

## **-TOWN OF SMITHVILLE SUBDIVISION REGULATIONS**

### **ARTICLE I: DECLARATIONS OF PURPOSE**

#### **SECTION 100. PURPOSE**

**For the purpose of providing for orderly future growth and development of land in the Town of Smithville, New York, and affording adequate facilities for housing, transportation, distribution, comfort, convenience, safety, public health, and general welfare of the populations, and the Town Planning Board of the Town of Smithville, acting under authority granted by the Town Board pursuant to the provisions of Article 16 of the Town Law of the State of New York.**

#### **SECTION 101. ADOPTION**

**In order that subdivisions may be made in accordance with these policies, these regulations shall be known as, and which may be cited as the “Town Board of Smithville Subdivision Regulations” have been adopted by the Planning Board and approved by the Town Board.**

### **ARTICLE 2: DEFINITIONS**

**For the purpose of these regulations certain words and terms shall have the following meaning:**

1. Easement – Authorization by a property owner for the use of any designated part of his property by another, and for a specified purpose.
2. Engineer or Licensed Professional Engineer – A person licensed as a professional engineer by the State of New York or licensed in a state with a reciprocal agreement with New York State.
3. Highway Superintendent – The Highway Superintendent as used in these regulations shall mean the Town of Smithville Superintendent of Highways or a duly authorized or designated representative.
4. Lot – Any individual plot, parcel, tract, or site of land identified on a subdivision map or by recorded survey, deed, description, or metes and bounds, for the purpose of scale, lease donation, or separate use, with dimension requirements for individual lots consistent with Section 6 (Distances) in the Town of Smithville Sanitary Regulations.
5. Lot Depth – Shall mean the horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.
6. Lot Width – Shall mean the width measured at right angles to the lot depth.
7. Master, Comprehensive, or General Plan – A comprehensive plan, prepared by the Planning Board pursuant to Section 272-a of the Town Law which indicates the general locations recommended for various functional classes of public works, places, and structures and for general physical development of the Town and includes any unit or part of such plan separately prepared and any amendment to such plan or parts therein.
8. Official Map – The map established by the Town Board pursuant to Section 270 of the Town Law, showing streets, highways, and parks and drainage, both existing and proposed.
9. Owner – The owner shall mean the person or persons actually holding title of a parcel or tract of land.
10. Planning Board – The Planning Board of the Town of Smithville, Chenango County, New York.
11. Preliminary Plot – A drawing or drawings marked “Preliminary Plot” showing the salient features of a proposed subdivision, as specified in Article 4 of these regulations, submitted to the Planning Board for purpose of consideration prior to submission of the Plat in final form and of sufficient detail to appraise the Planning Board of the layout of the proposed subdivision.
12. Sketch Plan – A sketch of a proposed subdivision showing the information specified in Article 4, Section 400 of these regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of these regulations.
13. Street – Includes streets, roads, avenues, lines, or other traffic ways for a neighborhood or as a feeder to a major street.
14. Street, Dead-End, or a Cul-De-Sac – A street or a portion of a street with only one vehicular traffic outlet.
15. Street, Major – A street which serves or is designed to serve heavy traffic flows of traffic and which is used primarily as a route for traffic between communities and/or heavy traffic generating areas.
16. Street, Minor – A street intended to serve primarily as access to abutting residential properties.
17. Street, Pavement – The wearing or exposed surface of the roadway used by vehicular traffic.

18. Street, Width – the width of a right-of-way, measured at right angles to the vehicular traffic.
19. Street Collector – A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.
20. Subdivider – Any person, firm, corporation, partnership, legal entity, or any authorized agent who shall lay out any subdivision or part thereof as defined herein, either for himself or others.
21. Subdivision – The division of any parcel of land into three or more lots, plots, blocks, or sites whether adjoining or not with or without new streets or highways, and including re-subdivision (including any grading, road construction, installation of utilities or other improvements or land use and development preparatory or incidental to division).
22. Subdivision, Major – Any subdivision not classified as a Minor Subdivision, including, but not limited to, subdivisions of five or more lots, or any size subdivision requiring any new street or extension of municipal utilities.
23. Subdivision, Minor – Any subdivision containing not more than four, or less than three lots fronting on an existing street, not involving any new street or substantial reconstruction or improvement to existing road or the extension of municipal utilities and parcel or adjoining property and not in conflict with any provision or portion of the Master Plan, Official Map, or Zoning Ordinance, if these exist, or these subdivision regulations. After two minor subdivisions have been developed in the same area and by the same subdivider, or his agent, any subsequent subdivision by said subdivider in such area shall be considered a Major subdivision and the appropriate procedures for Major Subdivisions, as set forth in these regulations, shall be followed.
24. Subdivision Plat, or Final Plat – a drawing, in final form, showing a proposed subdivision containing all information or detail required by law and by these subdivision regulations to be presented to the Planning Board for approval, and which, if approved, shall be duly filed or recorded by the applicant in the office of County Clerk.
25. Surveyor – A person licensed as a land surveyor by the State of New York.

### **ARTICLE 3: PROCEDURE FOR SUBMITTING SUBDIVISION APPLICATIONS**

#### **SECTION 300. APPLICATION FOR REQUIREMENTS**

**When any subdivision of land is proposed to be made and before any contract for the sale of, or any offer to sell or lease such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider of his duly authorized agent shall apply in writing to the Planning Board for approval in such proposed subdivision in accordance with the procedures set forth in this Article 3.**

#### **SECTION 301. SKETCH PLAN**

1. Submission of Sketch Plan: Any owner or subdivider of land may, prior to subdividing or re-subdividing land, submit to the Town Clerk or Secretary of the Planning Board at least 10 days prior to the regular meeting of the Planning Board, two copies of a Sketch Plan of the proposed subdivision, which shall comply with the requirements of Article 4, Section 400, for the classification pursuant to Article 4, Section 401 or 402 and for preliminary discussion by the Planning Board.
2. Discussion of Requirements and Classification: The subdivider, or his duly authorized representative, may attend the meeting of the Planning Board to discuss the requirements of these regulations for street improvements, drainage, sewerage, water supply, flood protection, and similar aspects, as well as the availability of existing services and other pertinent information.

At this time, the Planning Board shall classify the Sketch Plan as to whether it is a Subdivision, Minor or Major as defined in these regulations (see Article 2). The board may require, however, when it deems necessary for protection of the public health, safety and welfare, that a Minor Subdivision comply with the procedure outlined in Section 302 of these regulations. If such subdivision is classified as a Major Subdivision, the subdivider shall comply with the procedures outlined in sections 303, 304, 305, and 306.

3. Study of Sketch Plan: The Planning Board shall classify the Sketch Plan meets the purposes and objectives of these regulations and shall, where it deems necessary, make specific recommendations in writing to be incorporated by the applicant in the next submission to the Planning Board.
4. The Planning Board shall review the location of the proposed subdivision for the presence of any adverse natural considerations limiting development on the site as indicated by the Natural Resource Composite Maps on file in the Town Offices. Of the site falls into areas on the soils map denoted as having “moderate”, “severe”, or “very severe” limitation; within flood hazard areas, or areas of unique hydrologic or natural habitat areas (including wetlands), the Planning Board may require the subdivider to consult with the appropriate technical review or assistance agencies (such as, but not limited to, the Soil Conservation Service, the State or County Health Departments, Army Corps of Engineers, and the Department of Environmental Conservation) to determine appropriate measures to mitigate or eliminate such problems or conflicts. The findings or recommendations of such agencies shall not be binding on the Planning Board or subdivider.

The Planning Board may require that design technique such as clustering (in accordance with Section 308) be used to avoid development in these critical resource areas, and shall not approve a sketch plan which has failed to adequately address these critical resource concerns (soils, flood hazards, hydrologic and natural habitat resources).

### **SECTION 302. APPROVAL OF MINOR SUBDIVISION**

1. Within 6 months after the Planning Board classification of the Sketch Plan as a Minor Subdivision, the subdivider shall submit an application for approval of a Subdivision Final Plat to the Clerk of the Town of Smithville. Failure to do so may require resubmission of the Sketch Plan to the Planning Board for re-classification. The Plat shall conform to the layout shown on the Sketch Plan plus any conditions established by the Planning Board. Said application shall also conform to the requirements established in Section 401.
2. Four copies of the subdivision Final Plat for a Minor Subdivision shall be presented to the Town Clerk at least 10 days prior to a scheduled meeting of the Planning Board. The subdivider or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Subdivision Plat.
3. A short form environmental assessment form (Appendix A) for the proposed subdivision shall be available for review at this meeting of the Planning Board. The statement should consider potential impacts of the development as anticipated by the developer.
4. A public hearing in compliance with Section 276 of the Town Law shall be held by the Planning Board within 45 days of the time of submission of the Subdivision Final Plat for approval. Said hearing shall be advertised at least once in a newspaper of general circulation in the town at least 5 days before such public hearing.
5. The Planning Board shall, within 45 days from the date of the said public hearing, conditionally approve, with or without modifications, disapprove, or approve such Minor Subdivision Plat and so indicate on the Plat. Failure to act within the stated time period, or a mutually agreed upon extension thereof, shall constitute approval of the Plat. A resolution of conditional approval shall also duly authorize and empower an officer of the Planning Board to sign the Plat subject to completion of such conditions as may be specified in said resolution.
  - a. Within 5 days of the Planning Board resolution of conditional approval, the Minor Subdivision Plat shall be certified by the Planning Board as conditionally approved. A copy of such certification shall be filed in the office of the Town Clerk and a copy mailed to the subdivider including any conditions that must be met before the Plat can be signed.
  - b. Conditional approval of the Plat shall expire 180 days after the date of the resolution of approval. Within such 180-day period, or any extension thereof granted by the Planning Board, the conditionally approved Plat must be submitted to the Planning Board for signature or final approval required by Section 302.4 of these regulations.
  - c. In cases of disapproval of any Subdivision Plat submitted, the grounds of disapproval shall be stated upon the records of the Planning Board.

6. Upon receiving the signature of final approval required by Section 302.5, the Minor Subdivision Plat shall be filed with the County Clerk in accordance with the provisions of Section 306 of these regulations. The subdivider shall, within ten (10) days after filing the Subdivision Plat with the County Clerk, file a copy of the same plat with the Town Clerk.

### **SECTION 303. PRELIMINARY PLAT FOR MAJOR SUBDIVISION**

1. The subdivider of any subdivision classified by the Planning Board as Major Subdivision shall submit a Preliminary Plat in accordance with Section 402 of these regulations, except where a waiver of any requirement may be specifically authorized by the Planning Board.
2. Four copies of the Preliminary Plat, clearly marked "Preliminary", shall be presented to the Town Clerk at least ten days prior to a regular monthly meeting of the Planning Board.  
Environmental assessment statement (Appendix A) for the proposed subdivision shall be available for review at the meeting of the Planning Board. The statement should consider potential impacts of the development as anticipated by the developer.
3. When applicable in Chenango County, the Secretary of the Planning Board, upon receipt of a Preliminary Plat, shall present a copy of the said Plat to the County Planning Agency for review and report in accordance with the provisions of Section 239-n of Article 12-B of the General Municipal Law. The Chairperson of the Planning Board, or other designated member of the Planning Board, shall present a copy of the Preliminary Plat to any other County or State Agency which has or may have jurisdiction of review or approval of the subdivision. This may include, but is not limited to, review by the New York State Health Department, or compliance with the New York State Freshwater Wetlands Act (Article 24 and Title 23 of Article 71 of the Environmental Conservation Law) and State Pollution Discharge Elimination System as administered by the Department of Environmental Conservation. If the subdivision meets any Type I thresholds listed in Part 617.12 of the SEQR regulations, lead agency for the SEQR process shall be determined according to procedures outlined in Section 617.6 of the SEQR regulations.
4. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plat.
5. The Planning Board shall study the suitability of the Preliminary plat, taking into consideration the requirement of the community and the use of the land being subdivided. Particular attention shall be given to the arrangement, location, and design of the streets and their relation to the topography, water supply, sewage disposal, drainage, lot sizes and arrangement, potential flood hazards, the future development of adjoining lands as yet un-subdivided, and the requirements of the Master Plan, the Official Map, the Zoning Regulations, if such exists.
6. A determination of no significant environmental impact (Negative Declaration) or a draft Environmental Impact Statement (EIS) is required by the designated lead agency before the subdivision may be approved (in accordance with Section 617.11 of the rules and regulations governing the SEQR or local SEQR law). The Secretary of the Planning Board shall notify any other agency which may have authority to review the subdivision (see Section 303 (3) above) of this determination.
7. The time of submission of the Preliminary Plat shall be considered to be the date of the regular monthly meeting of the Planning Board at least ten days prior to which the application for the conditional approval of the Preliminary Plat, complete and accompanied by all data required by Section 402 of these regulations, has been filed with the Town Clerk.
8. Within 45 days after the time of submission of the Preliminary Plat, the Planning Board shall hold a public hearing on said Plat. This hearing shall be advertised in a newspaper of general circulation in the Town at least 5 days before such hearing. This public hearing shall also be used to solicit comments on the draft EIS under SEQR (if required). Within 45 days from the date of such public hearing, the Planning Board shall take action to approve, with or without modifications, or disapprove such Preliminary Plat and the grounds for such modification required or the ground for disapproval shall be stated upon the records of the Planning Board.

9. When granting approval of the Preliminary Plat, the Planning Board shall state the conditions of such approval, if any, with respect to:
  - a. The specific changes which will be required in the Final Subdivision Plat;
  - b. The character and extent of the required improvements for which waivers may have been requested, and which in the Planning Board's may be waived without jeopardy to the public health, safety, morals, and general welfare;
  - c. The amount of construction or improvement, or the amount of the performance bond, therefore, which will be required as a prerequisite to the approval of the Subdivision Plat to be submitted subsequently.

The action of the Planning Board, plus any conditions attached thereto, shall be noted on or attached to three copies of the Preliminary Plat. One copy shall be returned to the subdivider, one retained by the Planning Board, and one forwarded to the Town Clerk. Approval of a Preliminary Plat shall not constitute approval of a Subdivision Plat; rather it will be submitted for approval of the Planning Board. Prior to approval of the Subdivision Final Plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained.

#### **SECTION 304. FINAL PLAT FOR MAJOR SUBDIVISION**

1. The subdivider shall, within 6 months after the approval of the Preliminary Plat, submit the Plat to the Town Clerk who will forward said plat to the Planning Board in its final form. If the Final Plat is not submitted within said 6-month period, approval of the Preliminary Plat may be revoked by the Planning Board. All submissions for Final Plat consideration for major subdivisions shall be accompanied by a fee of municipal option (as set forth in Section 800 and as may be modified by resolution of the Town Board).
2. The subdivider shall provide the Town Clerk with one copy of the application and three copies of the Plat and all other drawings, and the original and one copy of all offers of cession, covenants and agreements, at least 10 days in advance of the regular Planning Board meeting at which the Plat is to be officially submitted.
3. The time of submission of the Subdivision Plat shall be considered the date of the regular monthly meeting of the Planning Board at least 10 days prior to which the application for approval of the Subdivision Plat, complete and accompanied by the required fee and all data required by Section 403 of these regulations, has been filed with the Secretary of the Planning Board.
4. Evidence shall be supplied that any proposed water supply and sewage disposal facilities associated with the Subdivision Plat requiring approval of the Department of Environmental Conservation and/or the State or County Department of Health shall have received at least preliminary approval of such facilities.
5. A public hearing on the Subdivision Plat may be held by the Planning Board if the Board deems there are substantial changes from the approved Preliminary Plat. Such hearing shall be held within 45 days after the time of submission of the Subdivision Plat for approval. Such hearing shall be advertised in a newspaper of general circulation in the town before such hearing. This hearing may be waived by the Planning Board.
6. The Planning Board shall, within 45 days from the date of any public hearing, or the date of submission of the Subdivision Final Plat if no hearing is required approve, conditionally approve with or without modifications, or disapprove said Plat and so indicate on the Plat. This time period may be extended by mutual consent of the subdivider and the Planning Board. Failure to act within the stated time period or a mutually agreed-upon extension shall constitute approval of the Plat. A resolution of conditional approval shall also duly authorize and empower an officer of the Planning Board to sign the Plat for recording with the County Clerk. However, the Subdivision Plat shall not be signed until the subdivider has complied with all Section 305 of these regulations.
7. If a draft EIS was required, the Planning Board's action on the subdivision plat shall include either a negative declaration or the final EIS and a statement of findings on the subdivision as require under Section 8-0109-8 of the SEQR Act of 1975, as amended.
8. Within 5 days of the Planning Board resolution of conditional approval, the Subdivision Final Plat shall be certified by the Clerk of the Board as conditionally approved. A copy of such certification shall be filed in the office of the Town Clerk and a copy mailed to the subdivider.

## **SECTION 305. REQUIRED IMPROVEMENTS**

1. Improvements and Performance Bond – Before the Planning Board grants final approval of the Subdivision Plat, the subdivider shall follow the procedure set forth in either sub-paragraph “a”, or sub-paragraph “b”, below;
  - a. In an amount set forth by the Planning Board the subdivider shall either file with the Town Clerk a certified check or cover the full cost of the required improvements or the subdivider shall file with the Town Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall be satisfactory to the Town Board as to form, sufficiency, manner of execution and surety. A period of one year (or such other period as the Town Board may determine appropriate, not to exceed three years) shall be set forth in the bond within which required improvements must be completed.
  - b. The subdivider shall complete all required improvements in accordance with, and to the satisfaction of, the Highway Superintendent or any other official representative or body authorized by the Town Board to act and fulfill such duties (hereafter referred to as “Development Administrator”) who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed and not so approved, the subdivider shall file with the Town Clerk a bond or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvement not approved by the Development Administrator. Any such bond shall be satisfactory to the Town Board as to form, sufficiency, manner of execution, and surety.
  - c. The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Development Administrator.
2. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Development Administrator that unforeseen conditions make it necessary or preferable to modify the location or design of such improvements, the Development Administrator shall, upon approval by the Planning Board, authorize modifications provided within the spirit and intent of the Planning Board’s approval and are not tantamount to the waiver or substantial alteration of the function of any improvements required by the Planning Board. Such changes shall be consistent with the statement of findings made pursuant to Section 8-0109-8 of the SEQR Act and Section 617.9 of the statewide SEQR regulations, if applicable, or else a separate SEQR determination of significance will be required. The Development Administrator shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board.
3. Proper Installation of Improvements – if the Development Administrator shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he so shall report to the Town Board. The Town Board then shall notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the Town’s rights under the bond. No plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved Plat.

## **SECTION 306. FINAL APPROVAL AND FILING**

1. Upon completion of the requirements set forth in Sections 304 and 305 and notation to that effect upon the Subdivision Plat, it shall be deemed to have final approval and shall be properly signed by the duly authorized officer of the Planning Board and may be filed by the applicant in the office of the County Clerk. Any Subdivision Plat not so filed or recorded within 60 days of the date on which such Plat is approved or considered approved by reasons of the failure of the Planning Board to act, shall become null and void, unless the particular circumstances of said applicant warrant the Planning Board to grant an extension which shall not exceed two additional periods of 60 days.

2. No changes, modifications, or revisions shall be made in any Subdivision Plat after approval has been given by the Planning Board and 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 Subdivision Plat is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the Plat stricken from the records of the County Clerk.

### **SECTION 307. PUBLIC ACCEPTANCE OF STREETS AND OPEN SPACES**

1. The approval by the Planning Board of a Subdivision Plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, recreation area, easement, or open space shown on such Subdivision Plat.
2. Ownership and maintenance of park, recreation areas, or open space areas: When a park, playground, or other recreation area or other open space area shall have been shown on a Plat, Planning Board approval of the Plat shall not constitute an acceptance by the Town of such area. The Planning Board shall require the Plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication, and where such requirement is necessary or desirable by the Planning Board to realize best use of the site, provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

### **SECTION 308. CLUSTER PROVISIONS**

**Pursuant to a resolution of the Town Board, the Town of Smithville Planning Board has been empowered to modify the minimum lot area, minimum width and minimum lot width requirements in accordance with the provisions of section 281 of the Town Law, in order to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open lands, the following shall be standards and procedures:**

1. Standards:
  - a. The Town of Smithville Planning Board may make such modifications only with respect to the lands within special development areas.
  - b. The minimum acreage to which this section may be applicable to shall be 10 acres, except where public services, sewer and/or water are available the Planning Board may determine the minimum size.
  - c. No Subdivision shall be approved by the Planning Board pursuant to this section and which shall not reasonably safeguard the appropriate use of adjoining land.
  - d. In the event that the utilization of this section results in a Plat showing lands available for park, recreation, or other municipal purposes, such conditions on the ownership, use, and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes, and may further, in the case of lands to be retained in open space, require that such lands be restricted by deed restriction, restrictive covenant, conveyancy of a scenic easement or other appropriate means against any development or land use inconsistent with their retention in open space.
  - e. The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands as provided in other town regulations or ordinances.
2. Procedures:
  - a. Request by Subdivider
    - i. A Subdivider may request the use of this section simultaneously with the submission of the Sketch Plan, as described in Article 3, Section 301. Any submission subsequent thereto shall require a resubmission of the Sketch Plan.
  - b. Alternate Sketch Plan
    - i. A subdivider shall present for the Planning Board's consideration along with a proposal utilizing the provisions of this section, an alternate sketch plan, with

lots meeting the minimum lot area, minimum lot width, and requirements of any other town ordinance or local law.

3. Plat Submission:
  - a. Upon determination by the Planning Board that the Sketch Plan utilizing the provisions of this section is suitable, the procedures attendant to and subsequent to the Sketch Plan submission as set forth in this article, shall be followed in regular order.
4. Local Filing, Notation on Zoning Map:
  - a. Any Subdivision Plat finally approved which involves modifications as provided for in this section shall be filed, in addition to the filing required in Article III, Section 6, hereof, with the Town Clerk, who shall make appropriate notation and reference thereto on the official town map.

#### **ARTICLE 4: REQUIRED DOCUMENTS**

**SECTION 400. The Sketch Plan shall consist of a drawing based on tax map information or some other similarly accurate base map at a scale, preferable not less than 20 feet to the inch to enable the same entire ownership of the subdivider to be shown on one sheet, and shall include:**

1. A location map to indicate the relationship of the proposed subdivision to significant existing community facilities which will serve or influence the layout, such as major traffic arteries, shopping areas, schools, parks, employment centers, etc. Significant local natural resources such as water bodies, rivers, wetlands, bluffs, dunes and beaches shall also be included.
2. All existing structures, wooded areas, streams or water courses, flood hazard areas, wetlands, quarries or excavations, bedrock outcrops and other significant physical features, within the area to be subdivided and within 200 feet thereof. Topographic conditions shall be indicated at contour intervals of not more than 20 feet. U.S.G.S. maps are suitable.
3. The name of the owner and all adjoining property owners as disclosed by the most recent municipal tax records.
4. The tax map sheet block and lot numbers, if available; scale, north arrow and acreage involved.
5. All the utilities available, and all streets which are either proposed or built.
6. The proposed pattern and approximate dimensions and area of lots, street layout, recreation areas, proposed surface water drainage, sewerage, and water supply within the subdivision area.
7. All existing restrictions on the use of the land, including easements, covenants, or zoning divisions.

#### **SECTION 402. MINOR SUBDIVISION PLAT**

**In addition to the information required by Section 400, the following shall be submitted for minor Subdivisions only:**

1. A copy of such covenants or deed restrictions as are proposed to cover any part of the tract.
2. A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments as approved by the Town Board, and shall be referenced and shown on the Plat.
3. Any reports needed from the Health Department of jurisdiction, approving the sewer and water supply facilities proposed for the site.
4. Proposed subdivision name, if any.

#### **SECTION 402. MAJOR SUBDIVISION – PRELIMINARY PLAT**

**The Preliminary Plat shall be submitted as a scale of one inch equals one hundred feet, or another scale approved by the Planning Board, whichever most clearly illustrates the subdivider's proposal. The Preliminary plat shall be clearly marked "Preliminary Plat" and shall include:**

1. Proposed Subdivision name, name of town and county, date, true north point, scale, name and address of record owner, subdivider and engineer or surveyor including license number seal.
2. The name of all subdividers immediately adjacent, if any, and the name of the owners of record of all adjacent property.

3. All parcels of land proposed to be dedicated to public use and the condition of such dedication.
4. Location of existing property lines, easements, buildings, water courses, marches (including DEC designated wetlands), floodable areas (including all HUD Federal Flood Insurance Hazard Areas), rock outcrops, wooded areas, single trees greater than one foot in diameter, and other significant existing features for the proposed subdivision area.
5. Location of existing sewers, water mains, culverts, and drains serving the property, if any, with pipe sizes, grades, and direction of flow.
6. Contours with intervals not to exceed 20 feet or less as required by the Board, including elevations on existing roads. Approximate grading plan if natural contours are to be changed more than 3 feet.
7. The width and location of any streets and public ways or places shown on the Official Map or the Master Plan, if such exists, within the area to be subdivided, and the right-of-way width, location, grades, and street profiles of all streets or public ways proposed by the developer.
8. The approximate location and size of all proposed water lines, fire hydrants, and sewer lines; connections to the existing lines or alternate means of water supply or sewage disposal treatment, including sites for on-site systems, profiles of all proposed water and sewer mains. If septic systems are proposed, the results of soil boring and soil percolation tests shall accompany the preliminary plat. Where onsite water supply systems are proposed, the quality and quantity of water available shall be indicated.
9. Store Drainage Plan indicating the approximate location and size of proposed lines, if any, and their profiles; connections to existing systems or alternate means of drainage.
10. Plans, sections, and other drawings as required to show the proposed location and type of all improvements required by Article 5 or by the Planning Board.
11. Preliminary designs of any bridges or culverts which may be required.
12. The proposed lot lines with approximate dimensions and area of such lot.
13. Where the topography or design is such as to make difficult the inclusion of required facilities in a public right-of-way 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 or proposed public street or public open space shown on the subdivision or official map.
14. A 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. Corners of the tract shall also be located as approved by the Board, and shall be referenced and shown on the Plat.
15. A copy of any covenants or deed restrictions that are intended to cover any lot all or in part of the tract.
16. If the Preliminary Plat submitted for approval covers only part of the subdivider's entire holding in the area, a map shall be prepared showing the entire tract, as it relates to the parcel included in the Preliminary Plat.

### **SECTION 403. MAJOR SUBDIVISION – FINAL PLAT**

**The Final Plat to be approved by the Planning Board and filed with the Chenango County Clerk is to be drawn at the same scale as the Preliminary Plat. The Final Plat submission shall include:**

1. Identifying title stating the name of the subdivision, if any, name and address of owner, seal of licensed land surveyor, scale, north arrow, and date.
2. Location, right-of-way widths, and identification of all existing streets and easements, location of existing buildings, wooded areas, wetlands, creeks, drainage ways, large trees, and other features to be retained; location, right-of-way widths, and identification of all proposed streets, ponds, watercourses, and any other features.
3. Sufficient data to enable the Town of Smithville Planning Board to easily determine the location bearing and length of every street line, lot line, and boundary line, and the radii and length of all curves in the subdivision. When applicable, these data should be referred to monuments and tied into other reference points previously established.

4. The Final Plat shall show by proper designation thereon all public open spaces for which deeds are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the Plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made thereof.
5. All offers of cession and all covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their form and legal sufficiency.
6. Lots within a subdivision shall be numbered or lettered in accordance with the prevailing practice.
7. Permanent reference monuments and lot corner markers as required by Article 5 shall be shown and their location referenced in the Plat.
8. Construction drawings as needed to show the locations, size, grade, and construction of all improvements required by Article 5, or by the Planning Board, or proposed by the subdivider.
9. Certification from the Health Department of jurisdiction of sewage disposal and water supply systems to be used in the subdivision. No modification may be made after DOH certification.
10. Statement from the appropriate town officials certifying that required improvements have been satisfactorily installed or that an acceptable bond for such installation has been filed with the Town Clerk.

### **ARTICLE 5. DESIGN AND ENVIRONMENTAL STANDARDS**

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter. The said standards shall be considered to be minimum requirements and shall be waived by the Board only under circumstances set forth in Article 6 herein.

#### **SECTION 500. GENERAL CONSIDERATIONS**

1. 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.

2. Conformity to Official Map and Master Plan:

Subdivisions shall conform to the Official Map of the town and shall be in harmony with the Master Plan, if such exists.

3. Specifications for Requirement Improvements:

All required improvements shall be constructed or installed to conform to the town specifications, which may be obtained from the Town Planning Board.

#### **SECTION 501. STREET LAYOUT**

1. Width, Layout, and Construction:

Streets shall be of sufficient width, suitably located, and adequately constructed to conform with the Master Plan, if such exists, and to accommodate the prospective traffic and afford access for firefighting, snow removal, and other road maintenance equipment. The arrangement of streets shall be in harmony with surrounding streets and areas.

2. Arrangement:

The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic, and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water, and drainage facilities.

3. Minor Streets:

Minor streets shall be so laid out that their use by through traffic be discouraged.

4. Special Treatment Along Major Arterial Streets:

When subdivision abuts or contains an existing or proposed major arterial street, the Board may require marginal access streets, reverse frontage with screen planting contained in a non-access

reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection and to afford separation of through and local traffic.

5. Provision for Future Re-Subdivision:

Where a tract is subdivided into lots substantially larger than the minimum size required by the zoning district, in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future re-subdivision in accordance with the requirements contained in these regulations.

6. Dead-End Streets:

The creation of dead-end or loop residential streets will be encouraged wherever the Board finds that such type of development will not interfere with normal traffic circulation in the area. In the case of dead-end streets, where needed or desirable, the Board may require a reservation of a 20-foot wide easement to provide for continuation of pedestrian traffic and utilities to the next street or public property. Subdivisions containing twenty (20) lots or more shall have at least two street connections with existing public streets, or streets shown on the Official Map, if such exists, or streets on an approved Subdivision plat for which a bond has been filed.

7. Block Size:

Blocks generally shall not be less than 400 feet nor more than 1200 feet in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding 800 feet in length, the Planning Board may require the reservation of a 20-foot wide easement through the block to provide for the crossing of utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a 4-foot wide paved foot path be included.

8. Interaction with Collector or Major Arterial Roads:

Minor or secondary street openings into such roads shall, in general, be at least 500 feet apart.

9. Street jogs:

Street jogs with center line offsets of less than 125 shall be avoided.

10. Angle of Intersection:

In general, all streets shall join each other so that, for a distance of 100 feet, the street is approximately at right angles to the street it joins.

11. Relation to Topography:

The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.

**SECTION 502. STREET DESIGN**

1. Widths of Rights-of-Way:

Streets shall have the following widths. When not indicated on the Master Plan or Official Map, the classification of streets shall be determined by the Board:

	<u>Minimum Right-of-Way</u>	<u>Minimum Pavement</u>
Major Streets	70 Feet	36 Feet
Collector Streets	60 Feet	36 Feet
Local Streets	50 Feet	30 Feet

2. Improvements:

Streets shall be constructed in accordance with standards established by the Town Highway Superintendent with regards to pavement types, sewers, gutters, curbs, lighting, and fire hydrants, providing such standards have been approved by the Planning Board.

3. Utility Easements:

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

4. Grades:

Grades of all streets shall conform in general to the terrain, and shall not be less than one half (1/2) nor more than 6 percent for major or collector streets, or 10 percent for minor streets in residential areas, but in no case more than 3 percent within 50 feet of any intersection.

5. Changes in Grade:

All changes in grade shall be connected by vertical curves of such length and radius as to meet with the Town Road Design Standards so that clear visibility shall be provided at a safe distance.

6. Curve Radii at Street Intersections:

All street right-of-way lines at intersections shall be rounded by curves of at least 20 feet radius and curbs shall be adjusted accordingly.

7. Steep Grades and Curves; Visibility of Intersections:

A combination of steep grades and curves shall be avoided. If directed, ground shall be evacuated to achieve better visibility.

8. Dead-End Streets (Cul-de-sacs):

Where dead-end streets are designed to be so permanently, they should, in general, not exceed 1000 feet in length, and shall terminate in a circular turn-around having a minimum right-of-way radius of 60 feet and a pavement radius of 50 feet. At the end of temporary dead-end streets a temporary turn-around with a pavement radius of 50 feet shall be provided, unless the Planning Board approves an alternate arrangement.

9. Watercourse:

Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Town Highway Superintendent. Where a subdivision is traversed by a watercourse, drainage way, channel of stream, there shall be provided a stormwater easement or drainage right-of-way as required by the Town Planning Board or Highway Superintendent and in no case less than 20 feet in width.

10. Curve Radii:

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

### **SECTION 503. STREET NAMES**

**No street shall have a name which will duplicate, or so nearly duplicate as to be confused with, the names of existing streets in the area. A continuation of an existing street shall have the same name (Generally, streets shall have names and not numbers of letters).**

### **SECTION 504. LOTS**

1. Lots To Be Buildable:

The lot arrangement shall be such that in constructing a building in compliance with the Zoning Ordinance, there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots should not be of such depth as to encourage the later creation of a second building lot at the front or rear.

2. **Street Frontage:**  
All lots shall front on a public street.
3. **Lot Ratios:**  
The ratio of the depth of any lot to its width should not be greater than three to one, except as may be otherwise determined in the Zoning Ordinance.
4. **Side Lines:**  
All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.
5. **Corner Lots:**  
In general, corner lots shall be larger than interior lots to provide for proper building setback from each street or to a private street which conforms to town right-of-way and construction specifications. In general, this access must provide at least 30 feet of frontage at the right-of-way line of said public or private street.
6. **Monuments and Lot Corner Markers:**  
Permanent monuments meeting specifications approved by the Town Planning Board as to size, type, and installation, shall be set as such block corners, angle points, points of curves in streets and other points as the Town Planning Board may require, and their location shall be shown on the Subdivision Plat.

## **SECTION 505. DRAINAGE IMPROVEMENTS**

1. **Removal of Spring and Surface Water:**  
The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist either previous to, or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width.
2. **Drainage Structure to Accommodate Potential Development Upstream:**  
A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Town Planning Board or Highway Superintendent shall approve the design and size of the facility based on anticipated run-off from a "ten year" storm under conditions of total potential development permitted by the Zoning Ordinance.
3. **Responsibility from Drainage Downstream:**  
The subdivider's engineer shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; this study shall be reviewed by the Town Planning Board or Highway Superintendent. Where it is anticipated that the additional run-off incident to the development of the subdivision will overload an existing downstream drainage facility during a five-year storm, then Planning Board shall notify the Town Board of such potential condition. In such cases, the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.

## **SECTION 506. PARKS, OPEN SPACES, AND NATURAL FEATURES**

1. **Required Dedication of Land:**  
Each subdivider shall be required to contribute to recreation facilities in the Town. At the Planning Board's discretion, such contribution shall be in the form of land or cash in lieu of land, or a combination of both, in accordance with the specifications of Section 508.2. In general, the location, size, and type of park, playground, or open space facilities shall be determined by the Town Master Plan.
2. **Amount of Land:**  
Recreation space shall be provided by the subdivider on the basis of at least 500 square feet of useable land for each lot shown on the Plat drawings. In cases where the Planning Board finds that the size, shape, or location of the proposed subdivision makes a park, playground, or open

space impractical or undesirable in the subdivider will be required to make a payment of \$200 for each lot in the subdivision.

3. Cash in Lieu of Land:

Cash in lieu of land shall be paid to the Town before such final approval of a Plat is given by the Planning Board. Such payments shall be held in a special fund for acquisition and development of recreation land. All money in this fund is to be used only for:

- a. The purchase of land that is suitable for new or enlarged parks, playgrounds, or open spaces, and located so as to serve the inhabitants of the Town's residential neighborhoods;
- b. The improvement of existing parks, playgrounds, or open lands which serve the community or park district in which the subdivision is located.

4. Dedication of Land:

The Planning Board may require the subdivider to dedicate to the Town the recreation and open space land required by Section 508.2 if the Town Board approves such dedications.

**SECTION 507. ENVIRONMENTAL CONSIDERATIONS**

1. Preservation of Natural Resources:

The Planning Board shall preserve, so far as possible, establish the preservation of all natural features which add value to residential developments and to the community, such as large trees or groves, water courses and falls, beaches, historic spots, vistas, and similar irreplaceable assets.

a. Natural Terrain:

- i. Subdivision design shall preserve, so far as possible, the natural terrain and natural water courses, improvements and drainage areas.

b. Trees:

- i. A conscious effort shall be made to preserve all worthwhile trees and shrubs which exist on the site. On individual lots or parcels care shall be taken to preserve selected trees to enhance the landscape treatment of the development. No tree with a diameter of 8 inches or more as measured 3 feet above the base of the trunk shall be removed unless such tree is within the right-of-way of a street as shown on the Final Subdivision Plat. Removal of additional trees shall be subject to the approval of the Planning Board. In no case, however, shall a tree with a diameter of 8 inches or more measured 3 feet above the base of the trunk be removed without the approval by the Planning Board.

c. Soil:

- i. Natural fertility of the soil shall be preserved by disturbing it as little as possible, and no topsoil shall be removed from the site.

2. Flood Areas:

Land subject to serious or regular flooding shall not be subdivided for residential occupancy or for such other uses, as may increase danger to life or property or aggravate the flood hazard, but such land may be used for such uses, subject to any zoning regulations, or in such a way that the flood danger to this property and other upstream or downstream properties will not be increased and periodic or occasional inundation will not be a substantial threat to life or property. The provisions of this section shall apply to all land falling within the 100 year flood limit as shown on the map prepared by the Town of Smithville and the Department of Housing and Urban Development as periodically amended.

3. Steep Slopes:

Development of steep slope (over 12x) sites will be conditionally acceptable only if there is no prudent or feasible alternative site, and erosion and sedimentation control measures are incorporated according to the standards set by the U.S. Soil Conservation Service.

4. Vegetation:

Development shall preserve, to the maximum extent practicable, existing vegetation within a development site. This includes, where necessary, planting of appropriate native coastal species.

5. Sediment Control:

The subdivider shall provide effective sediment control measures for planning and construction of subdivisions. Use of the following technical principles shall be applied as deemed appropriate by the County Soil and Water Conservation District.

- a. The smallest practical area of land shall be exposed at any one time during the development.
- b. When the land is exposed during development, the exposure shall be kept to the shortest practical period of time.
- c. Temporary vegetation and/or emulsion shall be used to protect critical areas exposed during development.
- d. Sediment basins, debris basins (silt basins or silt traps), shall be installed and maintained to remove sediment from runoff waters on land undergoing development.
- e. Provision shall be made to effectively accommodate the increased runoff caused by the changing soils and surface conditions during and after development.
- f. Permanent final vegetation and structures should be installed as soon as practical in the development.
- g. The development plan should be fitted to the type of topography and soils so as to create the least erosion potential.
- h. Wherever feasible, natural vegetation should be retained and protected.

6. Performance Standards:

The interpretation and regulations of these Subdivision regulation Law will be guided by the following performance criteria:

- a. Will not result in undue water or air pollution.
- b. Has sufficient water available for the reasonably foreseeable needs of the subdivision or development.
- c. Will not cause unreasonable burden on existing water supply, if one is to be utilized.
- d. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
- e. Will not cause unreasonable highway congestion or unsafe condition with respect to the use of the highway, existing or proposed.
- f. Will not cause an unreasonable burden on the ability of a municipality to provide educational services.
- g. Will not place unreasonable burden on the ability of the local governmental services.
- h. Will not have an undue adverse effect on the scenic or natural beauty of the area, historic sites, or irreplaceable natural areas.
- i. Is in conformance with a duly adopted development plan, land use plan or land-capability plan (statewide plans required by the law).
- j. Is in conformance with any duly adopted local or regional plan.

**ARTICLE 6: VARIANCES, WAIVERS, AND MODIFICATIONS**

**SECTION 600. SPECIAL CIRCUMSTANCES (WAIVER)**

Where the Planning Board finds that, due to the special circumstances of a particular Plat, the provision of certain required improvements is not required in the interest of the public health, safety, and general welfare, or is inappropriate because of inadequacy of 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 will not have the effect of nullifying the intent of the Official Map, the Master Plan, or any other regulation or ordinance, if such exists.

**SECTION 601. DESIGN INNOVATIONS**

When design concepts which are imaginative and beneficial to the public interest are proposed by a subdivider, the Planning Board may modify the requirements of these regulations and impose additional conditions as necessary to permit the accomplishment of such concepts.

**ARTICLE 7: AMENDMENTS**

**SECTION 700.** The regulations may be amended by the Planning Board after public hearing and the SEQR review on such amendments by the Planning Board and approval by the Town Board.

**ARTICLE 8: ENFORCEMENT (VIOLATIONS AND PENALTIES)**

**SECTION 800. PENALTIES – ENABLING LEGISLATION – ENFORCEMENT**

Any person who shall commit or assist in the commission of any violation of this law, or who shall build, erect, construct, or attempt the same, to any structure contrary to the plans or specifications submitted to the authorized official and by him certified as complying with this order; shall be subject to a fine of not more than \$250.00 to be recovered by the Town Board in any court of competent jurisdiction. Every such person shall be deemed guilty of a separate offense for each day that such violation, disobedience, omission, neglect, ore refusal shall continue. Where the person committing such violation is a partnership, association or corporation, the principal executive officer, partner, agent, or manager may be considered to be the person for the purpose of this article. Any plat filed with the Chenango County Clerk’s Office without signature by the Town of Smithville Planning Board shall be invalid and a nullity.

**ARTICLE 9: SEPARABILITY**

**SECTION 900.** Should any section or provision of the regulations contained herein or as amended hereafter shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the regulations as a whole or any part thereof other than the part so declared to be invalid.

**ARTICLE 10: COURT REVIEW**

**SECTION 1000.** Any person aggrieved by any decision of the Planning Board relative to the subdivision may have such decision reviewed by a special term of the Supreme Court in the manner provided by Article 78 of the Civil Practice Laws and Rules, providing the proceeding is commenced within 30 days after the filing of the decision in the office of the Planning Board, as all set forth in section 282 of the Town Law.

**01/05/1990**