a margin of one inch outside of the border along the remaining sides. The Final 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, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block number clearly legible.

The Final 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 professional engineer or 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 plane 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, tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The Final Plat shall show the boundaries of the property, location, graphic scale and true north point.
5. The Final Plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces title to which is reserved by the Subdivider. For any of the latter, there shall be submitted with the Final Plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefore.

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 both shown and constructed in accordance with specification(s) of the Town Engineer. When referenced to the State system of plane 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.

#### **B. Construction Drawings**

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

### **ARTICLE VII**                    **TIME LIMITATIONS**

The time limitations set forth in these regulations and the corresponding provisions of Town Law may be varied when required for the purpose of complying with the provisions of the State Environmental Quality Review Act (SEQR) (Part 617 of Article 8 of the Environmental Conservation Law).

### **ARTICLE VIII**                    **WAIVERS**

Where the Planning Board finds that, due to special circumstances of a proposed Final Plat, the provision of certain improvements is not required in the interest of 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 such requirements, subject to appropriate conditions, provided that such waiver shall not have the effect of nullifying the intent and purpose of the Zoning Law or any existing master plan and official

In granting waivers, the Planning Board may require such conditions as will, in its judgement, substantially secure the objectives of the standards or requirements so waived.

**ARTICLE IX**

**SEPARABILITY**

Should any section or provision of this Local Law contained herein, or as amended hereafter, be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Local Law as a whole, or any part thereof, other than the part so declared to be invalid.

**ARTICLE X**

**FEES**

Fees may be charged for review of both preliminary and final plats and associated administrative activities. Such fees shall be set by resolution of the Town Board and may be obtained from the Town Clerk.

**ARTICLE XI**

**VIOLATIONS AND PENALTIES**

A. It shall be unlawful for any person, firm or corporation to divide or otherwise alter existing property lines of lots or parcels of property without first complying with the Town of Bethany Land Subdivision Regulations or the Town of Bethany Local Law Regulation Land Separations.

B. Where the Zoning Enforcement Officer finds a violation of these provisions he/she shall serve a written Order-Notice upon the owner by registered mail to remedy such condition. Such written notice shall include the provisions of law violated, the corrective action to be taken, the penalties and remedies which may be involved by the Town for noncompliance and time for compliance.

C. Any violation of this Land Subdivision Regulations Local Law shall be deemed an offense punishable by a fine and/or imprisonment as set forth in Section 268 of NYS Town Law. Each and every week such violation continues shall be deemed a separate and distinct violation.

D. The Zoning Enforcement Officer may, with permission of the Town Board, institute court action to enforce any violation of the provisions of this Local Law.

E. In addition to the remedies described in this Article, the Town of Bethany may seek an injunction to restrain, correct or abate any violation of this Local Law and/or maintain an action at law for damages sustained as a result of any violation of this Local Law. Damages may include but not be limited to legal fees and court costs expended or incurred by the Town as a result of legal proceedings brought hereunder.

**ARTICLE XII**

**REPEALER CLAUSE AND EFFECTIVE DATE**

The Town of Bethany Land Subdivision Regulations adopted on December 10, 1990 and amended on November 11, 1991 are hereby repealed. This Local Law shall take effect immediately upon its filing with the New York State Secretary of State.